

THE ONE HUNDRED AND SIXTEENTH DAY

CARSON CITY (Thursday), May 31, 2007

Senate called to order at 11:55 a.m.

President Krolicki presiding.

Roll called.

All present.

Prayer by the Chaplain, Pastor Albert Tilstra.

We are glad, our Father, that troubles are cannibals, the big ones eat up the little ones.

But, may it not be so with our duties and responsibilities; help our Senators to keep a sane perspective, lest the big issues overshadow the lesser ones, and they fail to do Your will with them. In all things, big and little, reveal to them Your wisdom and Your love.

AMEN.

Pledge of Allegiance to the Flag.

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

Motion carried.

REPORTS OF COMMITTEES

Mr. President:

Your Committee on Commerce and Labor, to which was referred Assembly Bill No. 440, 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:

Your Committee on Finance, to which was referred Senate Bill No. 544, 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:

Your Committee on Human Resources and Education, to which was referred Assembly Bill No. 182, 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:

Your Committee on Transportation and Homeland Security, to which were referred Assembly Bills Nos. 594, 624, 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, May 30, 2007

To the Honorable the Senate:

I have the honor to inform your honorable body that the Assembly on this day passed Assembly Bills Nos. 625, 626.

Also, I have the honor to inform your honorable body that the Assembly on this day adopted Assembly Concurrent Resolution No. 33.

Also, I have the honor to inform your honorable body that the Assembly on this day concurred in the Senate Amendment No. 899 to Assembly Bill No. 431.

Also, I have the honor to inform your honorable body that the Assembly on this day respectfully refused to concur in the Senate Amendment No. 771 to Assembly Bill No. 385.

Also, I have the honor to inform your honorable body that the Assembly on this day receded from its action on Senate Bill No. 84, Assembly Amendment No. 797.

Also, I have the honor to inform your honorable body that the Assembly on this day respectfully refused to recede from its action on Senate Bill No. 5, Assembly Amendment No. 934, and requests a conference, and appointed Assemblymen McClain, Parnell and Weber as a first Conference Committee to meet with a like committee of the Senate.

Also, I have the honor to inform your honorable body that the Assembly on this day respectfully refused to recede from its action on Senate Bill No. 19, Assembly Amendment No. 955, and requests a conference, and appointed Assemblymen Horne, Parks and Mabey as a first Conference Committee to meet with a like committee of the Senate.

Also, I have the honor to inform your honorable body that the Assembly on this day respectfully refused to recede from its action on Senate Bill No. 171, Assembly Amendment No. 906, and requests a conference, and appointed Assemblymen McClain, Koivisto and Weber as a first Conference Committee to meet with a like committee of the Senate.

Also, I have the honor to inform your honorable body that the Assembly on this day respectfully refused to recede from its action on Senate Bill No. 201, Assembly Amendments Nos. 796, 1028, and requests a conference, and appointed Assemblymen Smith, Kirkpatrick and Christensen as a first Conference Committee to meet with a like committee of the Senate.

Also, I have the honor to inform your honorable body that the Assembly on this day respectfully refused to recede from its action on Senate Bill No. 320, Assembly Amendment No. 871, and requests a conference, and appointed Assemblymen Pierce, Kirkpatrick and Grady as a first Conference Committee to meet with a like committee of the Senate.

Also, I have the honor to inform your honorable body that the Assembly on this day respectfully refused to recede from its action on Senate Bill No. 329, Assembly Amendment No. 810, and requests a conference, and appointed Assemblymen Claborn, Carpenter and Hogan as a first Conference Committee to meet with a like committee of the Senate.

Also, I have the honor to inform your honorable body that the Assembly on this day respectfully refused to recede from its action on Senate Bill No. 352, Assembly Amendments Nos. 676, 750, and requests a conference, and appointed Assemblymen Kihuen, Munford and Stewart as a first Conference Committee to meet with a like committee of the Senate.

Also, I have the honor to inform your honorable body that the Assembly on this day respectfully refused to recede from its action on Senate Bill No. 432, Assembly Amendment No. 723, and requests a conference, and appointed Assemblymen Conklin, Kirkpatrick and Mabey as a first Conference Committee to meet with a like committee of the Senate.

Also, I have the honor to inform your honorable body that the Assembly on this day respectfully refused to recede from its action on Senate Bill No. 529, Assembly Amendment No. 985, and requests a conference, and appointed Assemblymen Pierce, Gerhardt and Hardy as a first Conference Committee to meet with a like committee of the Senate.

Also, I have the honor to inform your honorable body that the Assembly on this day appointed Assemblymen Anderson, Munford and Mabey as a first Conference Committee concerning Assembly Bill No. 418.

LUCINDA BENJAMIN
Assistant Chief Clerk of the Assembly

MOTIONS, RESOLUTIONS AND NOTICES

Assembly Concurrent Resolution No. 33.

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

Motion carried.

INTRODUCTION, FIRST READING AND REFERENCE

Assembly Bill No. 625.

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

Motion carried.

Assembly Bill No. 626.

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

Motion carried.

SECOND READING AND AMENDMENT

Senate Bill No. 573.

Bill read second time.

The following amendment was proposed by the Committee on Legislative Operations and Elections:

Amendment No. 1009.

"SUMMARY—Makes various changes concerning precinct meetings of major political parties. (BDR 24-1515)"

"AN ACT relating to elections; requiring rooms or space in public buildings to be provided without charge for certain purposes; revising provisions governing the scheduling of precinct meetings in relation to the county and state conventions of major political parties; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law provides that a county or city clerk may designate any public or private building, or portion thereof, as the site for any polling place during an election. (NRS 293.437) Section 1 of this bill requires public buildings, or portions thereof, to be made available without charge to state or county central committees of major political parties in presidential election years and at other times for the purpose of conducting precinct meetings.

Existing law provides for the conduct of precinct meetings of major political parties, including the number of delegates that each voting precinct may send to the county convention of a major political party, the dates on which precinct meetings are to be held, the requirements for giving notice of such dates and the manner in which vacancies in the position of delegate are to be filled. (NRS 293.133-293.137) Sections 2-4 of this bill provide that the rules of the party govern such circumstances.

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

Section 1. Chapter 293 of NRS is hereby amended by adding thereto a new section to read as follows:

Upon application by a state or county central committee, if a room or space is available in a building that is open to the general public and occupied by the government of this State or a political subdivision of this State or an agency thereof, the public officer or employee in control of the

room or space shall grant the use of the room or space to the state or county central committee without charge in a presidential election year for any purpose, including conducting precinct meetings, without charge during other years for the purpose of conducting precinct meetings and at a charge not greater than that made for its use by other groups during other years for purposes other than conducting precinct meetings.

Sec. 2. NRS 293.133 is hereby amended to read as follows:

293.133 1. The number of delegates from each voting precinct in each county to the county convention of any major political party for that county must be *determined pursuant to the rules of the party, if the rules of the party so provide, or, if the rules of the party do not so provide*, in proportion to the number of registered voters of that party residing in the precinct as follows:

(a) In the counties in which the total number of registered voters of that party has not exceeded 400, each precinct is entitled to one delegate for each 5 registered voters.

(b) In counties in which the total number of registered voters of that party has exceeded 400 but has not exceeded 600, each precinct is entitled to one delegate for each 8 registered voters.

(c) In counties in which the total number of registered voters of that party has exceeded 600 but has not exceeded 800, each precinct is entitled to one delegate for each 10 registered voters.

(d) In counties in which the total number of registered voters of that party has exceeded 800 but has not exceeded 1,400, each precinct is entitled to one delegate for each 15 registered voters.

(e) In counties in which the total number of registered voters of that party has exceeded 1,400 but has not exceeded 2,000, each precinct is entitled to one delegate for each 20 registered voters or major fraction thereof.

(f) In counties in which the total number of registered voters of that party has exceeded 2,000 but has not exceeded 3,000, each precinct is entitled to one delegate for each 30 registered voters or major fraction thereof.

(g) In counties in which the total number of registered voters of that party has exceeded 3,000 but has not exceeded 4,000, each precinct is entitled to one delegate for each 35 registered voters or major fraction thereof.

(h) In counties in which the total number of registered voters of that party has exceeded 4,000, each precinct is entitled to one delegate for each 50 registered voters or major fraction thereof.

2. ~~{The}~~ Upon the request of a state or county central committee, the county clerk shall determine the number of registered voters of each party in each precinct as of ~~{January 1 of each year in which a convention is held,}~~ ~~{the}~~ ~~:~~

~~(a) The date of the request,~~ 90 days before the date set for the precinct meeting pursuant to NRS 293.135 and shall notify the Secretary of State and the county central committee of each major political party of those numbers within ~~{30}~~ 10 days after the determinative date. If consistent with the rules of

the party, the number determined pursuant to this paragraph must be used to determine the number of delegates to the county convention.

(b) Any date other than the date set forth in paragraph (a).

3. In all counties, *if consistent with the rules of the party*, every precinct is entitled to at least one delegate to each county convention.

Sec. 3. NRS 293.135 is hereby amended to read as follows:

293.135 1. The county central committee of each major political party in each county shall have a precinct meeting of the registered voters of the party residing in each voting precinct entitled to delegates in the county convention called and held on ~~for before the fifth day preceding~~ the dates set ~~for the precinct meeting~~ by the respective state central committees in each year in which a general election is held.

2. The meeting must be held in one of the following places in the following order of preference:

(a) Any public building within the precinct if the meeting is for a single precinct, or any public building which is in reasonable proximity to the precincts and will accommodate a meeting of two or more precincts; or

(b) Any private building within the precinct or one of the precincts.

3. The county central committee shall give notice of the meeting by:

(a) Posting in a conspicuous place outside the building where the meeting is to be held ; ~~{at least 5 days before the date of the meeting;}~~ and

(b) Publishing ~~{at least 5 days before the date of meeting}~~ in one or more newspapers of general circulation in the precinct, published in the county, if any are so published ~~{-}~~,

➡ *on the date set for giving notice of the meeting by the respective state central committees.*

4. The notice must be printed in conspicuous display advertising format of not less than 10 column inches, and must include the following language, or words of similar import:

Notice to All Voters Registered

IN THE (STATE NAME OF MAJOR POLITICAL PARTY)

Nevada state law requires each major political party, in every year during which a general election is held, to have a precinct meeting held for each precinct. All persons registered in the party and residing in the precinct are entitled to attend the precinct meeting. Delegates to your party's county convention will be elected at the meeting by those in attendance. Set forth below are the time and place at which your precinct meeting will be held, together with the number of delegates to be elected from each precinct. If you wish to participate in the organization of your party for the coming 2 years, attend your precinct meeting.

5. The notice must specify:

(a) The date, time and place of the meeting; and

(b) The number of delegates to the county convention to be chosen at the meeting.

Sec. 4. NRS 293.137 is hereby amended to read as follows:

293.137 1. Promptly at the time and place appointed therefor, the mass meeting must be convened and organized for each precinct. If access to the premises appointed for any such meeting is not available, the meeting may be convened at an accessible place immediately adjacent thereto. The meeting must be conducted openly and publicly and in such a manner that it is freely accessible to any registered voter of the party calling the meeting who resides in the precinct and is desirous of attending the meeting, until the meeting is adjourned. At the meeting the delegates to which the members of the party residing in the precinct are entitled in the party's county convention must be elected ~~[by ballot.]~~ *pursuant to the rules of the state central committee of that party. In presidential election years, the election of delegates may be a part of expressing preferences for candidates for the party's nomination for President of the United States if the rules of the party permit such conduct.* The result of the election must be certified to the county convention of the party by the chairman and the secretary of the meeting upon the forms specified in subsection 3.

2. At the precinct meetings, the delegates and alternates to the party's convention must be elected. If a meeting is not held for a particular precinct at the location specified, that precinct must be without representation at the county convention unless the meeting was scheduled, with proper notice, and no registered voter of the party appeared. In that case, the meeting shall be deemed to have been held and the position of delegate is vacant. If a position of delegate is vacant, it must be filled by the designated alternate, if any. If there is no designated alternate, *the vacancy must be filled pursuant to the rules of the party, if the rules of the party so provide, or, if the rules of the party do not so provide, the county central committee shall appoint a delegate from among the qualified members of the party residing in the precinct in which the vacancy occurred, and the secretary of the county central committee shall certify the appointed delegate to the county convention.*

3. The county central committee shall prepare and number serially a number of certificate forms equal to the total number of delegates to be elected throughout the county, and deliver the appropriate number to each precinct meeting. Each certificate must be in duplicate. The original must be given to the elected delegate, and the duplicate transmitted to the county central committee.

4. All duplicates must be delivered to the chairman of the preliminary credentials committee of the county convention. Every delegate who presents a certificate matching one of the duplicates must be seated without dispute.

5. ~~Each [major political party shall adopt written rules not less than 95 days before the date set by the] state central committee [or fixed by law for the county convention or by January 1 of the calendar year of the national convention or conference, whichever is earlier.]~~ *shall adopt written rules governing, but not limited to, the following procedures:*

(a) The selection, rights and duties of committees of a convention;

- (b) Challenges to credentials of delegates; and
- (c) Majority and minority reports of committees.

Sec. 5. NRS 293.163 is hereby amended to read as follows:

293.163 1. In presidential election years, on the call of a national party convention, but one set of party conventions and but one state convention shall be held on such respective dates and at such places as the state central committee of the party shall designate. If no earlier dates are fixed, the state convention shall be held 30 days ~~[prior to]~~ *before* the date set for the national convention and the county conventions shall be held 60 days ~~[prior to]~~ *before* the date set for the national convention.

2. Delegates to such conventions shall be selected in the same manner as prescribed in NRS 293.130 to 293.160, inclusive, ~~[except as to time,]~~ and each convention shall have and exercise all of the power granted it under NRS 293.130 to 293.160, inclusive. In addition to such powers granted it, the state convention shall select the necessary delegates and alternates to the national convention of the party, and, if consistent with the rules and regulations of the party, shall select the national committeeman and committeewoman of the party from the State of Nevada.

Sec. 6. This act becomes effective upon passage and approval.

Senator Cegavske moved the adoption of the amendment.

Remarks by Senator Cegavske.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Townsend moved that Assembly Bill No. 621 be taken from the Second Reading File and placed on the Second Reading File on the last agenda.

Remarks by Senator Townsend.

Motion carried.

Senator Care moved that Senate Bill No. 123 be taken from the General File and placed on the General File on the third agenda.

Remarks by Senator Townsend.

Motion carried.

GENERAL FILE AND THIRD READING

Senate Bill No. 189.

Bill read third time.

The following amendment was proposed by Senator Rhoads:

Amendment No. 1079.

"SUMMARY—Makes an appropriation to the Interim Finance Committee for the implementation of sagebrush habitat projects. (BDR S-1224)"

"AN ACT making an appropriation to the Interim Finance Committee for allocation to the Department of Wildlife for the implementation of sagebrush habitat projects; and providing other matters properly relating thereto."

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

Section 1. 1. There is hereby appropriated from the State General Fund to the Interim Finance Committee the sum of \$200,800 for allocation to the Department of Wildlife to support implementation of sagebrush habitat projects identified in state and local plans.

2. Money appropriated pursuant to subsection 1 may only be allocated upon:

(a) Submittal by the Department of Wildlife of a detailed plan with cost estimates referencing the specific sagebrush habitat projects identified in the state and local sage grouse conservation plans that will be implemented;

(b) Approval of the plan and recommendation of the allocation by the State Board of Examiners; and

(c) Approval of the plan and allocation by the Interim Finance Committee. The Interim Finance Committee is not bound to follow the recommendation of the State Board of Examiners.

3. Money appropriated and allocated pursuant to this section may only be used to satisfy the requirements for matching funds pursuant to the Federal Aid in Wildlife Restoration Act or to qualify for any other appropriate federal funding for implementation of the identified sagebrush habitat projects.

Sec. 2. Any remaining balance of the appropriation made by section 1 of this act must not be committed for expenditure after June 30, 2009, by the entity to which the appropriation is made or any entity to which money from the appropriation is granted or otherwise transferred in any manner, and any portion of the appropriated money remaining must not be spent for any purpose after September 18, 2009, by either the entity to which the money was appropriated or the entity to which the money was subsequently granted or transferred, and must be reverted to the State General Fund on or before September 18, 2009.

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

Senator Rhoads moved the adoption of the amendment.

Remarks by Senator Rhoads.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

UNFINISHED BUSINESS

CONSIDERATION OF ASSEMBLY AMENDMENTS

Senate Bill No. 274.

The following Assembly amendment was read:

Amendment No. 945.

"SUMMARY—Makes various changes to provisions governing the State Engineer. (BDR 48-206)"

"AN ACT relating to water; expanding the purposes for which the State Engineer may adopt regulations; authorizing the State Engineer to impose

administrative fines and to order payment of the costs of certain proceedings; authorizing the State Engineer to seek injunctive relief for certain violations; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Pursuant to existing law, the State Engineer may make such reasonable rules and regulations as may be necessary for the proper and orderly execution of the powers conferred on him by law. (NRS 532.120) The penalty prescribed for the violation of a majority of the provisions set forth in chapters 533, 534, 535 and 536 of NRS is a misdemeanor. (NRS 533.480, 534.190, 535.110, 536.120)

Section 1 of this bill expands the provisions for which the State Engineer may adopt regulations to include chapters 534, 535 and 536 of NRS in addition to chapter 533 of NRS. Sections 3, 7, 10 and 14 of this bill provide the State Engineer with the additional authority to impose, after notice and opportunity for a hearing, administrative fines, to require a person to replace certain unlawfully taken or wasted water, and to recover expenses incurred in investigating and stopping various water law violations. Section 7 provides additionally that: (1) in determining violations relating to the unauthorized use of water from certain wells, it is the burden of the State Engineer to prove which user or users of water are withdrawing water in excess of their individual allotments; and (2) the State Engineer may require users of water from certain wells to install and maintain, at their own expense, meters to measure their individual withdrawal of water.

Sections 4, 8, 11 and 15 of this bill authorize the State Engineer to seek injunctive relief to prevent a violation or continued violation of chapters 533, 534, 535 and 536 of NRS.

Section 16 of this bill requires the State Engineer to consider certain matters in adopting regulations to carry out the amendatory provisions of this bill.

Section 17 of this bill requires the State Engineer, on or before January 1, 2009, to submit to the Director of the Legislative Counsel Bureau a written report detailing his efforts in, and progress toward, the development and adoption of regulations to carry out the amendatory provisions of this bill.

Section 18 of this bill prohibits the State Engineer, before July 1, 2009, from imposing an administrative penalty pursuant to the amendatory provisions of this bill or any regulations adopted to carry out those amendatory provisions.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN

SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 532.120 is hereby amended to read as follows:

532.120 1. The State Engineer ~~is empowered to~~ may make such reasonable rules and regulations as may be necessary for the proper and orderly execution of the powers conferred by law.

2. The State Engineer ~~[shall have power to make rules,]~~ *may adopt regulations*, not in conflict with law, governing the practice and procedure in all contests before his office, to ~~[insure]~~ *ensure* the proper and orderly exercise of the powers granted by law, and the speedy accomplishment of the purposes of ~~[chapter]~~ *chapters* 533 , 534, 535 and 536 of NRS. Such rules of practice and procedure ~~[shall]~~ *must* be furnished to any person upon application therefor.

Sec. 2. Chapter 533 of NRS is hereby amended by adding thereto the provisions set forth as sections 3, 4 and 4.5 of this act.

Sec. 3. 1. *In addition to any other penalty provided by law, the State Engineer may, after notice and opportunity for a hearing, require a person who violates any provision of this chapter or any permit, certificate, order or decision issued or regulation adopted by the State Engineer pursuant to this chapter or NRS 532.120 to:*

(a) Pay an administrative fine not to exceed \$10,000 per day for each violation as determined by the State Engineer.

(b) In the case of an unauthorized use or willful waste of water in violation of NRS 533.460 or an unlawful diversion of water in violation of NRS 533.530, or any other violation of this chapter that, as determined by the State Engineer, results in an unlawful use, waste or diversion of water, replace not more than 200 percent of the water used, wasted or diverted.

2. If an administrative fine is imposed against a person pursuant to subsection 1 or the person is ordered to replace any water pursuant to that subsection, the State Engineer may require the person to pay the costs of the proceeding, including investigative costs and attorney's fees.

3. An order imposing an administrative fine or requiring the replacement of water or the payment of costs or fees pursuant to this section may be reviewed by a district court pursuant to NRS 533.450.

Sec. 4. 1. *The State Engineer may seek injunctive relief in the appropriate court to prevent the continuance or occurrence of any act or practice which violates any provision of this chapter, or any permit, certificate, decision or order issued or regulation adopted by the State Engineer pursuant to this chapter or NRS 532.120.*

2. On a showing by the State Engineer that a person is engaged, or is about to engage, in any act or practice which violates or will violate any provision of this chapter, or any permit, certificate, decision or order issued or regulation adopted by the State Engineer pursuant to this chapter or NRS 532.120, the court may issue, without a bond, any prohibitory or mandatory injunction that the facts may warrant, including a temporary restraining order issued ex parte or, after notice and hearing, a preliminary or permanent injunction.

3. Failure to establish lack of an adequate remedy at law or irreparable harm is not a ground for denying a request for a temporary restraining order or injunction.

4. *The court may require the posting of a sufficient performance bond or other security to ensure compliance with the court order within the period prescribed.*

5. *Any proceeding conducted or injunction or order issued pursuant to this section is in addition to, and not in lieu of, any other penalty or remedy available for a violation specified in this section.*

Sec. 4.5. *The State Engineer shall not carry out his duties pursuant to this chapter in a manner that conflicts with any applicable provision of a decree or order issued by a state or federal court, an interstate compact or an agreement to which this State is a party for the interstate allocation of water pursuant to an act of Congress.*

Sec. 5. NRS 533.450 is hereby amended to read as follows:

533.450 1. Any person feeling himself aggrieved by any order or decision of the State Engineer, acting in person or through his assistants or the water commissioner, affecting his interests, when ~~{such}~~ the order or decision relates to the administration of determined rights or is made pursuant to NRS 533.270 to 533.445, inclusive, *or section 3, 7, 10 or 14 of this act*, may have the same reviewed by a proceeding for that purpose, insofar as may be in the nature of an appeal, which ~~{shall}~~ *must* be initiated in the proper court of the county in which the matters affected or a portion thereof are situated, ~~{;}~~ but on stream systems where a decree of court has been entered, the action ~~{shall}~~ *must* be initiated in the court that entered the decree. ~~{Such}~~ *The* order or decision of the State Engineer ~~{shall be and remain}~~ *remains* in full force and effect unless proceedings to review the same are commenced in the proper court within 30 days ~~{following}~~ *after* the rendition of the order or decision in question and notice thereof is given to the State Engineer as provided in subsection 3.

2. The proceedings in every case ~~{shall}~~ *must* be heard by the court, and ~~{shall}~~ *must* be informal and summary, but full opportunity to be heard ~~{shall}~~ *must* be had before judgment is pronounced.

3. No such proceedings may be entertained unless notice thereof, containing a statement of the substance of the order or decision complained of, and of the manner in which the same injuriously affects the petitioner's interests, has been served upon the State Engineer, personally or by registered or certified mail, at his office at the State Capital within 30 days following the rendition of the order or decision in question. A similar notice ~~{shall}~~ *must* also be served personally or by registered or certified mail upon the person ~~{or persons}~~ who may have been affected by ~~{such}~~ *the* order or decision.

4. Where evidence has been filed with, or testimony taken before, the State Engineer, a transcribed copy thereof, or of any specific part of the same, duly certified as a true and correct transcript in the manner provided by law, ~~{shall}~~ *must* be received in evidence with the same effect as if the reporter were present and testified to the facts so certified. A copy of the transcript ~~{shall}~~ *must* be furnished on demand, at actual cost, to any person

affected by ~~[such]~~ the order or decision, and to all other persons on payment of a reasonable amount therefor, to be fixed by the State Engineer.

5. A bond ~~[shall]~~ *must* not be required except when a stay is desired, and the proceedings provided for in this section are not a stay unless, within 5 days ~~[following]~~ after the service of notice thereof, a bond is filed in an amount to be fixed by the court, with sureties satisfactory to ~~[such]~~ the court, conditioned to perform the judgment rendered in ~~[such]~~ the proceedings.

6. Costs ~~[shall]~~ *must* be paid as in civil cases brought in the district court, except by the State Engineer or the State.

7. The practice in civil cases applies to the informal and summary character of such proceedings, as provided in this section.

8. Appeals may be taken to the Supreme Court from the judgment of the district court in the same manner as in other civil cases.

9. The decision of the State Engineer ~~[shall be]~~ is prima facie correct, and the burden of proof ~~[shall be]~~ is upon the party attacking the same.

10. Whenever it appears to the State Engineer that any litigation, whether now pending or hereafter brought, may adversely affect the rights of the public in water, he shall request the Attorney General to appear and protect the interests of the State.

Sec. 6. Chapter 534 of NRS is hereby amended by adding thereto the provisions set forth as sections 7 and 8 of this act.

Sec. 7. 1. *Except as otherwise provided in NRS 534.280, 534.310 and 534.330 and in addition to any other penalty provided by law, the State Engineer may, after notice and opportunity for a hearing, require a person who violates any provision of this chapter or any permit, order or decision issued or regulation adopted by the State Engineer pursuant to this chapter or NRS 532.120 to:*

(a) *Pay an administrative fine not to exceed \$10,000 per day for each violation as determined by the State Engineer.*

(b) *In the case of an unlawful waste of water in violation of NRS 534.070 or any other violation of this chapter that, as determined by the State Engineer, results in an unlawful use, waste or diversion of water, replace not more than 200 percent of the water used, wasted or diverted.*

2. *In determining violations of this chapter relating to the unauthorized use of water yielded from a well that is used pursuant to a permit issued by the State Engineer and that has 16 or fewer connections, the State Engineer has the burden of proving which user is withdrawing water in excess of the portion of water allotted to the connection of that user. The State Engineer may require any or all users of the well to install and maintain, at their own expense, a meter that measures the amount of water withdrawn from the well by each connection.*

3. *If an administrative fine is imposed against a person pursuant to subsection 1 or the person is ordered to replace any water pursuant to that subsection, the State Engineer may require the person to pay the costs of the proceeding, including investigative costs and attorney's fees.*

~~§ 4.~~ 4. *An order imposing an administrative fine or requiring the replacement of water or payment of costs or fees pursuant to this section may be reviewed by a district court pursuant to NRS 533.450.*

Sec. 8. 1. *The State Engineer may seek injunctive relief in the appropriate court to prevent the continuance or occurrence of any act or practice which violates any provision of this chapter, or any permit, order or decision issued or regulation adopted by the State Engineer pursuant to this chapter or NRS 532.120.*

2. *On a showing by the State Engineer that a person is engaged, or is about to engage, in any act or practice which violates or will violate any provision of this chapter, or any permit, order or decision issued or regulation adopted by the State Engineer pursuant to this chapter or NRS 532.120, the court may issue, without a bond, any prohibitory or mandatory injunction that the facts may warrant, including a temporary restraining order issued ex parte or, after notice and hearing, a preliminary or permanent injunction.*

3. *Failure to establish lack of an adequate remedy at law or irreparable harm is not a ground for denying a request for a temporary restraining order or injunction.*

4. *The court may require the posting of a sufficient performance bond or other security to ensure compliance with the court order within the period prescribed.*

5. *Any proceeding conducted or injunction or order issued pursuant to this section is in addition to, and not in lieu of, any other penalty or remedy available for a violation of this chapter.*

Sec. 9. Chapter 535 of NRS is hereby amended by adding thereto the provisions set forth as sections 10 and 11 of this act.

Sec. 10. 1. *In addition to any other penalty provided by law, the State Engineer may, after notice and opportunity for a hearing, require a person who violates any provision of this chapter, any permit, order or decision issued by the State Engineer pursuant to this chapter or any regulation adopted by the State Engineer pursuant to NRS 532.120 to pay an administrative fine not to exceed \$10,000 per day for each violation as determined by the State Engineer.*

2. *If an administrative fine is imposed against a person pursuant to subsection 1, the State Engineer may require the person to pay the costs of the proceeding, including investigative costs and attorney's fees.*

3. *An order imposing an administrative fine or requiring the payment of costs or fees pursuant to this section may be reviewed by a district court pursuant to NRS 533.450.*

Sec. 11. 1. *The State Engineer may seek injunctive relief in the appropriate court to prevent the continuance or occurrence of any act or practice which violates any provision of this chapter, any permit, order or decision issued by the State Engineer pursuant to this chapter or any regulation adopted by the State Engineer pursuant to NRS 532.120.*

2. *On a showing by the State Engineer that a person is engaged, or is about to engage, in any act or practice which violates or will violate any provision of this chapter, any permit, order or decision issued by the State Engineer pursuant to this chapter or any regulation adopted by the State Engineer pursuant to NRS 532.120, the court may issue, without a bond, any prohibitory or mandatory injunction that the facts may warrant, including a temporary restraining order issued ex parte or, after notice and hearing, a preliminary or permanent injunction.*

3. *Failure to establish lack of an adequate remedy at law or irreparable harm is not a ground for denying a request for a temporary restraining order or injunction.*

4. *The court may require the posting of a sufficient performance bond or other security to ensure compliance with the court order within the period prescribed.*

5. *Any proceeding conducted or injunction or order issued pursuant to this section is in addition to, and not in lieu of, any other penalty or remedy available for a violation of this chapter.*

Sec. 12. NRS 535.100 is hereby amended to read as follows:

535.100 1. ~~[It is unlawful for any person being]~~ *Any person who is the owner of or in possession of any sawmill used for the making of lumber, or any slaughterhouse, brewery or tannery ~~[to]~~ shall not injure or obstruct the natural flow of water in any river, creek or other stream.*

2. *Any city or county government, or any person, ~~[being]~~ who is the owner of or in possession of any agricultural lands ~~[, who may be]~~ and who is injured by reason of the violation on the part of any person of the provisions contained in subsection 1 ~~[, shall have the right to]~~ may commence and maintain an action against ~~[such]~~ the person for any damage sustained, in such manner as may be provided by law.*

~~[3.—Any person who shall willfully and knowingly violate the provisions of this section shall be punished by a fine of not more than \$500.]~~

Sec. 13. Chapter 536 of NRS is hereby amended by adding thereto the provisions set forth as sections 14 and 15 of this act.

Sec. 14. 1. *In addition to any other penalty provided by law, the State Engineer may, after notice and opportunity for a hearing, require a person who violates any provision of this chapter, any order or decision issued by the State Engineer pursuant to this chapter or any regulation adopted by the State Engineer pursuant to NRS 532.120 to pay an administrative fine not to exceed \$10,000 per day for each violation as determined by the State Engineer.*

2. *If an administrative fine is imposed against a person pursuant to subsection 1, the State Engineer may require the person to pay the costs of the proceeding, including investigative costs and attorney's fees.*

3. *An order imposing an administrative fine or requiring the payment of costs or fees pursuant to this section may be reviewed by a district court pursuant to NRS 533.450.*

Sec. 15. 1. *The State Engineer may seek injunctive relief in the appropriate court to prevent the continuance or occurrence of any act or practice which violates any provision of this chapter, any order or decision issued by the State Engineer pursuant to this chapter or any regulation adopted by the State Engineer pursuant to NRS 532.120.*

2. *On a showing by the State Engineer that a person is engaged, or is about to engage, in any act or practice which violates or will violate any provision of this chapter, any order or decision issued by the State Engineer pursuant to this chapter or any regulation adopted by the State Engineer pursuant to NRS 532.120, the court may issue, without a bond, any prohibitory or mandatory injunction that the facts may warrant, including a temporary restraining order issued ex parte or, after notice and hearing, a preliminary or permanent injunction.*

3. *Failure to establish lack of an adequate remedy at law or irreparable harm is not a ground for denying a request for a temporary restraining order or injunction.*

4. *The court may require the posting of a sufficient performance bond or other security to ensure compliance with the court order within the period prescribed.*

5. *Any proceeding conducted or injunction or order issued pursuant to this section is in addition to, and not in lieu of, any other penalty or remedy available for a violation of this chapter.*

Sec. 16. *The State Engineer shall, in adopting regulations to carry out the amendatory provisions of this act:*

1. Consider establishing a minimum threshold amount of water that a user of water would be required to exceed in using, wasting or diverting water in an unlawful manner before an administrative penalty would be imposed;

2. Comply with the provisions of chapter 233B of NRS;

3. Consider waiving an administrative penalty for a violation if the violator has, in the determination of the State Engineer, made significant progress toward correcting the violation; and

4. In addition to the requirements of subsection 1, consider waiving an administrative penalty in the case of an unauthorized use or willful waste of water in violation of NRS 533.460 or an unlawful diversion of water in violation of NRS 533.530, if the amount of water so used or wasted does not exceed 2 acre-feet per annum.

Sec. 17. *The State Engineer shall, on or before January 1, 2009, submit to the Director of the Legislative Counsel Bureau a written report detailing the efforts and progress of the State Engineer in developing and adopting regulations to carry out the amendatory provisions of this act.*

Sec. 18. *The State Engineer shall not, before July 1, 2009, impose an administrative penalty pursuant to the amendatory provisions of this act or any regulations adopted to carry out the amendatory provisions of this act.*

~~{Sec. 16.}~~ Sec. 19. This act becomes effective on July 1, 2007.

Amendment No. 993.

"SUMMARY—Makes various changes to provisions ~~[governing the State Engineer]~~ relating to water. (BDR 48-206)"

"AN ACT relating to water; expanding the purposes for which the State Engineer may adopt regulations; expressing the sense of the Legislature as to the temporary conversion of certain water rights for certain ecological purposes; authorizing the State Engineer to impose administrative fines and to order payment of the costs of certain proceedings; authorizing the State Engineer to seek injunctive relief for certain violations; revising provisions relating to the protest of certain applications involving interbasin transfers of groundwater; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Pursuant to existing law, the State Engineer may make such reasonable rules and regulations as may be necessary for the proper and orderly execution of the powers conferred on him by law. (NRS 532.120) The penalty prescribed for the violation of a majority of the provisions set forth in chapters 533, 534, 535 and 536 of NRS is a misdemeanor. (NRS 533.480, 534.190, 535.110, 536.120)

Section 1 of this bill expands the provisions for which the State Engineer may adopt regulations to include chapters 534, 535 and 536 of NRS in addition to chapter 533 of NRS. Section 2.5 of this bill provides that it is the policy of the State of Nevada to allow the temporary conversion of certain agricultural water rights for wildlife purposes or to improve the quality or flow of water. Sections 3, 7, 10 and 14 of this bill provide the State Engineer with the additional authority to impose, after notice and opportunity for a hearing, administrative fines, to require a person to replace certain unlawfully taken or wasted water, and to recover expenses incurred in investigating and stopping various water law violations. Section 7 provides additionally that: (1) in determining violations relating to the unauthorized use of water from certain wells, it is the burden of the State Engineer to prove which user or users of water are withdrawing water in excess of their individual allotments; and (2) the State Engineer may require users of water from certain wells to install and maintain, at their own expense, meters to measure their individual withdrawal of water.

Sections 4, 8, 11 and 15 of this bill authorize the State Engineer to seek injunctive relief to prevent a violation or continued violation of chapters 533, 534, 535 and 536 of NRS.

Existing law sets forth requirements for the State Engineer to provide certain notice of an application for a permit to appropriate water. These requirements include publishing the notice in a newspaper and, if the application is for a well, mailing a copy of the notice to owners of real property containing a domestic well that is within 2,500 feet of the proposed well. (NRS 533.360) Existing law also allows an interested person to file with the State Engineer a written protest to the application. (NRS 533.365)

Sections 4.7 and 4.9 of this bill require that if the State Engineer fails to grant, deny or hear an application for a permit to appropriate, change the point of diversion of, change the manner of use of, or change the place of use of more than 250 acre-feet of water per annum within 7 years after the date on which the application was submitted, the State Engineer must, if the application involves an interbasin transfer of groundwater, notice a new period of protest of 45 days. This bill also provides that certain successors in interest of persons who had already filed a written protest against the granting of such an application must be allowed to continue pursuing the protest as though they were the person who had filed the original protest.

Section 16 of this bill requires the State Engineer to consider certain matters in adopting regulations to carry out the amendatory provisions of this bill.

Section 17 of this bill requires the State Engineer, on or before January 1, 2009, to submit to the Director of the Legislative Counsel Bureau a written report detailing his efforts in, and progress toward, the development and adoption of regulations to carry out the amendatory provisions of this bill.

Section 18 of this bill prohibits the State Engineer, before July 1, 2009, from imposing an administrative penalty pursuant to the amendatory provisions of this bill or any regulations adopted to carry out those amendatory provisions.

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

Section 1. NRS 532.120 is hereby amended to read as follows:

532.120 1. The State Engineer ~~is empowered to~~ may make such reasonable rules and regulations as may be necessary for the proper and orderly execution of the powers conferred by law.

2. The State Engineer ~~shall have power to make rules,~~ may adopt regulations, not in conflict with law, governing the practice and procedure in all contests before his office, to ~~insure~~ ensure the proper and orderly exercise of the powers granted by law, and the speedy accomplishment of the purposes of ~~chapter~~ chapters 533 , 534, 535 and 536 of NRS. Such rules of practice and procedure ~~shall~~ must be furnished to any person upon application therefor.

Sec. 2. Chapter 533 of NRS is hereby amended by adding thereto the provisions set forth as sections ~~3, 4 and~~ 2.5 to 4.5 , inclusive, of this act.

Sec. 2.5. The Legislature hereby finds and declares that it is the policy of this State to allow the temporary conversion of agricultural water rights for wildlife purposes or to improve the quality or flow of water.

Sec. 3. 1. In addition to any other penalty provided by law, the State Engineer may, after notice and opportunity for a hearing, require a person who violates any provision of this chapter or any permit, certificate, order or decision issued or regulation adopted by the State Engineer pursuant to this chapter or NRS 532.120 to:

(a) Pay an administrative fine not to exceed \$10,000 per day for each violation as determined by the State Engineer.

(b) In the case of an unauthorized use or willful waste of water in violation of NRS 533.460 or an unlawful diversion of water in violation of NRS 533.530, or any other violation of this chapter that, as determined by the State Engineer, results in an unlawful use, waste or diversion of water, replace not more than 200 percent of the water used, wasted or diverted.

2. If an administrative fine is imposed against a person pursuant to subsection 1 or the person is ordered to replace any water pursuant to that subsection, the State Engineer may require the person to pay the costs of the proceeding, including investigative costs and attorney's fees.

3. An order imposing an administrative fine or requiring the replacement of water or the payment of costs or fees pursuant to this section may be reviewed by a district court pursuant to NRS 533.450.

Sec. 4. 1. The State Engineer may seek injunctive relief in the appropriate court to prevent the continuance or occurrence of any act or practice which violates any provision of this chapter, or any permit, certificate, decision or order issued or regulation adopted by the State Engineer pursuant to this chapter or NRS 532.120.

2. On a showing by the State Engineer that a person is engaged, or is about to engage, in any act or practice which violates or will violate any provision of this chapter, or any permit, certificate, decision or order issued or regulation adopted by the State Engineer pursuant to this chapter or NRS 532.120, the court may issue, without a bond, any prohibitory or mandatory injunction that the facts may warrant, including a temporary restraining order issued ex parte or, after notice and hearing, a preliminary or permanent injunction.

3. Failure to establish lack of an adequate remedy at law or irreparable harm is not a ground for denying a request for a temporary restraining order or injunction.

4. The court may require the posting of a sufficient performance bond or other security to ensure compliance with the court order within the period prescribed.

5. Any proceeding conducted or injunction or order issued pursuant to this section is in addition to, and not in lieu of, any other penalty or remedy available for a violation specified in this section.

Sec. 4.5. The State Engineer shall not carry out his duties pursuant to this chapter in a manner that conflicts with any applicable provision of a decree or order issued by a state or federal court, an interstate compact or an agreement to which this State is a party for the interstate allocation of water pursuant to an act of Congress.

Sec. 4.7. NRS 533.365 is hereby amended to read as follows:

533.365 1. Any person interested may, within 30 days from the date of last publication of the notice of application, file with the State Engineer a written protest against the granting of the application, setting forth with

reasonable certainty the grounds of such protest, which shall be verified by the affidavit of the protestant, his agent or attorney.

2. On receipt of a protest, the State Engineer shall advise the applicant whose application has been protested of the fact that the protest has been filed with him, which advice shall be sent by certified mail.

3. The State Engineer shall consider the protest, and may, in his discretion, hold hearings and require the filing of such evidence as he may deem necessary to a full understanding of the rights involved. The State Engineer shall give notice of the hearing by certified mail to both the applicant and the protestant. The notice must state the time and place at which the hearing is to be held and must be mailed at least 15 days before the date set for the hearing.

4. The State Engineer shall adopt rules of practice regarding the conduct of such hearings. The rules of practice must be adopted in accordance with the provisions of NRS 233B.040 to 233B.120, inclusive, and codified in the Nevada Administrative Code. The technical rules of evidence do not apply at such a hearing.

5. The provisions of this section do not prohibit the noticing of a new period of 45 days in which a person may file with the State Engineer a written protest against the granting of the application, if such notification is required to be given pursuant to subsection 8 of NRS 533.370.

Sec. 4.9. NRS 533.370 is hereby amended to read as follows:

533.370 1. Except as otherwise provided in this section and NRS 533.345, 533.371, 533.372 and 533.503, the State Engineer shall approve an application submitted in proper form which contemplates the application of water to beneficial use if:

- (a) The application is accompanied by the prescribed fees;
- (b) The proposed use or change, if within an irrigation district, does not adversely affect the cost of water for other holders of water rights in the district or lessen the efficiency of the district in its delivery or use of water; and
- (c) The applicant provides proof satisfactory to the State Engineer of:
 - (1) His intention in good faith to construct any work necessary to apply the water to the intended beneficial use with reasonable diligence; and
 - (2) His financial ability and reasonable expectation actually to construct the work and apply the water to the intended beneficial use with reasonable diligence.

2. Except as otherwise provided in this subsection and subsections 3 and ~~8~~ 11, the State Engineer shall approve or reject each application within 1 year after the final date for filing a protest. The State Engineer may:

- (a) Postpone action upon written authorization to do so by the applicant or, if an application is protested, by the protestant and the applicant.
- (b) Postpone action if the purpose for which the application was made is municipal use.

(c) In areas where studies of water supplies have been determined to be necessary by the State Engineer pursuant to NRS 533.368 or where court actions are pending, withhold action until it is determined there is unappropriated water or the court action becomes final.

3. Except as otherwise provided in subsection ~~8.1~~ 11, the State Engineer shall approve or reject, within 6 months after the final date for filing a protest, an application filed to change the point of diversion of water already appropriated when the existing and proposed points of diversion are on the same property for which the water has already been appropriated under the existing water right or the proposed point of diversion is on real property that is proven to be owned by the applicant and is contiguous to the place of use of the existing water right. The State Engineer may:

(a) Postpone action upon written authorization to do so by the applicant or, if the application is protested, by the protestant and the applicant.

(b) In areas where studies of water supplies have been determined to be necessary by the State Engineer pursuant to NRS 533.368 or where court actions are pending, withhold action until it is determined there is unappropriated water or the court action becomes final.

4. If the State Engineer does not act upon an application within 1 year after the final date for filing a protest, the application remains active until acted upon by the State Engineer.

5. Except as otherwise provided in subsection ~~8.1~~ 11, where there is no unappropriated water in the proposed source of supply, or where its proposed use or change conflicts with existing rights or with protectible interests in existing domestic wells as set forth in NRS 533.024, or threatens to prove detrimental to the public interest, the State Engineer shall reject the application and refuse to issue the requested permit. If a previous application for a similar use of water within the same basin has been rejected on those grounds, the new application may be denied without publication.

6. In determining whether an application for an interbasin transfer of groundwater must be rejected pursuant to this section, the State Engineer shall consider:

(a) Whether the applicant has justified the need to import the water from another basin;

(b) If the State Engineer determines that a plan for conservation of water is advisable for the basin into which the water is to be imported, whether the applicant has demonstrated that such a plan has been adopted and is being effectively carried out;

(c) Whether the proposed action is environmentally sound as it relates to the basin from which the water is exported;

(d) Whether the proposed action is an appropriate long-term use which will not unduly limit the future growth and development in the basin from which the water is exported; and

(e) Any other factor the State Engineer determines to be relevant.

7. If a hearing is held regarding an application, the decision of the State Engineer must be in writing and include findings of fact, conclusions of law and a statement of the underlying facts supporting the findings of fact. The written decision may take the form of a transcription of an oral ruling. The rejection or approval of an application must be endorsed on a copy of the original application, and a record must be made of the endorsement in the records of the State Engineer. The copy of the application so endorsed must be returned to the applicant. Except as otherwise provided in subsection ~~9.1~~ 12, if the application is approved, the applicant may, on receipt thereof, proceed with the construction of the necessary works and take all steps required to apply the water to beneficial use and to perfect the proposed appropriation. If the application is rejected, the applicant may take no steps toward the prosecution of the proposed work or the diversion and use of the public water while the rejection continues in force.

8. If:

(a) The State Engineer receives an application to appropriate any of the public waters, or to change the point of diversion, manner of use or place of use of water already appropriated;

(b) The application involves an amount of water exceeding 250 acre-feet per annum;

(c) The application involves an interbasin transfer of groundwater; and

(d) Within 7 years after the date of last publication of the notice of application, the State Engineer has not granted the application, denied the application, held an administrative hearing on the application or issued a permit in response to the application.

↳ the State Engineer shall notice a new period of 45 days in which a person may file with the State Engineer a written protest against the granting of the application. Such notification must be entered on the Internet website of the State Engineer and must, concurrently with that notification, be mailed to the board of county commissioners of the county of origin.

9. Except as otherwise provided in subsection 10, a person who wishes to protest an application in accordance with a new period of protest noticed pursuant to subsection 8 shall, within 45 days after the date on which the notification was entered and mailed, file with the State Engineer a written protest that complies with the provisions of this chapter and with the regulations adopted by the State Engineer, including, without limitation, any regulations prescribing the use of particular forms or requiring the payment of certain fees.

10. If a person is the successor in interest of an owner of a water right, an owner of real property containing a domestic well or an owner of an interest in a domestic well, and if that previous owner had already filed a written protest against the granting of an application to allow an interbasin transfer of groundwater, the successor in interest must be allowed to pursue that protest in the same manner as though he were the previous owner to whose interest he succeeded. If such a successor in interest wishes to protest

an application in accordance with a new period of protest noticed pursuant to subsection 8, the successor need not file with the State Engineer a new written protest but must, within 45 days after the date on which the notification was entered and mailed, inform the Office of the State Engineer that he wishes to continue pursuing the protest.

11. The provisions of subsections 1 to 6, inclusive, do not apply to an application for an environmental permit.

~~9.~~ 12. The provisions of subsection 7 do not authorize the recipient of an approved application to use any state land administered by the Division of State Lands of the State Department of Conservation and Natural Resources without the appropriate authorization for that use from the State Land Registrar.

~~10.~~ 13. As used in this section ~~["interbasin"]~~:

(a) "County of origin" means the county from which groundwater is transferred or proposed to be transferred.

(b) "Domestic well" has the meaning ascribed to it in NRS 534.350.

(c) "Interbasin transfer of groundwater" means a transfer of groundwater for which the proposed point of diversion is in a different basin than the proposed place of beneficial use.

Sec. 5. NRS 533.450 is hereby amended to read as follows:

533.450 1. Any person feeling himself aggrieved by any order or decision of the State Engineer, acting in person or through his assistants or the water commissioner, affecting his interests, when ~~such~~ the order or decision relates to the administration of determined rights or is made pursuant to NRS 533.270 to 533.445, inclusive, or section 3, 7, 10 or 14 of this act, may have the same reviewed by a proceeding for that purpose, insofar as may be in the nature of an appeal, which ~~shall~~ must be initiated in the proper court of the county in which the matters affected or a portion thereof are situated, ~~but~~ on stream systems where a decree of court has been entered, the action ~~shall~~ must be initiated in the court that entered the decree. ~~Such~~ The order or decision of the State Engineer ~~shall be and remain~~ remains in full force and effect unless proceedings to review the same are commenced in the proper court within 30 days ~~following~~ after the rendition of the order or decision in question and notice thereof is given to the State Engineer as provided in subsection 3.

2. The proceedings in every case ~~shall~~ must be heard by the court, and ~~shall~~ must be informal and summary, but full opportunity to be heard ~~shall~~ must be had before judgment is pronounced.

3. No such proceedings may be entertained unless notice thereof, containing a statement of the substance of the order or decision complained of, and of the manner in which the same injuriously affects the petitioner's interests, has been served upon the State Engineer, personally or by registered or certified mail, at his office at the State Capital within 30 days following the rendition of the order or decision in question. A similar notice ~~shall~~ must also be served personally or by registered or certified mail upon

the person ~~[or persons]~~ who may have been affected by ~~[such]~~ the order or decision.

4. Where evidence has been filed with, or testimony taken before, the State Engineer, a transcribed copy thereof, or of any specific part of the same, duly certified as a true and correct transcript in the manner provided by law, ~~[shall]~~ must be received in evidence with the same effect as if the reporter were present and testified to the facts so certified. A copy of the transcript ~~[shall]~~ must be furnished on demand, at actual cost, to any person affected by ~~[such]~~ the order or decision, and to all other persons on payment of a reasonable amount therefor, to be fixed by the State Engineer.

5. A bond ~~[shall]~~ must not be required except when a stay is desired, and the proceedings provided for in this section are not a stay unless, within 5 days ~~[following]~~ after the service of notice thereof, a bond is filed in an amount to be fixed by the court, with sureties satisfactory to ~~[such]~~ the court, conditioned to perform the judgment rendered in ~~[such]~~ the proceedings.

6. Costs ~~[shall]~~ must be paid as in civil cases brought in the district court, except by the State Engineer or the State.

7. The practice in civil cases applies to the informal and summary character of such proceedings, as provided in this section.

8. Appeals may be taken to the Supreme Court from the judgment of the district court in the same manner as in other civil cases.

9. The decision of the State Engineer ~~[shall be]~~ is prima facie correct, and the burden of proof ~~[shall be]~~ is upon the party attacking the same.

10. Whenever it appears to the State Engineer that any litigation, whether now pending or hereafter brought, may adversely affect the rights of the public in water, he shall request the Attorney General to appear and protect the interests of the State.

Sec. 6. Chapter 534 of NRS is hereby amended by adding thereto the provisions set forth as sections 7 and 8 of this act.

Sec. 7. 1. *Except as otherwise provided in NRS 534.280, 534.310 and 534.330 and in addition to any other penalty provided by law, the State Engineer may, after notice and opportunity for a hearing, require a person who violates any provision of this chapter or any permit, order or decision issued or regulation adopted by the State Engineer pursuant to this chapter or NRS 532.120 to:*

(a) Pay an administrative fine not to exceed \$10,000 per day for each violation as determined by the State Engineer.

(b) In the case of an unlawful waste of water in violation of NRS 534.070 or any other violation of this chapter that, as determined by the State Engineer, results in an unlawful use, waste or diversion of water, replace not more than 200 percent of the water used, wasted or diverted.

2. *In determining violations of this chapter relating to the unauthorized use of water yielded from a well that is used pursuant to a permit issued by the State Engineer and that has 16 or fewer connections, the State Engineer has the burden of proving which user is withdrawing water in excess of the*

portion of water allotted to the connection of that user. The State Engineer may require any or all users of the well to install and maintain, at their own expense, a meter that measures the amount of water withdrawn from the well by each connection.

3. If an administrative fine is imposed against a person pursuant to subsection 1 or the person is ordered to replace any water pursuant to that subsection, the State Engineer may require the person to pay the costs of the proceeding, including investigative costs and attorney's fees.

4. An order imposing an administrative fine or requiring the replacement of water or payment of costs or fees pursuant to this section may be reviewed by a district court pursuant to NRS 533.450.

Sec. 8. 1. The State Engineer may seek injunctive relief in the appropriate court to prevent the continuance or occurrence of any act or practice which violates any provision of this chapter, or any permit, order or decision issued or regulation adopted by the State Engineer pursuant to this chapter or NRS 532.120.

2. On a showing by the State Engineer that a person is engaged, or is about to engage, in any act or practice which violates or will violate any provision of this chapter, or any permit, order or decision issued or regulation adopted by the State Engineer pursuant to this chapter or NRS 532.120, the court may issue, without a bond, any prohibitory or mandatory injunction that the facts may warrant, including a temporary restraining order issued ex parte or, after notice and hearing, a preliminary or permanent injunction.

3. Failure to establish lack of an adequate remedy at law or irreparable harm is not a ground for denying a request for a temporary restraining order or injunction.

4. The court may require the posting of a sufficient performance bond or other security to ensure compliance with the court order within the period prescribed.

5. Any proceeding conducted or injunction or order issued pursuant to this section is in addition to, and not in lieu of, any other penalty or remedy available for a violation of this chapter.

Sec. 9. Chapter 535 of NRS is hereby amended by adding thereto the provisions set forth as sections 10 and 11 of this act.

Sec. 10. 1. In addition to any other penalty provided by law, the State Engineer may, after notice and opportunity for a hearing, require a person who violates any provision of this chapter, any permit, order or decision issued by the State Engineer pursuant to this chapter or any regulation adopted by the State Engineer pursuant to NRS 532.120 to pay an administrative fine not to exceed \$10,000 per day for each violation as determined by the State Engineer.

2. If an administrative fine is imposed against a person pursuant to subsection 1, the State Engineer may require the person to pay the costs of the proceeding, including investigative costs and attorney's fees.

3. *An order imposing an administrative fine or requiring the payment of costs or fees pursuant to this section may be reviewed by a district court pursuant to NRS 533.450.*

Sec. 11. 1. *The State Engineer may seek injunctive relief in the appropriate court to prevent the continuance or occurrence of any act or practice which violates any provision of this chapter, any permit, order or decision issued by the State Engineer pursuant to this chapter or any regulation adopted by the State Engineer pursuant to NRS 532.120.*

2. *On a showing by the State Engineer that a person is engaged, or is about to engage, in any act or practice which violates or will violate any provision of this chapter, any permit, order or decision issued by the State Engineer pursuant to this chapter or any regulation adopted by the State Engineer pursuant to NRS 532.120, the court may issue, without a bond, any prohibitory or mandatory injunction that the facts may warrant, including a temporary restraining order issued ex parte or, after notice and hearing, a preliminary or permanent injunction.*

3. *Failure to establish lack of an adequate remedy at law or irreparable harm is not a ground for denying a request for a temporary restraining order or injunction.*

4. *The court may require the posting of a sufficient performance bond or other security to ensure compliance with the court order within the period prescribed.*

5. *Any proceeding conducted or injunction or order issued pursuant to this section is in addition to, and not in lieu of, any other penalty or remedy available for a violation of this chapter.*

Sec. 12. NRS 535.100 is hereby amended to read as follows:

535.100 1. ~~[It is unlawful for any person being]~~ *Any person who is the owner of or in possession of any sawmill used for the making of lumber, or any slaughterhouse, brewery or tannery ~~[to]~~ shall not injure or obstruct the natural flow of water in any river, creek or other stream.*

2. *Any city or county government, or any person, ~~[being]~~ who is the owner of or in possession of any agricultural lands ~~[, who may be]~~ and who is injured by reason of the violation on the part of any person of the provisions contained in subsection 1 ~~[, shall have the right to]~~ may commence and maintain an action against ~~[such]~~ the person for any damage sustained, in such manner as may be provided by law.*

~~[3.—Any person who shall willfully and knowingly violate the provisions of this section shall be punished by a fine of not more than \$500.]~~

Sec. 13. Chapter 536 of NRS is hereby amended by adding thereto the provisions set forth as sections 14 and 15 of this act.

Sec. 14. 1. *In addition to any other penalty provided by law, the State Engineer may, after notice and opportunity for a hearing, require a person who violates any provision of this chapter, any order or decision issued by the State Engineer pursuant to this chapter or any regulation adopted by the State Engineer pursuant to NRS 532.120 to pay an administrative fine not to*

exceed \$10,000 per day for each violation as determined by the State Engineer.

2. If an administrative fine is imposed against a person pursuant to subsection 1, the State Engineer may require the person to pay the costs of the proceeding, including investigative costs and attorney's fees.

3. An order imposing an administrative fine or requiring the payment of costs or fees pursuant to this section may be reviewed by a district court pursuant to NRS 533.450.

Sec. 15. *1. The State Engineer may seek injunctive relief in the appropriate court to prevent the continuance or occurrence of any act or practice which violates any provision of this chapter, any order or decision issued by the State Engineer pursuant to this chapter or any regulation adopted by the State Engineer pursuant to NRS 532.120.*

2. On a showing by the State Engineer that a person is engaged, or is about to engage, in any act or practice which violates or will violate any provision of this chapter, any order or decision issued by the State Engineer pursuant to this chapter or any regulation adopted by the State Engineer pursuant to NRS 532.120, the court may issue, without a bond, any prohibitory or mandatory injunction that the facts may warrant, including a temporary restraining order issued ex parte or, after notice and hearing, a preliminary or permanent injunction.

3. Failure to establish lack of an adequate remedy at law or irreparable harm is not a ground for denying a request for a temporary restraining order or injunction.

4. The court may require the posting of a sufficient performance bond or other security to ensure compliance with the court order within the period prescribed.

5. Any proceeding conducted or injunction or order issued pursuant to this section is in addition to, and not in lieu of, any other penalty or remedy available for a violation of this chapter.

Sec. 16. The State Engineer shall, in adopting regulations to carry out the amendatory provisions of this act:

1. Consider establishing a minimum threshold amount of water that a user of water would be required to exceed in using, wasting or diverting water in an unlawful manner before an administrative penalty would be imposed;

2. Comply with the provisions of chapter 233B of NRS;

3. Consider waiving an administrative penalty for a violation if the violator has, in the determination of the State Engineer, made significant progress toward correcting the violation; and

4. In addition to the requirements of subsection 1, consider waiving an administrative penalty in the case of an unauthorized use or willful waste of water in violation of NRS 533.460 or an unlawful diversion of water in violation of NRS 533.530, if the amount of water so used or wasted does not exceed 2 acre-feet per annum.

Sec. 17. The State Engineer shall, on or before January 1, 2009, submit to the Director of the Legislative Counsel Bureau a written report detailing the efforts and progress of the State Engineer in developing and adopting regulations to carry out the amendatory provisions of this act.

Sec. 18. The State Engineer shall not, before July 1, 2009, impose an administrative penalty pursuant to the amendatory provisions of this act or any regulations adopted to carry out the amendatory provisions of this act.

Sec. 19. This act becomes effective on July 1, 2007.

Senator Rhoads moved that the Senate do not concur in the Assembly amendment to Senate Bill No. 274.

Remarks by Senator Rhoads.

Motion carried.

Bill ordered transmitted to the Assembly.

Senate Bill No. 328.

The following Assembly amendment was read:

Amendment No. 848.

"SUMMARY—Revises provisions governing educational personnel. (BDR 34-473)"

"AN ACT relating to educational personnel; requiring the board of trustees of each school district to adopt a program to engage certain administrators in annual classroom instruction ~~, [and] observation [;]~~ and other activities; making various changes regarding the evaluation and admonition of educational personnel; and providing other matters properly relating thereto." Legislative Counsel's Digest:

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 requires the board of trustees of each school district to adopt a program to engage administrators employed at the district level in annual classroom instruction ~~, [and]~~ observation and other activities in a manner that is appropriate for the responsibilities, position and duties of the administrators.

Existing law requires each probationary teacher to be evaluated at least three times during each school year and a postprobationary teacher to be evaluated at least once each school year. (NRS 391.3125) Section 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 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 each school district shall adopt a policy that sets forth procedures and conditions for a program to engage administrators employed by the school district at the district level in annual classroom instruction, ~~and~~ observation and other activities in a manner that is appropriate for the responsibilities, position and duties of the administrators. The policy must require each administrator employed by the school district at the district level to:*

(a) *If he holds a license to teach, provide instruction in a core academic subject in a classroom for at least 1 regularly scheduled full instructional day in each school year; or*

(b) *If he does not hold a license to teach ~~personally~~:*

(1) Personally observe a classroom for at least ~~1~~ one-half of a regularly scheduled full instructional day in each school year ~~or~~; or

(2) Otherwise participate in activities with pupils in the classroom in each school year, including, without limitation, serving as a guest speaker in the classroom, reading to pupils in elementary school and participating in career day.

2. ~~[A 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. The provisions of this section do not apply to administrators who are employed by a school district to provide administrative service at the school level, including, without limitation, a principal or vice principal.

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

~~(a) "Administrator" means each person employed by a school district to provide administrative service at:~~

~~(1) The district level, including, without limitation, the superintendent of schools of the school district;~~

~~(2) The school level, including, without limitation, a principal or vice principal; or~~

~~(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"~~ "core academic subject" means the core academic subjects designated pursuant to NRS 389.018.

Sec. 2. (Deleted by amendment.)

Sec. 3. (Deleted by amendment.)

Sec. 4. (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 not less than a cumulative total of 60 minutes during each evaluation period, with at least one observation during that 60-minute evaluation period consisting of at least 45 consecutive minutes.*

4. Whenever an administrator charged with the evaluation of a probationary employee believes the employee will not be reemployed for the second year of the probationary period or the school year following the probationary period, he shall bring the matter to the employee's attention in a written document which is separate from the evaluation ~~no~~ not later than ~~February 15~~ March 1 of the current school year. The notice must include the reasons for the potential decision not to reemploy or refer to the evaluation in which the reasons are stated. Such a notice is not required if the probationary employee has received a letter of admonition during the current school year.

5. Each postprobationary teacher must be evaluated at least once each year. *An administrator charged with the evaluation of a postprobationary teacher shall personally observe the performance of the teacher in the*

classroom for not less than a cumulative total of 60 minutes during each evaluation period, with at least one observation during that 60-minute evaluation period consisting of at least ~~45~~ 30 consecutive minutes.

6. The evaluation of a probationary teacher or a postprobationary teacher must ~~[-, if] ~~not~~~~ include, without limitation:

(a) An evaluation of the classroom management skills of the teacher;

(b) A review of the lesson plans and the work log or grade book of pupils prepared by the teacher;

(c) An evaluation of whether the curriculum taught by the teacher is aligned with the standards of content and performance established pursuant to NRS 389.520, as applicable for the grade level taught by the teacher;

(d) An evaluation of whether the teacher is appropriately addressing the needs of the pupils in the classroom, including, without limitation, special educational needs, cultural and ethnic diversity, the needs of pupils enrolled in advanced courses of study and the needs of pupils who are limited English proficient;

(e) If necessary, ~~[include]~~ recommendations for improvements in ~~[his]~~ the performance ~~[-]~~ [A reasonable effort must be made to assist the teacher to correct any deficiencies noted in the evaluation.] of the teacher;

~~[- (b) - Include a]~~

(f) A description of the action that will be taken to assist the teacher in correcting any deficiencies reported in the evaluation ~~[-]~~; and

~~[- (c) - Include a]~~

(g) A statement by the administrator who evaluated the teacher indicating the amount of time that the administrator personally observed the performance of the teacher in the classroom.

7. The teacher must receive a copy of each evaluation not later than 15 days after the evaluation. A copy of the evaluation and the teacher's response must be permanently attached to the teacher's personnel file. *Upon the request of a teacher, a reasonable effort must be made to assist the teacher to correct those deficiencies reported in the evaluation of the teacher for which the teacher requests assistance.*

Sec. 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 and other activities 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. 9. This act becomes effective on July 1, 2007.

Amendment No. 1027.

"SUMMARY—Revises provisions governing educational personnel. (BDR 34-473)"

"AN ACT relating to educational personnel; revising provisions governing the monthly salaries of the members of the boards of trustees of school districts; requiring the board of trustees of each school district to adopt a program to engage certain administrators in annual classroom instruction, observation and other activities; making various changes regarding the evaluation and admonition of educational personnel; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law prescribes varying salaries for the officers and other members of the boards of trustees of school districts based on the number of pupils enrolled in the school district during the immediately preceding school year. (NRS 386.320) Section 2 of this bill revises provisions governing the salaries of the members of the boards of trustees of school districts based on the population of the county in which the school district is located. Section 2 also authorizes a member of the board of trustees to donate all or a part of his salary to a school within the school district or to the school district.

The board of trustees of a school district is authorized to employ a superintendent of schools, teachers and all other necessary employees. (NRS 391.100, 391.110, 391.120) Section ~~4~~ 4 of this bill requires the board of trustees of each school district to adopt a program to engage administrators employed at the district level in annual classroom instruction, observation and other activities in a manner that is appropriate for the responsibilities, position and duties of the administrators.

Existing law requires each probationary teacher to be evaluated at least three times during each school year and a postprobationary teacher to be evaluated at least once each school year. (NRS 391.3125) Section ~~5~~ 8 of this bill requires an administrator who is responsible for evaluating a teacher

to personally observe that teacher in the classroom for not less than a cumulative total of 60 minutes during each evaluation period. If a deficiency is discovered during the evaluation process, every effort must be made to assist the teacher to correct the deficiency. Existing law prescribes the circumstances under which an administrator may admonish an employee. (NRS 391.313) Section ~~46~~ 9 of this bill requires that, if an administrator admonishes a teacher, an admonition must include a description of the deficiencies of the teacher and the actions that are necessary to correct those deficiencies.

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

Section 1. NRS 386.290 is hereby amended to read as follows:

386.290 1. In addition to salaries ~~allowed under~~ required by NRS 386.320, a trustee ~~shall~~ must be allowed:

(a) His traveling expenses for traveling each way between his home and the place where board meetings are held at the rate authorized by law for state officers.

(b) His living expenses necessarily incurred while in actual attendance at board meetings at the rate authorized by law for state officers.

2. Claims for mileage and per diem allowances ~~shall~~ must be allowed and paid in the same manner as other claims against the school district fund are paid, but no claim for mileage and per diem allowances for living expenses ~~shall~~ must be allowed or paid to a trustee residing not more than 5 miles from the place where board meetings are held.

Sec. 2. NRS 386.320 is hereby amended to read as follows:

386.320 1. ~~If the total pupil enrollment in the school district for the immediately preceding school year is less than 1,000:~~

~~(a) The clerk and president of the board of trustees may each receive a salary of \$85 for each board of trustees meeting they attend, not to exceed \$170 a month.~~

~~(b) The other trustees may each receive a salary of \$80 for each board of trustees meeting they attend, not to exceed \$160 a month.~~

~~(c) Each member of the board of trustees of a school district in a county whose population is less than 100,000 must receive a salary of \$115 for each meeting of the board he attends, not to exceed \$345 per month.~~

2. Each member of the board of trustees of a school district in a county whose population is 100,000 or more must receive a salary of \$2,000 per month.

3. A member of the board of trustees of a school district who receives a salary pursuant to this section may:

(a) Donate all or a part of the monthly salary that he receives to a school within the school district or to the school district; or

(b) In lieu of making a donation after he receives the salary, request that all or a part of his monthly salary be paid directly to a school within the school district or to the school district.

4. The board of trustees may hire a stenographer to take the minutes of the meetings of the board of trustees, and the stenographer may be paid a reasonable fee for each meeting attended.

~~¶ 2. If the total pupil enrollment in the school district for the immediately preceding school year is 1,000 or more:~~

~~(a) The clerk and president of the board of trustees may each receive a salary of \$85 for each board of trustees meeting they attend, not to exceed \$510 a month.~~

~~(b) The other trustees may each receive a salary of \$80 for each board of trustees meeting they attend, not to exceed \$480 a month.~~

~~(c) The board of trustees may hire a stenographer to take the minutes of the meetings of the board of trustees, and the stenographer may be paid a reasonable fee for each meeting attended.~~

Sec. 3. NRS 387.310 is hereby amended to read as follows:

387.310 1. Except as otherwise provided by the board of trustees, the clerk of the board shall draw all orders for the payment of money belonging to the school district. The orders must be listed on cumulative voucher sheets.

2. The board of trustees shall prescribe the procedures by which the orders must be approved and the cumulative voucher sheets signed. The procedures must provide:

(a) That the approval of the board of trustees is required before orders are paid unless a payment must be expedited for the school district to:

(1) Receive a discount or other savings which is related to the timeliness of payment;

(2) Avoid a service charge or other cost which is related to the timeliness of payment; or

(3) Abide by a purchase order, contract or other order for payment which has been approved by the board of trustees at a public meeting.

(b) For ratification by the board of trustees at its next regularly scheduled meeting of any payment that is made without the approval of the board pursuant to an exception set forth in paragraph (a).

3. When the orders have been approved and the cumulative voucher sheets have been signed in accordance with such procedures, the orders are valid vouchers in the hands of the county auditor for him to issue warrants on the county treasurer to be paid out of money belonging to the school district.

4. No order in favor of the board of trustees or any member thereof, except for salaries as ~~authorized~~ required by NRS 386.320, ~~authorized~~ or travel expenses and subsistence ~~of trustees or for services of any trustee as clerk of the board,~~ as authorized by NRS 386.290, may be drawn.

5. No order for salary for any teacher may be drawn unless the teacher is included in the directory of teachers supplied to the clerk of the board of trustees pursuant to the provisions of NRS 391.045.

6. An order drawn by a clerk of a board of trustees pursuant to subsection 1 is void if not presented for payment within 1 year after the date of issuance.

7. Any order remaining unpaid after the expiration of 1 year, whether outstanding or uncalled for in the office of the county auditor, must be cancelled by the county auditor, who shall immediately notify the county treasurer of the cancellation. The county treasurer shall not pay a warrant presented for payment more than 1 year after the date of issuance of such an order. This subsection does not apply if the board of trustees establishes and administers a separate account pursuant to NRS 354.603.

~~[Section 4]~~ Sec. 4. Chapter 391 of NRS is hereby amended by adding thereto a new section to read as follows:

1. *The board of trustees of each school district shall adopt a policy that sets forth procedures and conditions for a program to engage administrators employed by the school district at the district level in annual classroom instruction, observation and other activities in a manner that is appropriate for the responsibilities, position and duties of the administrators. The policy must require each administrator employed by the school district at the district level to:*

(a) If he holds a license to teach, provide instruction in a core academic subject in a classroom for at least 1 regularly scheduled full instructional day in each school year; or

(b) If he does not hold a license to teach:

(1) Personally observe a classroom for at least one-half of a regularly scheduled full instructional day in each school year; or

(2) Otherwise participate in activities with pupils in the classroom in each school year, including, without limitation, serving as a guest speaker in the classroom, reading to pupils in elementary school and participating in career day.

2. *A district level administrator may choose a school within the school district at which he will carry out the requirements of this section.*

3. *An administrator who provides instruction pursuant to paragraph (a) of subsection 1 must be assigned as a substitute teacher for the full instructional day in which he carries out the requirements of this section.*

4. *The provisions of this section do not apply to administrators who are employed by a school district to provide administrative service at the school level, including, without limitation, a principal or vice principal.*

5. *As used in this section, "core academic subject" means the core academic subjects designated pursuant to NRS 389.018.*

~~[Sec. 2]~~ Sec. 5. (Deleted by amendment.)

~~[Sec. 3]~~ Sec. 6. (Deleted by amendment.)

~~[Sec. 4]~~ Sec. 7. (Deleted by amendment.)

~~[Sec. 5]~~ Sec. 8. NRS 391.3125 is hereby amended to read as follows:

391.3125 1. It is the intent of the Legislature that a uniform system be developed for objective evaluation of teachers and other licensed personnel in each school district.

2. Each board, following consultation with and involvement of elected representatives of the teachers or their designees, shall develop a policy for

objective evaluations in narrative form. The policy must set forth a means according to which an employee's overall performance may be determined to be satisfactory or unsatisfactory. The policy may include an evaluation by the teacher, pupils, administrators or other teachers or any combination thereof. In a similar manner, counselors, librarians and other licensed personnel must be evaluated on forms developed specifically for their respective specialties. A copy of the policy adopted by the board must be filed with the Department. The primary purpose of an evaluation is to provide a format for constructive assistance. Evaluations, while not the sole criterion, must be used in the dismissal process.

3. A conference and a written evaluation for a probationary employee must be concluded ~~no~~ not later than:

- (a) December 1;
- (b) February 1; and
- (c) April 1,

↪ of each school year of the probationary period, except that a probationary employee assigned to a school that operates all year must be evaluated at least three times during each 12 months of employment on a schedule determined by the board. *An administrator charged with the evaluation of a probationary teacher shall personally observe the performance of the teacher in the classroom for not less than a cumulative total of 60 minutes during each evaluation period, with at least one observation during that 60-minute evaluation period consisting of at least 45 consecutive minutes.*

4. Whenever an administrator charged with the evaluation of a probationary employee believes the employee will not be reemployed for the second year of the probationary period or the school year following the probationary period, he shall bring the matter to the employee's attention in a written document which is separate from the evaluation ~~no~~ not later than ~~February 15~~ March 1 of the current school year. The notice must include the reasons for the potential decision not to reemploy or refer to the evaluation in which the reasons are stated. Such a notice is not required if the probationary employee has received a letter of admonition during the current school year.

5. Each postprobationary teacher must be evaluated at least once each year. *An administrator charged with the evaluation of a postprobationary teacher shall personally observe the performance of the teacher in the classroom for not less than a cumulative total of 60 minutes during each evaluation period, with at least one observation during that 60-minute evaluation period consisting of at least 30 consecutive minutes.*

6. The evaluation of a probationary teacher or a postprobationary teacher must ~~if~~ include, without limitation:

- (a) *An evaluation of the classroom management skills of the teacher;*
- (b) *A review of the lesson plans and the work log or grade book of pupils prepared by the teacher;*

(c) *An evaluation of whether the curriculum taught by the teacher is aligned with the standards of content and performance established pursuant to NRS 389.520, as applicable for the grade level taught by the teacher;*

(d) *An evaluation of whether the teacher is appropriately addressing the needs of the pupils in the classroom, including, without limitation, special educational needs, cultural and ethnic diversity, the needs of pupils enrolled in advanced courses of study and the needs of pupils who are limited English proficient;*

(e) *If necessary, ~~include~~ recommendations for improvements in ~~his~~ the performance ~~[. A reasonable effort must be made to assist the teacher to correct any deficiencies noted in the evaluation.]~~ of the teacher;*

(f) *A description of the action that will be taken to assist the teacher in correcting any deficiencies reported in the evaluation; and*

(g) *A statement by the administrator who evaluated the teacher indicating the amount of time that the administrator personally observed the performance of the teacher in the classroom.*

7. The teacher must receive a copy of each evaluation not later than 15 days after the evaluation. A copy of the evaluation and the teacher's response must be permanently attached to the teacher's personnel file. *Upon the request of a teacher, a reasonable effort must be made to assist the teacher to correct those deficiencies reported in the evaluation of the teacher for which the teacher requests assistance.*

~~[Sec. 6.]~~ Sec. 9. NRS 391.313 is hereby amended to read as follows:

391.313 1. Whenever an administrator charged with supervision of a licensed employee believes it is necessary to admonish the employee for a reason that he believes may lead to demotion ~~[.]~~ or dismissal or *may* cause the employee not to be reemployed under the provisions of NRS 391.312, he shall:

(a) Except as otherwise provided in subsection ~~[2.]~~ 3, bring the matter to the attention of the employee involved, in writing, stating the reasons for the admonition and that it may lead to his demotion, dismissal or a refusal to reemploy him, and make a reasonable effort to assist the employee to correct whatever appears to be the cause for his potential demotion, dismissal or a potential recommendation not to reemploy him; and

(b) Except as otherwise provided in NRS 391.314, allow reasonable time for improvement, which must not exceed 3 months for the first admonition.

↪ *The admonition must include a description of the deficiencies of the teacher and the action that is necessary to correct those deficiencies.*

2. An admonition issued to a licensed employee who, within the time granted for improvement, has met the standards set for him by the administrator who issued the admonition must be removed from the records of the employee together with all notations and indications of its having been issued. The admonition must be removed from the records of the employee not later than 3 years after it is issued.

~~{2-}~~ 3. An administrator need not admonish an employee pursuant to paragraph (a) of subsection 1 if his employment will be terminated pursuant to NRS 391.3197. If by ~~{February 15}~~ *March 1* of the first or second year of his probationary period a probationary employee does not receive a written notice pursuant to subsection 4 of NRS 391.3125 of a potential decision not to reemploy him, he must receive an admonition before any such decision is made.

~~{3-}~~ 4. A licensed employee is subject to immediate dismissal or a refusal to reemploy according to the procedures provided in NRS 391.311 to 391.3197, inclusive, without the admonition required by this section, on grounds contained in paragraphs (b), (f), (g), (h) and (p) of subsection 1 of NRS 391.312.

~~{Sec. 7-}~~ *Sec. 10.* NRS 391.3197 is hereby amended to read as follows:

391.3197 1. A probationary employee is employed on a contract basis for two 1-year periods and has no right to employment after either of the two probationary contract years.

2. The board shall notify each probationary employee in writing on or before May 1 of the first and second school years of his probationary period, as appropriate, whether he is to be reemployed for the second year of the probationary period or for the next school year as a postprobationary employee. The employee must advise the board in writing on or before May 10 of the first or second year of his probationary period, as appropriate, of his acceptance of reemployment. If a probationary employee is assigned to a school that operates all year, the board shall notify him in writing, in both the first and second years of his probationary period, no later than 45 days before his last day of work for the year under his contract whether he is to be reemployed for the second year of the probationary period or for the next school year as a postprobationary employee. He must advise the board in writing within 10 days after the date of notification of his acceptance or rejection of reemployment for another year. Failure to advise the board of his acceptance of reemployment constitutes rejection of the contract.

3. A probationary employee who completes his 2-year probationary period and receives a notice of reemployment from the school district in the second year of his probationary period is entitled to be a postprobationary employee in the ensuing year of employment.

4. ~~{A-}~~ *If a probationary employee ~~{who receives an unsatisfactory evaluation}~~ receives notice pursuant to subsection 4 of NRS 391.3125 not later than March 1 of a potential decision not to reemploy him, the employee* may request a supplemental evaluation by another administrator in the school district selected by him and the superintendent. If a school district has five or fewer administrators, the supplemental evaluator may be an administrator from another school district in ~~{the}~~ *this* State. If a probationary employee has received during the first school year of his probationary period three evaluations which state that the employee's overall performance has

been satisfactory, the superintendent of schools of the school district or his designee shall waive the second year of the employee's probationary period by expressly providing in writing on the final evaluation of the employee for the first probationary year that the second year of his probationary period is waived. Such an employee is entitled to be a postprobationary employee in the ensuing year of employment.

5. If a probationary employee is notified that he will not be reemployed for the second year of his probationary period or the ensuing school year, his employment ends on the last day of the current school year. The notice that he will not be reemployed must include a statement of the reasons for that decision.

6. A new employee or a postprobationary teacher who is employed as an administrator shall be deemed to be a probationary employee for the purposes of this section and must serve a 2-year probationary period as an administrator in accordance with the provisions of this section. If the administrator does not receive an unsatisfactory evaluation during the first year of probation, the superintendent or his designee shall waive the second year of the administrator's probationary period. Such an administrator is entitled to be a postprobationary employee in the ensuing year of employment. If:

(a) A postprobationary teacher who is an administrator is not reemployed as an administrator after either year of his probationary period; and

(b) There is a position as a teacher available for the ensuing school year in the school district in which the person is employed,

the board of trustees of the school district shall, on or before May 1, offer the person a contract as a teacher for the ensuing school year. The person may accept the contract in writing on or before May 10. If the person fails to accept the contract as a teacher, the person shall be deemed to have rejected the offer of a contract as a teacher.

7. An administrator who has completed his probationary period pursuant to subsection 6 and is thereafter promoted to the position of principal must serve an additional probationary period of 1 year in the position of principal. If the administrator serving the additional probationary period is not reemployed as a principal after the expiration of the additional probationary period, the board of trustees of the school district in which the person is employed shall, on or before May 1, offer the person a contract for the ensuing school year for the administrative position in which the person attained postprobationary status. The person may accept the contract in writing on or before May 10. If the person fails to accept such a contract, the person shall be deemed to have rejected the offer of employment.

8. Before dismissal, the probationary employee is entitled to a hearing before a hearing officer which affords due process as set out in NRS 391.311 to 391.3196, inclusive.

~~[Sec. 8.]~~ *Sec. 11.* On or before February 1, 2008, the board of trustees of each school district shall submit a copy of the program to engage

administrators in annual classroom instruction, observation and other activities adopted by the school district pursuant to section ~~44~~ 4 of this act to the Legislative Committee on Education and to the Director of the Legislative Counsel Bureau for transmission to the 75th Session of the Nevada Legislature.

Sec. 12. Notwithstanding the provisions of NRS 386.320, as amended by section 2 of this act, to the contrary, the salaries of the members of the board of trustees of a school district are not required to be increased pursuant to that section until July 1, 2008.

Sec. 13. The provisions of subsection 1 of NRS 354.599 do not apply to any additional expenses of a local government that are related to the provisions of this act.

~~[Sec. 9.]~~ *Sec. 14. This act becomes effective on July 1, 2007.*

Senator Washington moved that the Senate do not concur in the Assembly amendment to Senate Bill No. 328.

Remarks by Senator Washington.

Motion carried.

Bill ordered transmitted to the Assembly.

RECEDE FROM SENATE AMENDMENTS

Senator McGinness moved that the Senate recede from its action on Assembly Bill No. 110.

Remarks by Senator McGinness.

Motion carried.

Bill ordered transmitted to the Assembly.

Senator Washington moved that the Senate do not recede from its action on Assembly Bill No. 460, that a conference be requested, and that Mr. President appoint a first Conference Committee consisting of three members to meet with a like committee of the Assembly.

Remarks by Senator Washington.

Motion carried.

Bill ordered transmitted to the Assembly.

APPOINTMENT OF CONFERENCE COMMITTEES

President Krolicki appointed Senators Washington, Cegavske and Raggio as a first Conference Committee to meet with a like committee of the Assembly for the further consideration of Assembly Bill No. 460.

RECEDE FROM SENATE AMENDMENTS

Senator Hardy moved that the Senate do not recede from its action on Assembly Bill No. 461, that a conference be requested, and that Mr. President appoint a first Conference Committee consisting of three members to meet with a like committee of the Assembly.

Remarks by Senator Hardy.

Motion carried.

Bill ordered transmitted to the Assembly.

APPOINTMENT OF CONFERENCE COMMITTEES

President Krolicki appointed Senators McGinness, Hardy and Lee as a first Conference Committee to meet with a like committee of the Assembly for the further consideration of Assembly Bill No. 461.

RECEDE FROM SENATE AMENDMENTS

Senator McGinness moved that the Senate do not recede from its action on Assembly Bill No. 585, that a conference be requested, and that Mr. President appoint a first Conference Committee consisting of three members to meet with a like committee of the Assembly.

Remarks by Senator McGinness.

Motion carried.

Bill ordered transmitted to the Assembly.

APPOINTMENT OF CONFERENCE COMMITTEES

President Krolicki appointed Senators McGinness, Coffin and Amodei as a first Conference Committee to meet with a like committee of the Assembly for the further consideration of Assembly Bill No. 585.

REPORTS OF CONFERENCE COMMITTEES

Mr. President:

The first Conference Committee concerning Senate Bill No. 115, consisting of the undersigned members, has met and reports that:

It has agreed to recommend that the Amendment No. 696 of the Assembly be concurred in.

JOSEPH J. HECK

BONNIE PARNELL

BOB COFFIN

MOISES DENIS

BARBARA K. CEGAVSKE

ROBERT BEERS

Senate Conference Committee

Assembly Conference Committee

Senator Heck moved that the Senate adopt the report of the first Conference Committee concerning Senate Bill No. 115.

Motion carried by a constitutional majority.

REPORTS OF COMMITTEES

Mr. President:

Your Committee on Finance, to which were referred Senate Bills Nos. 226, 252, 462, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

Also, your Committee on Finance, to which was rereferred Senate Bill No. 380, 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*

SECOND READING AND AMENDMENT

Senate Bill No. 544.

Bill read second time.

The following amendment was proposed by the Committee on Finance:

Amendment No. 1047.

"SUMMARY—Makes various changes relating to the Public Employees' Benefits Program. (BDR 23-126)"

"AN ACT relating to programs for public employees; revising provisions governing the eligibility of retired officers and employees of certain local

governments to participate in the Public Employees' Benefits Program; ~~revising the composition of the Board of the Program; providing additional duties and~~ revising reporting requirements for the Board ~~[--] of the program;~~ providing a procedure for the Board to collect certain debts; making other various changes relating to the Program; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Section 1 of this bill authorizes participants in the Public Employees' Benefits Program to seek assistance from the Office for Consumer Health Assistance.

Section 2 of this bill clarifies that a local government is required to pay the subsidy for the cost of coverage under the Program for its retirees who reinstate coverage under the Program. Section 16 makes this requirement apply retroactively to October 1, 2003.

Effective November 30, 2008, section 2.5 removes the option of retirees of local governments to join the Program upon retirement if the local government that employed the retiree did not participate in the Program at that time. ~~[Section 2 also clarifies that the 5 year requirement of service by a local governmental retiree to qualify for a subsidy for coverage under the Program may be satisfied by service with one or more local governments.]~~ (NRS 287.023) Section 9.7 of this bill carries out this change with respect to reinstatement of coverage with the Program. (NRS 287.0475) Section 15 of this bill provides that removal of this option does not affect the eligibility of retirees of local governments that are enrolled in the Program on November 30, 2008, to continue coverage under the Program after that date.

~~[Section 4 of this bill revises the membership of the Board of the Program. (NRS 287.041)]~~ Section 5 of this bill ~~[revises the method of appointing the Chairman of the Board and]~~ authorizes the Board of the Program to appoint advisory committees. (NRS 287.0415)

~~[Section]~~ Effective July 1, 2008, section 6 of this bill requires the Board to provide a program that offers flexibility in benefits for participants in the Program who also have coverage under Medicare and authorizes the provision of the Program to other participants. (NRS 287.043) Section 6 also ~~[imposes certain requirements on local governments that enter into a contract for coverage with the Program. In addition to revising]~~ revises the contents of the annual report submitted by the Board to the Legislature. ~~[section 6 requires the Board to report to the Commissioner of Insurance certain information concerning the premiums for participants who have Medicare coverage. Pursuant to sections 6 and 12 of this bill, the Board is required to adjust the rates for those participants if the Commissioner determines that the amount of the premiums was unreasonable. Section 7 of this bill requires the Board to comply with certain provisions with which insurers are required to comply if the Board provides health insurance through a plan of self insurance. (NRS 287.04335)]~~ Effective November 30, 2008, section 6.5

of this bill imposes certain requirements on local governments that enter into a contract for coverage with the Program.

Effective July 1, 2008, sections 6 and 8.5 of this bill clarify that for the purposes of the provisions concerning the establishment of rates and coverage for the Program, only the claims experience of participants for whom the Program provides primary health insurance coverage must be commingled into a single risk pool. (NRS 287.043, 287.0434)

Sections 8 and 11 of this bill provide a procedure by which the Board may collect subsidy payments from local governments that are overdue. Sections 8 and 9 of this bill provide that the assets of the Program may only be used for the benefit of the participants of the Program. (NRS 287.0434, 287.0435)

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

Section 1. Chapter 287 of NRS is hereby amended by adding thereto a new section to read as follows:

A participant of the Program may seek assistance from the Office for Consumer Health Assistance regarding concerns and problems related to his coverage with the Program.

Sec. 2. NRS 287.023 is hereby amended to read as follows:

287.023 1. Whenever an officer or employee of the governing body of any county, school district, municipal corporation, political subdivision, public corporation or other local governmental agency of the State of Nevada retires under the conditions set forth in NRS 1A.350 or 1A.480, or 286.510 or 286.620 and, at the time of his retirement, was covered or had his dependents covered by any group insurance, plan of benefits or medical and hospital service established pursuant to NRS 287.010, 287.015, 287.020 or paragraph (b), (c) or (d) of subsection 1 of NRS 287.025 ~~or~~ or under the Public Employees' Benefits Program pursuant to paragraph (a) of subsection 1 of NRS 287.025, the officer or employee has the option upon retirement to cancel or continue any such coverage or, if such coverage was not provided under the Public Employees' Benefits Program, join ~~including coverage under~~ the Public Employees' Benefits Program, ~~if pursuant to paragraph (b) of subsection 1 of NRS 287.025,~~ to the extent that ~~such~~ coverage pursuant to this subsection is not provided to him or a dependent by the Health Insurance for the Aged Act, 42 U.S.C. §§ 1395 et seq.

2. A retired person who joins the Public Employees' Benefits Program upon retirement pursuant to subsection 1 or continues coverage under the Public Employees' Benefits Program shall assume the portion of the premium or contribution costs for the coverage which the governing body or the State does not pay on behalf of retired officers or employees. A dependent of such a retired person has the option, which may be exercised to the same extent and in the same manner as the retired person, to cancel or continue coverage in effect on the date the retired person dies. The dependent is not required to

continue to receive retirement payments from the Public Employees' Retirement System to continue coverage.

3. Notice of the selection of the option must be given in writing to the last public employer of the officer or employee within 60 days after the date of retirement or death, as the case may be. If no notice is given by that date, the retired officer or employee and his dependents shall be deemed to have selected the option to cancel the coverage for the group insurance, plan of benefits or medical and hospital service established pursuant to NRS 287.010, 287.015, 287.020 or paragraph (b), (c) or (d) of subsection 1 of NRS 287.025 ~~or~~ or coverage under the Public Employees' Benefits Program pursuant to paragraph (a) of subsection 1 of NRS 287.025 or not to join the Public Employees' Benefits Program, as the case may be.

4. The governing body of any county, school district, municipal corporation, political subdivision, public corporation or other local governmental agency of this State:

(a) May pay the cost, or any part of the cost, of coverage established pursuant to NRS 287.010, 287.015 or 287.020 or paragraph (b), (c) or (d) of subsection 1 of NRS 287.025 for persons who continue that coverage pursuant to subsection 1, but it must not pay a greater portion than it does for its current officers and employees.

(b) Shall pay the same ~~following~~ portion of the cost of coverage under the Public Employees' Benefits Program for persons who join or continue coverage under the Public Employees' Benefits Program upon retirement pursuant to subsection 1 or who subsequently reinstate coverage under the Public Employees' Benefits Program pursuant to NRS 287.0475, as the State pays pursuant to subsection 2 of NRS 287.046 for persons retired from state service who have continued to participate in the Public Employees' Benefits Program. ~~for subsequently reinstate coverage under the Program pursuant to NRS 287.0475.~~

~~(1) For a person who retires before January 1, 1994, 100 percent of the base amount provided by law, for the purposes of subsection 2 of NRS 287.046, for the applicable fiscal year for the State's share of the cost of premiums or contributions for group insurance for persons who have retired with state service and who elect to participate in the Program.~~

~~(2) For a person who retires on or after January 1, 1994, and who has at least 5 years of service with one or more local governments, 25 percent plus an additional 7.5 percent for each year of service in excess of 5 years to the maximum amount of 137.5 percent, excluding service purchased pursuant to NRS 14.310 or 286.300, of the base amount provided by law, for the purposes of subsection 2 of NRS 287.046, for the applicable fiscal year for the State's share of the cost of premiums or contributions for group insurance for persons who have retired with state service and who elect to participate in the Program.~~

5. The governing body of any county, school district, municipal corporation, political subdivision, public corporation or other local

governmental agency of this State shall, for the purpose of establishing actuarial data to determine rates and coverage for persons who continue coverage for group insurance, a plan of benefits or medical and hospital service with the governing body pursuant to subsection 1, commingle the claims experience of those persons with the claims experience of active officers and employees and their dependents who participate in the group insurance, a plan of benefits or medical and hospital service.

Sec. 2.5. NRS 287.023 is hereby amended to read as follows:

287.023 1. Whenever an officer or employee of the governing body of any county, school district, municipal corporation, political subdivision, public corporation or other local governmental agency of the State of Nevada retires under the conditions set forth in NRS 1A.350 or 1A.480, or 286.510 or 286.620 and, at the time of his retirement, was covered or had his dependents covered by any group insurance, plan of benefits or medical and hospital service established pursuant to NRS 287.010, 287.015, 287.020 or paragraph (b), (c) or (d) of subsection 1 of NRS 287.025 or under the Public Employees' Benefits Program pursuant to paragraph (a) of subsection 1 of NRS 287.025, the officer or employee has the option upon retirement to cancel or continue any such coverage ~~for, if such coverage was not provided under the Public Employees' Benefits Program, join the Public Employees' Benefits Program,~~ to the extent that such coverage ~~[pursuant to this subsection]~~ is not provided to him or a dependent by the Health Insurance for the Aged Act, 42 U.S.C. §§ 1395 et seq.

2. A retired person who ~~[joins the Public Employees' Benefits Program upon retirement pursuant to subsection 1 or]~~ continues coverage under the Public Employees' Benefits Program shall assume the portion of the premium or contribution costs for the coverage which the governing body or the State does not pay on behalf of retired officers or employees. A dependent of such a retired person has the option, which may be exercised to the same extent and in the same manner as the retired person, to cancel or continue coverage in effect on the date the retired person dies. The dependent is not required to continue to receive retirement payments from the Public Employees' Retirement System to continue coverage.

3. Notice of the selection of the option must be given in writing to the last public employer of the officer or employee within 60 days after the date of retirement or death, as the case may be. If no notice is given by that date, the retired officer or employee and his dependents shall be deemed to have selected the option to cancel the coverage for the group insurance, plan of benefits or medical and hospital service established pursuant to NRS 287.010, 287.015, 287.020 or paragraph (b), (c) or (d) of subsection 1 of NRS 287.025 or coverage under the Public Employees' Benefits Program pursuant to paragraph (a) of subsection 1 of NRS 287.025. ~~[for not to join the Public Employees' Benefits Program, as the case may be.]~~

4. The governing body of any county, school district, municipal corporation, political subdivision, public corporation or other local governmental agency of this State:

(a) May pay the cost, or any part of the cost, of coverage established pursuant to NRS 287.010, 287.015 or 287.020 or paragraph (b), (c) or (d) of subsection 1 of NRS 287.025 for persons who continue that coverage pursuant to subsection 1, but it must not pay a greater portion than it does for its current officers and employees.

(b) Shall pay the same portion of the cost of coverage under the Public Employees' Benefits Program for persons who ~~join or~~ continue coverage under the Public Employees' Benefits Program upon retirement pursuant to subsection 1 or who subsequently reinstate coverage under the Public Employees' Benefits Program pursuant to NRS 287.0475, as the State pays pursuant to subsection 2 of NRS 287.046 for persons retired from state service who have continued to participate in the Public Employees' Benefits Program.

5. The governing body of any county, school district, municipal corporation, political subdivision, public corporation or other local governmental agency of this State shall, for the purpose of establishing actuarial data to determine rates and coverage for persons who continue coverage for group insurance, a plan of benefits or medical and hospital service with the governing body pursuant to subsection 1, commingle the claims experience of those persons with the claims experience of active officers and employees and their dependents who participate in the group insurance, a plan of benefits or medical and hospital service.

Sec. 3. NRS 287.0402 is hereby amended to read as follows:

287.0402 As used in NRS 287.0402 to 287.049, inclusive, *and section 1 of this act*, unless the context otherwise requires, the words and terms defined in NRS 287.0404 to 287.0406, inclusive, have the meanings ascribed to them in those sections.

Sec. 4. ~~NRS 287.041 is hereby amended to read as follows:~~

~~287.041 1. There is hereby created the Board of the Public Employees' Benefits Program. The Board consists of nine members appointed as follows:~~

~~{(a) One member who is a professional employee of the Nevada System of Higher Education, appointed by the Governor upon consideration of any recommendations of organizations that represent employees of the Nevada System of Higher Education.~~

~~(b) One member who is retired from public employment, appointed by the Governor upon consideration of any recommendations of organizations that represent retired public employees.~~

~~(c) Two members who are employees of the State, appointed by the Governor upon consideration of any recommendations of organizations that represent state employees.~~

~~(d) One member appointed by the Governor upon consideration of any recommendations of organizations that represent employees of local governments that participate in the program.~~

~~(e) One member who is employed by this State in a managerial capacity and has substantial and demonstrated experience in risk management, portfolio investment strategies or employee benefits programs appointed by the Governor. The Governor may appoint the Executive Officer of the Public Employees' Retirement System to fill this position.~~

~~(f) Two members who have substantial and demonstrated experience in risk management, portfolio investment strategies or employee benefits programs appointed by the Governor.~~

~~(g) The Director of the Department of Administration or his designee.~~

~~2.—Of the six persons appointed to the Board pursuant to paragraphs (a) to (e), inclusive, of subsection 1, at least one member must have an advanced degree in business administration, economics, accounting, insurance, risk management or health care administration, and at least two members must have education or proven experience in the management of employees' benefits, insurance, risk management, health care administration or business administration.~~

~~3.—Each person appointed as a member of the Board must:~~

~~(a) Except for a member appointed pursuant to paragraph (f) of subsection , have been a participant in the Program for at least 1 year before his appointment;~~

~~(b) Except for a member appointed pursuant to paragraph (f) of subsection , be a current employee of the State of Nevada or another public employer that participates in the Program or a retired public employee who is a participant in the Program; and~~

~~(c) Not be an elected officer of the State of Nevada or any of its political subdivisions.]~~

~~(a) Five members appointed by the Governor in accordance with subsection 2;~~

~~(b) One member appointed by the Majority Leader of the Senate in accordance with subsection 3;~~

~~(c) One member appointed by the Minority Leader of the Senate in accordance with subsection 3;~~

~~(d) One member appointed by the Speaker of the Assembly in accordance with subsection 3; and~~

~~(e) One member appointed by the Minority Leader of the Assembly in accordance with subsection 3.~~

~~2.—In appointing members pursuant to paragraph (a) of subsection 1, the Governor shall ensure that:~~

~~(a) All the members whom he appoints have technical expertise in the insurance or actuarial field.~~

~~(b) One of the members whom he appoints is a representative of an organization that represents employees of local governments that participate in the Program.~~

~~3. The members appointed pursuant to paragraphs (b) to (c), inclusive, of subsection 1 must be representatives of organizations that represent state employees, retired public employees, employees of the Nevada System of Higher Education or employees of local governments that participate in the Program. No member appointed pursuant to this subsection may be a representative of the same organization.~~

~~4. Except as otherwise provided in this subsection, after the initial terms, the term of an appointed member of the Board is 4 years and until his successor is appointed and takes office unless the member no longer possesses the qualifications for appointment set forth in this section or is removed by the [Governor] appointing authority. If a member loses the requisite qualifications within the last 12 months of his term, the member may serve the remainder of his term. Members are eligible for reappointment. A vacancy occurring in the membership of the Board must be filled in the same manner as the original appointment.~~

~~5. The [appointed] members of the Board serve at the pleasure of the [Governor] appointing authority. If the [Governor] appointing authority wishes to remove a member from the Board for any reason other than malfeasance or misdemeanor, the [Governor] appointing authority shall provide the member with written notice which states the reason for and the effective date of the removal. (Deleted by amendment.)~~

Sec. 5. NRS 287.0415 is hereby amended to read as follows:

287.0415 1. A majority of the members of the Board constitutes a quorum for the transaction of business.

2. The Governor shall designate one of the members of the Board to serve as the ~~shall elect a~~ Chairman ~~from among their membership.~~

3. The Board shall meet at least once every calendar quarter and at other times upon the call of the Chairman.

4. The Board may meet in closed session:

- (a) To discuss matters relating to personnel;
- (b) To prepare a request for a proposal or other solicitation for bids to be released by the Board for competitive bidding; or
- (c) As otherwise provided pursuant to chapter 241 of NRS.

5. Except as otherwise provided in this subsection, if the Board causes a meeting to be transcribed by a court reporter who is certified pursuant to chapter 656 of NRS, the Board shall post a transcript of the meeting on its Internet website not later than 30 days after the meeting. The Board shall post a transcript of a closed session of the Board on its Internet website when the Board determines that the matters discussed no longer require confidentiality and, if applicable, the person whose character, conduct, competence or health was discussed in the closed session has consented to the posting.

6. *The Board may appoint such advisory committees as it deems necessary to assist the Board in carrying out its duties pursuant to NRS 287.0402 to 287.049, inclusive, and section 1 of this act.*

7. As used in this section, "request for a proposal" has the meaning ascribed to it in subsection 8 of NRS 333.020.

Sec. 6. NRS 287.043 is hereby amended to read as follows:

287.043 1. The Board shall:

(a) Establish and carry out a program to be known as the Public Employees' Benefits Program which:

(1) Must include ~~for~~ :

(I) A program relating to group life, accident or health insurance, or any combination of these; and ~~a program~~

(II) A plan that offers flexibility in benefits for participants in the Program who are provided coverage by the Health Insurance for the Aged Act, 42 U.S.C. §§ 1395 et seq. ~~for~~, and for which the rates must be based only on the experience of the participants in the plan and not in combination with the experience of participants in any other plan offered under the Program; and

(2) May include ~~a program~~ :

(I) A plan that offers flexibility in benefits ~~for~~, and for which the rates must be based only on the experience of the participants in the plan and not in combination with the experience of participants in any other plan offered under the Program; or

*(II) A program to reduce taxable compensation or other forms of compensation other than deferred compensation,
↪ for the benefit of all state officers and employees and other persons who participate in the Program.*

(b) Ensure that the Program is funded on an actuarially sound basis and operated in accordance with sound insurance and business practices.

2. In establishing and carrying out the Program, the Board shall:

(a) For the purpose of establishing actuarial data to determine rates and coverage for active and retired state officers and employees and their dependents, commingle the claims experience of such active and retired officers and employees and their dependents ~~for~~ *for whom the Program provides primary health insurance coverage into a single risk pool.*

(b) Except as otherwise provided in this paragraph, negotiate and contract pursuant to paragraph (a) of subsection 1 of NRS 287.025 with 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 wishes to obtain group insurance for its active and retired officers and employees and their dependents by participation in the Program. The Board shall establish separate rates and coverage for active and retired officers and employees of those local governmental agencies and their dependents based on actuarial reports that commingle the claims experience of such active and retired officers and employees and their dependents ~~for~~ *for*

whom the Program provides primary health insurance coverage into a single risk pool.

(c) Except as otherwise provided in paragraph (d), provide public notice in writing of any proposed changes in rates or coverage to each participating public agency that may be affected by the changes. Notice must be provided at least 30 days before the effective date of the changes.

(d) If a proposed change is a change in the premium or contribution charged for, or coverage of, health insurance, provide written notice of the proposed change to all participants in the Program. The notice must be provided at least 30 days before the date on which a participant in the Program is required to select or change his policy of health insurance.

(e) Purchase policies of life, accident or health insurance, or any combination of these, or, if applicable, a program to reduce the amount of taxable compensation pursuant to 26 U.S.C. § 125, from any company qualified to do business in this State or provide similar coverage through a plan of self-insurance established pursuant to NRS 287.0433 for the benefit of all eligible participants in the Program.

(f) Except as otherwise provided in this title, develop and establish other employee benefits as necessary.

(g) Investigate and approve or disapprove any contract proposed pursuant to NRS 287.0479.

(h) Adopt such regulations and perform such other duties as are necessary to carry out the provisions of NRS 287.0402 to 287.049, inclusive, and section 1 of this act, including, without limitation, the establishment of:

(1) Fees for applications for participation in the Program and for the late payment of premiums or contributions;

(2) Conditions for entry and reentry into ~~and exit from~~ the Program by local governmental agencies that wish to enter or reenter the Program pursuant to paragraph (a) of subsection 1 of NRS 287.025 ~~; which must include a minimum period of 4 years of participation for entry into the Program and a requirement that participation of any retired officers and employees of the agency terminates upon termination of the agency's contract with the Program.~~

(3) Procedures by which a group of participants in the Program may leave the Program pursuant to NRS 287.0479 and conditions and procedures for reentry into the Program by those participants; and

(4) Specific procedures for the determination of contested claims.

(i) Appoint an independent certified public accountant. The accountant shall:

(1) Provide an annual audit of the Program; and

(2) Report to the Board and the Interim Retirement and Benefits Committee of the Legislature created pursuant to NRS 218.5373.

(j) Appoint an attorney who specializes in employee benefits. The attorney shall:

(1) Perform a biennial review of the Program to determine whether the Program complies with federal and state laws relating to taxes and employee benefits; and

(2) Report to the Board and the Interim Retirement and Benefits Committee of the Legislature created pursuant to NRS 218.5373.

3. The Board shall submit an annual report regarding the administration and operation of the Program to the Director of the Legislative Counsel Bureau *for transmittal to the appropriate committees of the Legislature, or to the Legislative Commission when the Legislature is not in regular session, for acceptance or rejection* not more than 6 months before the Board establishes rates and coverage for participants for the following plan year. The report must include, without limitation:

(a) ~~The amount paid by the Program in the preceding plan year for the claims of active and retired participants in the Program; and~~

~~(b) The amount paid by the Program in the preceding plan year for the claims of~~ Detailed financial results for the Program for the preceding plan year, including, without limitation, identification of the sources of revenue for the Program and a detailed accounting of expenses which are segregated by each type of benefit offered by the Program, and administrative costs. The results must be provided separately concerning:

(1) Participants who are active and retired state officers and employees and their dependents;

(2) All participants in the Program other than those described in subparagraph (1); and

(3) Within the groups described in subparagraphs (1) and (2), active participants, retired participants for which the Program provides primary health insurance coverage and retired participants in the Program who ~~were~~ are provided coverage for medical or hospital service, or both, by the Health Insurance for the Aged Act, 42 U.S.C. §§ 1395 et seq., or a plan that provides similar coverage.

~~(c)~~ (b) An assessment of actuarial accuracy and reserves ~~for~~ for the current plan year and the immediately preceding plan year.

~~(d)~~ (c) A ~~description of any deductions required from participants, changes in benefits and premiums, changes in providers and communications with participants.~~ summary of the plan design for the current plan year, including, without limitation, information regarding rates and any changes in the vendors with which the Program has entered into contracts, and a comparison of the plan design for the current plan year to the plan design for the immediately preceding plan year. The information regarding rates provided pursuant to this paragraph must set forth the costs for participation in the Program paid by participants and employers on a monthly basis.

(d) A description of all written communications provided generally to all participants by the Program during the preceding plan year.

(e) A discussion of activities of the Board concerning purchasing coalitions.

4. ~~The Board shall submit an annual report regarding the amount of the premiums or contributions for coverage under the Program for a plan year for participants of the Program for whom their primary health insurance coverage is provided by the Health Insurance for the Aged Act, 42 U.S.C. §§ 395 et seq., to the Commissioner of Insurance not more than 6 months before the Board establishes rates and coverage for participants for the following plan year. The Board shall adjust the rates and coverage established for participants of the Program for whom their primary health insurance coverage is provided by the Health Insurance for the Aged Act, 42 U.S.C. §§ 1395 et seq., for the following plan year in accordance with the determination of the Commissioner transmitted pursuant to section 13 of this act.~~

~~5.~~ The Board may use any services provided to state agencies and shall use the services of the Purchasing Division of the Department of Administration to establish and carry out the Program.

5. ~~6.~~ The Board may make recommendations to the Legislature concerning legislation that it deems necessary and appropriate regarding the Program.

6. ~~7.~~ A participating public agency is not liable for any obligation of the Program other than indemnification of the Board and its employees against liability relating to the administration of the Program, subject to the limitations specified in NRS 41.0349.

7. ~~8.~~ As used in this section, "employee benefits" includes any form of compensation provided to a public employee except federal benefits, wages earned, legal holidays, deferred compensation and benefits available pursuant to chapter 286 of NRS.

Sec. 6.5. NRS 287.043 is hereby amended to read as follows:

287.043 1. The Board shall:

(a) Establish and carry out a program to be known as the Public Employees' Benefits Program which:

(1) Must include:

(I) A program relating to group life, accident or health insurance, or any combination of these; and

(II) A plan that offers flexibility in benefits for participants in the Program who are provided coverage by the Health Insurance for the Aged Act, 42 U.S.C. §§ 1395 et seq., and for which the rates must be based only on the experience of the participants in the plan and not in combination with the experience of participants in any other plan offered under the Program; and

(2) May include:

(I) A plan that offers flexibility in benefits, and for which the rates must be based only on the experience of the participants in the plan and not in combination with the experience of participants in any other plan offered under the Program; or

(II) A program to reduce taxable compensation or other forms of compensation other than deferred compensation,

↪ for the benefit of all state officers and employees and other persons who participate in the Program.

(b) Ensure that the Program is funded on an actuarially sound basis and operated in accordance with sound insurance and business practices.

2. In establishing and carrying out the Program, the Board shall:

(a) For the purpose of establishing actuarial data to determine rates and coverage for active and retired state officers and employees and their dependents, commingle the claims experience of such active and retired officers and employees and their dependents for whom the Program provides primary health insurance coverage into a single risk pool.

(b) Except as otherwise provided in this paragraph, negotiate and contract pursuant to paragraph (a) of subsection 1 of NRS 287.025 with 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 wishes to obtain group insurance for its active and retired officers and employees and their dependents by participation in the Program. The Board shall establish separate rates and coverage for active and retired officers and employees of those local governmental agencies and their dependents based on actuarial reports that commingle the claims experience of such active and retired officers and employees and their dependents for whom the Program provides primary health insurance coverage into a single risk pool.

(c) Except as otherwise provided in paragraph (d), provide public notice in writing of any proposed changes in rates or coverage to each participating public agency that may be affected by the changes. Notice must be provided at least 30 days before the effective date of the changes.

(d) If a proposed change is a change in the premium or contribution charged for, or coverage of, health insurance, provide written notice of the proposed change to all participants in the Program. The notice must be provided at least 30 days before the date on which a participant in the Program is required to select or change his policy of health insurance.

(e) Purchase policies of life, accident or health insurance, or any combination of these, or, if applicable, a program to reduce the amount of taxable compensation pursuant to 26 U.S.C. § 125, from any company qualified to do business in this State or provide similar coverage through a plan of self-insurance established pursuant to NRS 287.0433 for the benefit of all eligible participants in the Program.

(f) Except as otherwise provided in this title, develop and establish other employee benefits as necessary.

(g) Investigate and approve or disapprove any contract proposed pursuant to NRS 287.0479.

(h) Adopt such regulations and perform such other duties as are necessary to carry out the provisions of NRS 287.0402 to 287.049, inclusive, and section 1 of this act, including, without limitation, the establishment of:

(1) Fees for applications for participation in the Program and for the late payment of premiums or contributions;

(2) Conditions for entry and reentry into *and exit from* the Program by local governmental agencies ~~[that wish to enter or reenter the Program]~~ pursuant to paragraph (a) of subsection 1 of NRS 287.025 ~~[+]~~, *which:*

(I) Must include a minimum period of 4 years of participation for entry into the Program;

(II) Must include a requirement that participation of any retired officers and employees of the local governmental agency terminates upon termination of the local governmental agency's contract with the Program; and

(III) May allow for the exclusion of active and retired officers and employees of the local governmental agency who are eligible for health coverage from a health and welfare plan or trust that arose out of collective bargaining under chapter 288 of NRS or a trust established pursuant to 29 .S.C. § 186;

(3) Procedures by which a group of participants in the Program may leave the Program pursuant to NRS 287.0479 and conditions and procedures for reentry into the Program by those participants; and

(4) Specific procedures for the determination of contested claims.

(i) Appoint an independent certified public accountant. The accountant shall:

(1) Provide an annual audit of the Program; and

(2) Report to the Board and the Interim Retirement and Benefits Committee of the Legislature created pursuant to NRS 218.5373.

(j) Appoint an attorney who specializes in employee benefits. The attorney shall:

(1) Perform a biennial review of the Program to determine whether the Program complies with federal and state laws relating to taxes and employee benefits; and

(2) Report to the Board and the Interim Retirement and Benefits Committee of the Legislature created pursuant to NRS 218.5373.

3. The Board shall submit an annual report regarding the administration and operation of the Program to the Director of the Legislative Counsel Bureau for transmittal to the appropriate committees of the Legislature, or to the Legislative Commission when the Legislature is not in regular session, for acceptance or rejection not more than 6 months before the Board establishes rates and coverage for participants for the following plan year. The report must include, without limitation:

(a) Detailed financial results for the Program for the preceding plan year, including, without limitation, identification of the sources of revenue for the Program and a detailed accounting of expenses which are segregated by each type of benefit offered by the Program, and administrative costs. The results must be provided separately concerning:

(1) Participants who are active and retired state officers and employees and their dependents;

(2) All participants in the Program other than those described in subparagraph (1); and

(3) Within the groups described in subparagraphs (1) and (2), active participants, retired participants for which the Program provides primary health insurance coverage and retired participants in the Program who are provided coverage for medical or hospital service, or both, by the Health Insurance for the Aged Act, 42 U.S.C. §§ 1395 et seq., or a plan that provides similar coverage.

(b) An assessment of actuarial accuracy and reserves for the current plan year and the immediately preceding plan year.

(c) A summary of the plan design for the current plan year, including, without limitation, information regarding rates and any changes in the vendors with which the Program has entered into contracts, and a comparison of the plan design for the current plan year to the plan design for the immediately preceding plan year. The information regarding rates provided pursuant to this paragraph must set forth the costs for participation in the Program paid by participants and employers on a monthly basis.

(d) A description of all written communications provided generally to all participants by the Program during the preceding plan year.

~~(e) A discussion of activities of the Board concerning purchasing coalitions.~~

4. The Board may use any services provided to state agencies and shall use the services of the Purchasing Division of the Department of Administration to establish and carry out the Program.

5. The Board may make recommendations to the Legislature concerning legislation that it deems necessary and appropriate regarding the Program.

6. A participating public agency is not liable for any obligation of the Program other than indemnification of the Board and its employees against liability relating to the administration of the Program, subject to the limitations specified in NRS 41.0349.

7. As used in this section, "employee benefits" includes any form of compensation provided to a public employee except federal benefits, wages earned, legal holidays, deferred compensation and benefits available pursuant to chapter 286 of NRS.

Sec. 7. ~~[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]~~

~~1. Comply with the provisions of title 57 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,], except the provisions of chapter 680B of NRS, in the same manner as an insurer that is licensed pursuant to title 57 of NRS is required to comply with those provisions.~~

~~2. Impose an annual assessment on participating public agencies in an amount sufficient to pay the costs of the Commissioner of Insurance in carrying out the duties of the Commissioner relating to this section.]~~
(Deleted by amendment.)

Sec. 8. NRS 287.0434 is hereby amended to read as follows:

287.0434 The Board may:

1. Use its assets *only* to pay the expenses of health care for its members and covered dependents, to pay its employees' salaries and to pay administrative and other expenses.

2. Enter into contracts relating to the administration of the Program, including, without limitation, contracts with licensed administrators and qualified actuaries. Each such contract with a licensed administrator:

(a) Must be submitted to the Commissioner of Insurance not less than 30 days before the date on which the contract is to become effective for approval as to the reasonableness of administrative charges in relation to contributions collected and benefits provided.

(b) Does not become effective unless approved by the Commissioner.

(c) Shall be deemed to be approved if not disapproved by the Commissioner within 30 days after its submission.

3. Enter into contracts with physicians, surgeons, hospitals, health maintenance organizations and rehabilitative facilities for medical, surgical and rehabilitative care and the evaluation, treatment and nursing care of members and covered dependents. The Board shall not enter into a contract pursuant to this subsection unless:

(a) Provision is made by the Board to offer all the services specified in the request for proposals, either by a health maintenance organization or through separate action of the Board.

(b) The rates set forth in the contract are based on:

(1) For active and retired state officers and employees and their dependents, the commingled claims experience of such active and retired officers and employees and their dependents; and

(2) For active and retired officers and employees of public agencies enumerated in NRS 287.010 that contract with the Program to obtain group insurance by participation in the Program and their dependents, the commingled claims experience of such active and retired officers and employees and their dependents.

4. Enter into contracts for the services of other experts and specialists as required by the Program.

5. Charge and collect from an insurer, health maintenance organization, organization for dental care or nonprofit medical service corporation, a fee for the actual expenses incurred by the Board or a participating public agency in administering a plan of insurance offered by that insurer, organization or corporation.

6. *Charge and collect the amount due from local governments pursuant to paragraph (b) of subsection 4 of NRS 287.023. If the payment of a local*

government pursuant to that provision is delinquent by more than 90 days, the Board shall notify the Executive Director of the Department of Taxation pursuant to section 11 of this act.

Sec. 8.5. NRS 287.0434 is hereby amended to read as follows:

287.0434 The Board may:

1. Use its assets only to pay the expenses of health care for its members and covered dependents, to pay its employees' salaries and to pay administrative and other expenses.

2. Enter into contracts relating to the administration of the Program, including, without limitation, contracts with licensed administrators and qualified actuaries. Each such contract with a licensed administrator:

(a) Must be submitted to the Commissioner of Insurance not less than 30 days before the date on which the contract is to become effective for approval as to the reasonableness of administrative charges in relation to contributions collected and benefits provided.

(b) Does not become effective unless approved by the Commissioner.

(c) Shall be deemed to be approved if not disapproved by the Commissioner within 30 days after its submission.

3. Enter into contracts with physicians, surgeons, hospitals, health maintenance organizations and rehabilitative facilities for medical, surgical and rehabilitative care and the evaluation, treatment and nursing care of members and covered dependents. The Board shall not enter into a contract pursuant to this subsection unless:

(a) Provision is made by the Board to offer all the services specified in the request for proposals, either by a health maintenance organization or through separate action of the Board.

(b) The rates set forth in the contract are based on:

(1) For active and retired state officers and employees and their dependents, the commingled claims experience of such active and retired officers and employees and their dependents ~~for~~ for whom the Program provides primary health insurance coverage in a single risk pool; and

(2) For active and retired officers and employees of public agencies enumerated in NRS 287.010 that contract with the Program to obtain group insurance by participation in the Program and their dependents, the commingled claims experience of such active and retired officers and employees and their dependents ~~for~~ for whom the Program provides primary health insurance coverage in a single risk pool.

4. Enter into contracts for the services of other experts and specialists as required by the Program.

5. Charge and collect from an insurer, health maintenance organization, organization for dental care or nonprofit medical service corporation, a fee for the actual expenses incurred by the Board or a participating public agency in administering a plan of insurance offered by that insurer, organization or corporation.

6. Charge and collect the amount due from local governments pursuant to paragraph (b) of subsection 4 of NRS 287.023. If the payment of a local government pursuant to that provision is delinquent by more than 90 days, the Board shall notify the Executive Director of the Department of Taxation pursuant to section 11 of this act.

Sec. 9. NRS 287.0435 is hereby amended to read as follows:

287.0435 1. All money received for the Program, including, without limitation, premiums and contributions, must be deposited in the State Treasury for credit to the Fund for the Public Employees' Benefits Program which is hereby created as a trust fund. The Fund must be accounted for as an internal service fund. Payments into and disbursements from the Fund must be so arranged as to keep the Fund solvent at all times.

2. The money in the Fund must be invested as other money of the State is invested and any income from investments paid into the Fund for the benefit of the Fund.

3. Disbursements from the Fund must be made as any other claims against the State are paid ~~[-]~~ *and may only be made for the benefit of the participants in the Program.*

4. The State Treasurer may charge a reasonable fee for his services in administering the Fund, but the State, the State General Fund and the State Treasurer are not liable to the Fund for any loss sustained by the Fund as a result of any investment made on behalf of the Fund or any loss sustained in the operation of the Program.

5. The Board shall deposit any disbursement received from the Fund into an interest-bearing checking account in a bank or credit union qualified to receive deposits of public money. Claims that have been submitted to the Program and approved must be paid from the account, and any refund of such a claim must be deposited into the account.

Sec. 9.3. NRS 287.045 is hereby amended to read as follows:

287.045 1. Except as otherwise provided in this section, every state officer or employee is eligible to participate in the Program on the first day of the month following the completion of 90 days of full-time employment.

2. Professional employees of the Nevada System of Higher Education who have annual employment contracts are eligible to participate in the Program on:

(a) The effective dates of their respective employment contracts, if those dates are on the first day of a month; or

(b) The first day of the month following the effective dates of their respective employment contracts, if those dates are not on the first day of a month.

3. Every officer or employee who is employed by a participating local governmental agency on a permanent and full-time basis on the date on which the participating local governmental agency enters into an agreement to participate in the Program pursuant to paragraph (a) of subsection 1 of NRS 287.025, and every officer or employee who commences his

employment with that participating local governmental agency after that date, is eligible to participate in the Program on the first day of the month following the completion of 90 days of full-time employment.

4. Every Senator and Assemblyman is eligible to participate in the Program on the first day of the month following the 90th day after his initial term of office begins.

5. ~~[An officer or employee of the governing body of any county, school district, municipal corporation, political subdivision, public corporation or other local governmental agency of the State of Nevada who retires under the conditions set forth in NRS 1A.350 or 1A.480, or 286.510 or 286.620 and was not participating in the Program at the time of his retirement is eligible to participate in the Program 60 days after notice of the selection to participate is given pursuant to NRS 287.022.]~~

6. Notwithstanding the provisions of subsections 1, 3 and 4, if the Board does not, pursuant to NRS 689B.580, elect to exclude the Program from compliance with NRS 689B.340 to 689B.590, inclusive, and if the coverage under the Program is provided by a health maintenance organization authorized to transact insurance in this State pursuant to chapter 695C of NRS, any affiliation period imposed by the Program may not exceed the statutory limit for an affiliation period set forth in NRS 689B.500.

Sec. 9.7. NRS 287.0475 is hereby amended to read as follows:

287.0475 1. A public officer or employee who has retired pursuant to NRS 1A.350 or 1A.480, or 286.510 or 286.620, or a retirement program provided pursuant to NRS 286.802, or the surviving spouse of such a retired public officer or employee who is deceased may, in any even-numbered year, reinstate any insurance, except life insurance, ~~[which was provided to him and his dependents at the time of his retirement pursuant]~~ that, at the time of reinstatement, is provided by the last public employer of the retired public officer or employee to the active officers and employees and their dependents of that public employer:

(a) Pursuant to NRS 287.010, 287.015, 287.020 or paragraph (b), (c) or (d) of subsection 1 of NRS 287.025 ; or

(b) Under the Program, if the last public employer of the retired officer or employee was the State of Nevada or if the last public employer of the retired officer or employee participates in the Program ~~[as a public officer or employee by:]~~ pursuant to paragraph (a) of subsection 1 of NRS 287.025.

2. Reinstatement pursuant to subsection 1 must be requested by:

(a) Giving written notice of his intent to reinstate the insurance to the last public employer of the public officer or employee not later than January 31 of an even-numbered year;

(b) Accepting the public employer's current program or plan of insurance and any subsequent changes thereto; and

(c) Paying any portion of the premiums or contributions of the public employer's program or plan of insurance, in the manner set forth in

NRS 1A.470 or 286.615, which are due from the date of reinstatement and not paid by the public employer.

↪ The last public employer shall give the insurer notice of the reinstatement no later than March 31 of the year in which the public officer or employee or surviving spouse gives notice of his intent to reinstate the insurance.

~~2.~~ 3. Reinstatement of insurance excludes claims for expenses for any condition for which medical advice, treatment or consultation was rendered within 12 months before reinstatement unless the reinstated insurance has been in effect more than 12 consecutive months.

~~3.~~ 4. The last public employer of a retired officer or employee who reinstates insurance, except life insurance, which was provided to him and his dependents at the time of his retirement pursuant to NRS 287.010, 287.015, 287.020 or paragraph (b), (c) or (d) of subsection 1 of NRS 287.025, shall, for the purpose of establishing actuarial data to determine rates and coverage for such persons, commingle the claims experience of such persons with the claims experience of active and retired officers and employees and their dependents who participate in that group insurance, plan of benefits or medical and hospital service.

Sec. 10. 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 , *including, without limitation, the Public Employees' Benefits Program*, and policies of industrial insurance;

3. Identify and investigate complaints of consumers and injured employees regarding their health care plans , *including, without limitation, the Public Employees' Benefits Program*, 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 , *including, without limitation, the Public Employees' Benefits Program*, and policies of industrial insurance;

4. Provide information to consumers and injured employees concerning health care plans , *including, without limitation, the Public Employees' Benefits Program*, 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.

Sec. 11. Chapter 354 of NRS is hereby amended by adding thereto a new section to read as follows:

1. *Upon receipt of notification by the Board of the Public Employees' Benefits Program pursuant to NRS 287.0434 that a local government is delinquent by more than 90 days on an amount due to the Public Employees' Benefits Program pursuant to paragraph (b) of subsection 4 of NRS 287.023, the Executive Director shall notify the governing body that the presence of a representative of the governing body is required at the next practicable scheduled meeting of the Committee to explain the reason that the payment has not been made. The notice must be transmitted to the governing body at least 5 days before the date on which the meeting will be held.*

2. *If an explanation satisfactory to the Committee is not provided at the meeting as requested in the notice and an arrangement is not made for the submission of the payment, the Committee may instruct the Executive Director to request that the State Treasurer withhold from the local government an amount equal to the amount of the delinquent payment from the next distribution from the Local Government Tax Distribution Account if the local government is otherwise entitled to receive such a distribution or of the local school support tax if the local government is a school district. Upon receipt of such a request, the State Treasurer shall withhold that amount from the payment or any future payment as necessary until he is notified by the Executive Director that the delinquent payment has been received by the Department. The Department shall transmit the delinquent payment to the Public Employees' Benefits Program upon receipt.*

Sec. 12. NRS 354.657 is hereby amended to read as follows:

354.657 1. The purpose of NRS 354.655 to 354.725, inclusive, and section 11 of this act, is to provide specific methods for the treatment of

delinquent documents, *payments*, technical financial assistance and severe financial emergency.

2. To accomplish the purpose set forth in subsection 1, the provisions of NRS 354.655 to 354.725, inclusive, and section 11 of this act, must be broadly and liberally construed.

Sec. 13. ~~[Chapter 679B of NRS is hereby amended by adding thereto a new section to read as follows:~~

~~Upon receipt of an annual report from the Board of the Public Employees' Benefits Program pursuant to subsection 4 of NRS 287.043, the Commissioner shall determine whether the premiums or contributions charged to participants of the Program for whom their primary health insurance coverage is provided by the Health Insurance for the Aged Act, 42 U.S.C. §§ 1395 et seq. for the plan year were reasonable. The Commissioner shall transmit the determination to the Board of the Public Employees' Benefits Program, including, without limitation, any adjustment in the rates required for the following plan year if the previous rates were determined to be unreasonable.] (Deleted by amendment.)~~

Sec. 14. ~~[1. The terms of the persons who are members of the Board of the Public Employees' Benefits Program on July 1, 2007, expire on that date.~~

~~2. As soon as practicable on or before July 1, 2007, the appointing authorities set forth in subsection 1 of NRS 287.041, as amended by section 4 of this act, shall appoint members of the Board. The initial appointed members of the Board shall, at the first meeting of the Board after their appointment, draw lots to determine which:~~

~~(a) Two members will serve an initial term that begins on July 1, 2007, and expires on July 1, 2008;~~

~~(b) Two members will serve an initial term that begins on July 1, 2007, and expires on July 1, 2009;~~

~~(c) Two members will serve an initial term that begins on July 1, 2007, and expires on July 1, 2010; and~~

~~(d) Three members will serve an initial term that begins on July 1, 2007, and expires on July 1, 2011.] (Deleted by amendment.)~~

Sec. 15. The provisions of NRS 287.023, as amended by section ~~[2]~~ 2.5 of this act, do not apply to , and must not be construed to terminate coverage under the Program for, retired officers and employees of local governments who ~~[joined]~~ are enrolled in the Public Employees' Benefits Program ~~[upon retirement before July 1, 2007.]~~ on November 30, 2008.

Sec. 16. 1. This section and sections 1, 2, 3, 4, 5, 7, 8, 9 and 10 to 14, inclusive, of this act [becomes] become effective on July 1, 2007.

2. Section 2 of this bill becomes effective on July 1, 2007, and applies retroactively to October 1, 2003.

3. Section 8 of this act expires by limitation on June 30, 2008.

4. Sections 6 and 8.5 of this act become effective on July 1, 2008.

5. Sections 2 and 6 of this act expire by limitation on November 29, 2008.

6. Sections 2.5, 6.5, 9.3, 9.7 and 15 of this act become effective on November 30, 2008.

Senator Raggio moved the adoption of the amendment.

Remarks by Senators Raggio, Beers, Care, and Coffin.

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

SENATOR BEERS:

The Public Employees Benefits Program (PEBP) is the State's health plan.

This amendment is the latest version offered by the interim committee where Senator Coffin and I served on the subcommittee of the Senate Committee on Finance. It would set a time limit of the next two school cycles; after which, school districts will have to either join the PEBP plan with their active employees and retirees or stay on their own plan with their actives and retirees. For the last four years retirees have been coming into our plan and the older the people get, the more they cost. We have ended up with the majority of the costly cases. It has become quite a problem for the affordability of participation in this health plan for active employees and retirees.

SENATOR CARE:

Thank you, Mr. President. All of us were sent e-mails by many people on this bill. One e-mail stated, "If you amend Senate Bill No. 544 to accommodate retirees this year and in the future, please take into consideration the 60-day waiting period following retirement before a retiree can join PEBP." Is that addressed in the amendment?

SENATOR BEERS:

Thank you, Mr. President. Yes, it is. Essentially, what we did was set the effective date for 2008. Teachers, who are retiring now or at the end of the next school year, will have no change, and their plans will not be impacted by our action. Teachers, who are retiring in two-years time, will not be eligible to join PEBP unless their school district joins the State plan. This is not just answering the legitimate complaints of teachers who are in the middle of planning their retirement, but as well the school districts are going to have to make changes at their end to accommodate this. Hopefully, this will serve notice to the school districts that they need to make some adjustments. We will be able to provide everyone a happy, healthful retirement for many years to come.

SENATOR RAGGIO:

I would like to thank the Senator for his explanation and would like the following remarks in the record.

Senate Bill No. 544, as amended, enacts the recommendations of the Legislative Commission's Committee to Study the Public Employees' Benefits Program created by A.C.R. 10 of the 72nd Session.

Existing law allows retirees from any local governmental entity to join the Public Employees' Benefit Program (PEBP) after their retirement. Existing law also provides that the insurance for those retirees will be subsidized by their former employer to the same extent state retirees are subsidized by the State. Beginning November 30, 2008, this legislation would limit participation by local governmental retirees to those retirees of entities that elect to provide insurance for their active employees through PEBP.

That means the districts are all enrolled in the program or are all out. The districts must agree to have their actives covered by PEBP or not.

The local governmental retirees participating in the PEBP, at that time, would be "grandfathered" in so they do not lose their status. They can remain in the program as long as they desire.

If a local governmental entity becomes delinquent in the payment of the subsidies for their retirees in the program, this legislation provides a process for the delinquency to be recovered through an offset of funding that would otherwise be transferred from the State to the local governmental entity after notice and an opportunity for a hearing. If a district opts in and does

not contribute the funding required, then the State will have the ability to make certain they do provide it by cutting off their funding from some other source that comes from the State. This provision ensures the payments are going to be made to PEBP. Further, the legislation provides that a local governmental entity that elects to participate in PEBP, with both their active employees and their retirees, must agree to remain in the program for a minimum of four years.

Effective July 1, 2008, the legislation requires the program offer a cafeteria-style plan to Medicare-eligible retirees in the program and further allows the program to offer such a plan to all participants.

Finally, the legislation includes provisions that prohibit the assets of the program from being used for any purpose other than the benefit of the participants; strengthens the reporting requirements from PEBP to the Legislature, authorizes participants in the program to seek the assistance of the Governor's Office of Consumer Health Assistance for problem resolution and allows advisory committees to be established by the PEBP Board as it deems necessary.

Except as noted earlier, the legislation is effective July 1, 2007.

SENATOR COFFIN:

Thank you, Mr. President. This was a necessary issue to pursue. It was not a case of the State striking out at local governments or trying to get even or trying to right a wrong. There was nothing wrong done. It was a mistake. Think about the sad shape of Social Security, which at one time had 12 active workers contributing for each retiree 30, 40 and 50 years ago, now we are down to 2 active workers contributing for each retiree. Right now, in the State plan, there is 1 active state employee contributing for 12 retirees from all governments—unbelievable. We had to do something about it. That is why we must do this. We have no choice.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 182.

Bill read second time.

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

Amendment No. 1056.

"SUMMARY—Makes various changes concerning the Fund for a Healthy Nevada ~~and~~ and certain programs administered by the Department of Health and Human Services. (BDR 40-158)"

"AN ACT relating to public health; authorizing the Department of Health and Human Services to administer certain programs to assist certain persons with costs relating to health care and pharmaceutical services; revising the percentages of and the manner of allocating money in the Fund for a Healthy Nevada for certain programs; revising provisions governing the subsidies from the Fund for the cost of prescription drugs, pharmaceutical services and certain other benefits; revising the membership and duties of the Grants Management Advisory Committee; repealing the Task Force for the Fund for a Healthy Nevada; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under federal law, states may provide subsidies, prescription drugs and other assistance to persons with the human immunodeficiency virus or acquired immunodeficiency syndrome. (42 U.S.C. §§ 300ff-21 et seq.) Section 1 of this bill authorizes the Department of Health and Human

Services to participate in the federal program and to administer the program in conjunction with other programs already administered by the Department.

Under existing law, the Task Force for the Fund for a Healthy Nevada makes allocations, or reserves for allocation or expenditure by the Department ~~[of Health and Human Services]~~ or the Aging Services Division of ~~[that]~~ *the* Department, certain percentages of money in the Fund for a Healthy Nevada for certain programs and services. (NRS 439.630) Section ~~[3]~~ *4* of this bill eliminates the role of the Task Force in making allocations of money from the Fund and requires the Department to make such allocations itself.

~~§ Section 3 of this bill revises the percentages of revenues deposited in the Fund that are required to be allocated for prescription drugs and pharmaceutical services for persons with disabilities. Section 3 also revises the percentages of revenues deposited in the Fund that are required to be expended for programs to assist persons with disabilities to live independently.~~

~~Section 3 of this bill requires that the money allocated for programs relating to tobacco use be expended with an emphasis on programs that prevent the use of tobacco by children. Section 3 also requires the Department to allocate 10 percent of available revenues for programs that improve health services for children, with an emphasis on the oral health of children.~~

Existing law establishes a program to provide subsidies for senior citizens and persons with disabilities for the cost of prescription drugs and pharmaceutical services and, for senior citizens, other benefits, including, without limitation, dental and vision benefits. (NRS 439.635-439.690, 439.705-439.795) Sections ~~[3,]~~ *4* and *5* of this bill specifically add, to the extent money is available, hearing aids and other hearing devices to the list of benefits available for both senior citizens and persons with disabilities pursuant to these programs. Sections ~~[3 and 5]~~ *4 and 6* also make persons with disabilities eligible for the same additional benefits for which senior citizens are currently eligible under existing law, including, without limitation, dental and vision benefits. This bill also allows certain veterans to receive such benefits if they qualify as a senior citizen or person with a disability.

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 ~~[6.2]~~ *9* of this bill increases the membership of the Advisory Committee.

Section ~~[6.7]~~ *11* of this bill repeals the Task Force for the Fund for a Healthy Nevada.

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. The Department may, to the extent that money is available, administer a program pursuant to 42 U.S.C. §§ 300ff-21 et seq. to provide therapeutics to treat certain persons who have been diagnosed with the human immunodeficiency virus or acquired immunodeficiency syndrome and to prevent the serious deterioration of the health of such persons. The program may include the provision of subsidies and pharmaceutical services.

2. The Director shall:

(a) Establish the criteria for eligibility for participation in the program administered pursuant to this section, which must be in accordance with the provisions of 42 U.S.C. §§ 300ff-21 et seq.; and

(b) Prescribe the manner in which the program will be administered and services will be provided.

3. The Department may use any other program administered by the Department to facilitate the provision of subsidies and services pursuant to this section, including, without limitation, the provision of subsidies for pharmaceutical services to persons with disabilities pursuant to NRS 439.705 to 439.795, inclusive. If the Department uses another program to facilitate the provision of subsidies and services pursuant to this section, the Department shall not commingle the money available to carry out the provisions of this section and the money available to carry out the other program.

4. Money available to carry out the provisions of this section must be accounted for separately by the Department.

~~[Section 1.]~~ Sec. 2. NRS 439.600 is hereby amended to read as follows:

439.600 1. The Legislature hereby declares that its priorities in expending the proceeds to the State of Nevada from settlement agreements with and civil actions against manufacturers of tobacco products are:

(a) To increase the number of Nevada students who attend and graduate from Nevada institutions of higher education; and

(b) To assist Nevada residents in obtaining and maintaining good health.

2. To further these priorities, the Legislature hereby declares that it is in the best interest of the residents of this State that all money received by the State of Nevada pursuant to any settlement entered into by the State of Nevada and a manufacturer of tobacco products and all money recovered by the State of Nevada from a judgment in a civil action against a manufacturer of tobacco products be dedicated solely toward the achievement of the following goals:

(a) Increasing the number of Nevada residents who enroll in and attend a university, college or community college in the State of Nevada;

(b) Reducing and preventing the use of tobacco products, alcohol and illegal drugs, especially by children;

(c) Expanding the availability of health insurance and health care for children and adults in this State, especially for children and for adults with disabilities;

(d) Assisting senior citizens *and persons with disabilities* who have modest incomes in purchasing prescription drugs, pharmaceutical services and, to the extent money is available, other services, including, without limitation, dental and vision services, *and hearing aids or other devices that enhance the ability to hear*, and assisting those senior citizens *and persons with disabilities* in meeting their needs related to health care, home care, respite care and their ability to live independent of institutional care; and

(e) Promoting the general health of all residents of the State of Nevada.

~~[Sec. 2.]~~ Sec. 3. 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:]~~ must:

(a) Not ~~[more than]~~ exceed 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; *and*

(b) Not ~~[more than]~~ exceed ~~[2.025]~~ 5 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.

~~[Sec. 3.]~~ Sec. 4. 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}~~ Allocate not more than 30 percent of ~~{all}~~ available 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 *and hearing aids or other devices that enhance the ability to hear*, for senior citizens pursuant to NRS 439.635 to 439.690, inclusive. From the money ~~{reserved}~~ ~~{allocated to the Department}~~ allocated 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 *and hearing aids or other devices that enhance the ability to hear*, 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 and}~~ the Interim Finance Committee, the Legislative Committee on Health Care and any other committees or commissions the Director deems appropriate regarding the general manner in which expenditures have been made pursuant to this paragraph. ~~{and the status of the program.}~~

(d) ~~{Reserve}~~ Allocate, by contract or grant, for expenditure not more than 30 percent ~~{minus \$350,000 of all}~~ of available 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}~~ *informal* 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}~~ ~~*{Grants Management Advisory Committee}*~~ *Legislative Committee on Health Care* concerning the independent living needs of senior citizens.

(e) ~~{Reserve not more than}~~ Allocate \$200,000 of all revenues deposited in the Fund ~~{for a Healthy Nevada}~~ each year for ~~{allocation}~~ *direct expenditure* 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~~ distributing the money allocated pursuant to this paragraph. Money allocated pursuant to this paragraph does not revert to the Fund at the end of the fiscal year.

(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 ~~15~~ percent of ~~all~~ available 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)] ~~f, with an emphasis on programs that prevent the use of tobacco by children.~~~~

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

~~[(i)] ~~f, with particular emphasis on programs that improve the oral health of children.~~~~

(h) Allocate, by contract or grant, for expenditure not more than 7.5 ~~10~~ percent of ~~all~~ available 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~~ care or relief of informal caretakers 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]~~

(i) Allocate not more than 2.5 ~~5~~ percent of ~~all~~ available 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 and, to the extent money is

available, other benefits, including, without limitation, dental and vision benefits and hearing aids or other devices that enhance the ability to hear, 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)}~~ (j) Maximize expenditures through local, federal and private matching contributions.

~~{(l)}~~ (k) 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)}~~ (l) 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)}~~ (m) To make the allocations required by paragraphs (f), (g) ~~and~~ and (h) : ~~and (i):~~

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

(2) Develop, solicit and accept applications for allocations;

(3) ~~Consider~~ 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 Governor , ~~and~~ the Interim Finance Committee ~~and~~ , the Legislative Committee on Health Care and any other committees or commissions the Director deems appropriate.

~~{(o)}~~ (n) Transmit a report of all findings, recommendations and expenditures to the Governor , ~~and~~ each regular session of the Legislature ~~and~~ , the Legislative Committee on Health Care and any other committees or commissions the Director deems appropriate.

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)~~ paragraph (d) 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~~ *paragraph (d) and (f)* of subsection 1 to the Governor, ~~and~~ the Interim Finance Committee ~~and~~ the Legislative Committee on Health Care and any other committees or commissions the Director deems appropriate.

~~{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 *and other benefits, including, without limitation, dental and vision benefits and hearing aids or other devices that enhance the ability to hear,* 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 *and other benefits, including, without limitation, dental and vision benefits and hearing aids or other devices that enhance the ability to hear,* to persons with disabilities pursuant to NRS 439.705 to 439.795, inclusive.

~~{6. 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.}~~

5. *A veteran may receive benefits or other services which are available from the money allocated pursuant to this section for senior citizens or persons with disabilities to the extent that the veteran does not receive other benefits or services provided to veterans for the same purpose if the veteran qualifies for the benefits or services as a senior citizen or a person with a disability, or both.*

6. *As used in this section, "available revenues" means the total revenues deposited in the Fund for a Healthy Nevada each year minus \$200,000.*

~~{Sec. 4.}~~ Sec. 5. NRS 439.665 is hereby amended to read as follows:

439.665 1. The Department may:

(a) Enter into contracts with private insurers who transact health insurance in this State to subsidize the cost of prescription drugs, pharmaceutical services and, to the extent money is available, other benefits, including, without limitation, dental and vision benefits ~~[-]~~ *and hearing aids or other devices that enhance the ability to hear*, for senior citizens by arranging for the availability, at a reasonable cost, of policies of health insurance that provide coverage to senior citizens for prescription drugs, pharmaceutical services and, to the extent money is available, other benefits, including, without limitation, dental and vision benefits ~~[-]~~ *and hearing aids or other devices that enhance the ability to hear*; or

(b) Subsidize the cost of prescription drugs, pharmaceutical services and, to the extent money is available, other benefits, including, without limitation, dental and vision benefits ~~[-]~~ *and hearing aids or other devices that enhance the ability to hear*, for senior citizens in any other manner.

2. Within the limits of the money available for this purpose in the Fund for a Healthy Nevada, a senior citizen who is not eligible for Medicaid and who is eligible for a subsidy that is made available pursuant to subsection 1 is entitled to an annual grant from the Fund to subsidize the cost of prescription drugs, pharmaceutical services and, to the extent money is available, other benefits, including, without limitation, dental and vision benefits ~~[-]~~ *and hearing aids or other devices that enhance the ability to hear*, if he has been domiciled in this State for at least 1 year immediately preceding the date of his application and ~~[-]~~ *except as otherwise provided in subsection 5*:

(a) If the senior citizen is single, his income is not over \$21,500; or

(b) If the senior citizen is married, his household income is not over \$28,660.

↪ The monetary amounts set forth in this subsection must be adjusted for each fiscal year by adding to each amount the product of the amount shown multiplied by the percentage increase in the Consumer Price Index from December 2002 to the December preceding the fiscal year for which the adjustment is calculated.

3. The subsidy granted pursuant to this section must not exceed the annual cost of prescription drugs, pharmaceutical services and *to the extent money is available*, other benefits, including, without limitation, dental and vision benefits *and hearing aids or other devices that enhance the ability to hear*, provided to the senior citizen.

4. A subsidy that is made available pursuant to subsection 1 must provide for:

(a) A copayment of not more than \$10 per prescription drug or pharmaceutical service that is generic as set forth in the formulary of the insurer or as set forth by the Department; and

(b) A copayment of not more than \$25 per prescription drug or pharmaceutical service that is preferred as set forth in the formulary of the insurer or as set forth by the Department.

5. The Department may waive the eligibility requirement set forth in subsection 2 regarding household income upon written request of the applicant or enrollee based on one or more of the following circumstances:

- (a) Illness;
- (b) Disability; or
- (c) Extreme financial hardship, when considering the current financial circumstances of the applicant or enrollee.

➔ An applicant or enrollee who requests such a waiver shall include with that request all medical and financial documents that support his request.

6. If the Federal Government provides any coverage for:

- (a) Prescription drugs and pharmaceutical services; or
- (b) Other benefits, including, without limitation, dental or vision benefits ~~[-]~~ *or hearing aids or other devices that enhance the ability to hear,*

➔ for senior citizens who are eligible for a subsidy pursuant to subsections 1 to 5, inclusive, the Department may, upon approval of the Legislature, or the Interim Finance Committee if the Legislature is not in session, change any program established pursuant to NRS 439.635 to 439.690, inclusive, and otherwise provide assistance with prescription drugs, pharmaceutical services and, to the extent money is available, other benefits, including, without limitation, dental and vision benefits *and hearing aids or other devices that enhance the ability to hear,* for senior citizens within the limits of the money available for this purpose in the Fund. ~~[for a Healthy Nevada.]~~

7. The provisions of subsections 1 to 5, inclusive, do not apply to the extent that the Department provides assistance *with prescription drugs, pharmaceutical services and other benefits, including, without limitation, dental and vision benefits and hearing aids or other devices that enhance the ability to hear,* for senior citizens pursuant to subsection 6.

8. *A veteran may receive assistance with prescription drugs, pharmaceutical services and other benefits, including, without limitation, dental and vision benefits and hearing aids or other devices that enhance the ability to hear, pursuant to this section to the extent that the veteran does not receive other services or benefits provided to veterans for the same purpose if the veteran qualifies for the assistance as a senior citizen.*

~~[Sec. 5.]~~ Sec. 6. NRS 439.745 is hereby amended to read as follows:

439.745 1. The Department may:

(a) Enter into contracts with private insurers who transact health insurance in this State to subsidize the cost of prescription drugs, ~~[and]~~ pharmaceutical services *and, to the extent money is available, other benefits, including, without limitation, dental and vision benefits and hearing aids or other devices that enhance the ability to hear,* for persons with disabilities by arranging for the availability, at a reasonable cost, of policies of health insurance that provide coverage to persons with disabilities for prescription drugs, ~~[and]~~ pharmaceutical services ~~[-]~~ *and, to the extent money is available, other benefits, including, without limitation, dental and vision benefits and hearing aids or other devices that enhance the ability to hear; or*

(b) Subsidize the cost of prescription drugs , ~~and~~ pharmaceutical services *and, to the extent money is available, other benefits, including, without limitation, dental and vision benefits and hearing aids or other devices that enhance the ability to hear,* for persons with disabilities in any other manner.

2. Within the limits of the money available for this purpose in the Fund for a Healthy Nevada, a person with a disability who is not eligible for Medicaid and who is eligible for a subsidy for the cost of prescription drugs , ~~and~~ pharmaceutical services *and other benefits, including, without limitation, dental and vision benefits and hearing aids or other devices that enhance the ability to hear* that is made available pursuant to subsection 1 is entitled to an annual grant from the Fund to subsidize the cost of prescription drugs , ~~and~~ pharmaceutical services ~~and~~ *and other benefits, including, without limitation, dental and vision benefits and hearing aids or other devices that enhance the ability to hear,* if he has been domiciled in this State for at least 1 year immediately preceding the date of his application and ~~and~~ *except as otherwise provided in subsection 5:*

(a) If the person with a disability is single, his income is not over \$21,500; or

(b) If the person with a disability is married, his household income is not over \$28,660.

➔ The monetary amounts set forth in this subsection must be adjusted for each fiscal year by adding to each amount the product of the amount shown multiplied by the percentage increase in the Consumer Price Index from December 2002 to the December preceding the fiscal year for which the adjustment is calculated.

3. The subsidy granted pursuant to this section must not exceed the annual cost of prescription drugs , ~~and~~ pharmaceutical services *and, to the extent money is available, other benefits, including, without limitation, dental and vision benefits and hearing aids or other devices that enhance the ability to hear,* provided to the person with a disability.

4. A subsidy that is made available pursuant to subsection 1 must provide for:

(a) A copayment of not more than \$10 per prescription drug or pharmaceutical service that is generic as set forth in the formulary of the insurer or as set forth by the Department; and

(b) A copayment of not more than \$25 per prescription drug or pharmaceutical service that is preferred as set forth in the formulary of the insurer or as set forth by the Department.

5. The Department may waive the eligibility requirement set forth in subsection 2 regarding household income upon written request of the applicant or enrollee based on one or more of the following circumstances:

(a) Illness;

(b) Disability; or

(c) Extreme financial hardship, when considering the current financial circumstances of the applicant or enrollee.

↪ An applicant or enrollee who requests such a waiver shall include with that request all medical and financial documents that support his request.

6. If the Federal Government provides any coverage ~~[of prescription]~~ for:

(a) Prescription drugs and pharmaceutical services ; or

(b) Other benefits, including, without limitation, dental or vision benefits or hearing aids or other devices that enhance the ability to hear,

↪ for persons with disabilities who are eligible for a subsidy pursuant to subsections 1 to 5, inclusive, the Department may, upon approval of the Legislature, or the Interim Finance Committee if the Legislature is not in session, change any program established pursuant to NRS 439.705 to 439.795, inclusive, and otherwise provide assistance with prescription drugs , ~~[and]~~ pharmaceutical services and, to the extent money is available, other benefits, including, without limitation, dental and vision benefits and hearing aids or other devices that enhance the ability to hear, for persons with disabilities within the limits of the money available for this purpose in the Fund . ~~[for a Healthy Nevada.]~~

7. The provisions of subsections 1 to 5, inclusive, do not apply if the Department provides assistance with prescription drugs , ~~[and]~~ pharmaceutical services and other benefits, including, without limitation, dental and vision benefits and hearing aids or other devices that enhance the ability to hear, for persons with disabilities pursuant to subsection 6.

8. A veteran may receive assistance with prescription drugs, pharmaceutical services and other benefits, including, without limitation, dental and vision benefits and hearing aids or other devices that enhance the ability to hear, pursuant to this section to the extent that the veteran does not receive other services or benefits provided to veterans for the same purpose if the veteran qualifies for the assistance as a person with a disability.

~~[Sec. 6.]~~ Sec. 7. (Deleted by amendment.)

Sec. 8. 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.

~~[(5)]~~ (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.

~~[(6)]~~ (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.

~~[(7)]~~ (q) Conduct investigations and hold hearings in connection with its review and analysis.

~~[(8)]~~ (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.

~~[(9)]~~ (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 the programs for the receipt of awards of money pursuant to paragraphs (f), (g) and (h) 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. 6.3)]~~ Sec. 9. NRS 232.383 is hereby amended to read as follows:
232.383 1. The Grants Management Advisory Committee is hereby created within the Department.

2. The Advisory Committee consists of the following ~~[(11)]~~ 15 members appointed by the Director:

(a) A superintendent of a county school district ~~[(1)]~~ or his designee;

(b) A director of a local agency ~~[(providing)]~~ which provides services for abused or neglected children ~~[(1)]~~;

~~[(c) A representative of a community organization involved with] _ or his designee;~~

(c) ~~[(Two members)]~~ A member who ~~[(possess)]~~ possesses knowledge, skill and experience in the provision of services to children;

(d) A representative of a department of juvenile justice services;

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

~~(f) (e)~~ Two members who possess knowledge, skill and experience in finance or in business generally;

~~(g) (f)~~ A representative of the Nevada Association of Counties;

~~(h) [A representative of a broad-based nonprofit organization]~~

~~(g)~~ A member 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) (h)~~ 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 ~~[-]~~ ;

~~(j) (i)~~ A member who possesses knowledge, skill and experience in the provision of services to persons with disabilities;

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

~~(l) (k)~~ A member who possesses knowledge, skill and experience in the provision of health services to children; and

~~(m) (l)~~ A representative who is a member of the Nevada Commission on Aging, created by NRS 427A.032, who must not be a Legislator.

~~(n)~~

3. An entity who employs a member of the Advisory Committee is not eligible to receive a grant. *This subsection does not prohibit an entity that serves solely as the fiscal agent for a recipient of a grant from employing a member of the Advisory Committee.*

~~(3) 4.~~ The Director shall ensure that, insofar as practicable, the members whom he appoints reflect the ethnic and geographical diversity of this State.

~~(4) 5.~~ 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) 6.~~ 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) 7.~~ 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) 8.~~ 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) 9.~~ 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.

~~9-10.~~ 10. 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. 6.5]~~ Sec. 10. 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 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.

~~[Sec. 6.7]~~ Sec. 11. NRS 439.625 is hereby repealed.

~~[Sec. 7]~~ Sec. 12. Any money allocated or reserved for direct expenditure pursuant to paragraph (f) of subsection 1 of NRS 439.630 on or

before June 30, 2007, that is unspent and returned must be allocated, on and after July 1, 2007, in accordance with the amendatory provisions of paragraph (c) of subsection 1 of NRS 439.630.

~~[Sec. 7.5.]~~ *Sec. 13.* 1. The term of the member of the Grants Management Advisory Committee who is a representative of a:

(a) ~~[Department of juvenile justice services expires on June 30, 2007.]~~

~~(b)]~~ 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 expires on June 30, 2007.

~~[(c)]~~ (b) Community organization involved with children expires on June 30, 2007.

2. The Director of the Department of Health and Human Services shall appoint one member to the Grants Management Advisory Committee pursuant to NRS 232.383, as amended by section ~~[6.3]~~ 9 of this act, who:

(a) Possesses knowledge, skill and experience in the provision of services to persons with disabilities whose term begins on July 1, 2007, and expires on June 30, 2008.

(b) Possesses knowledge, skill and experience in the provision of services relating to the cessation of the use of tobacco whose term begins on July 1, 2007, and expires on June 30, 2009.

(c) Possesses knowledge, skill and experience in the provision of health services to children whose term begins on July 1, 2007, and expires on June 30, 2009.

(d) Is a member of the Nevada Commission on Aging whose term begins on July 1, 2007, and expires on June 30, 2008.

(e) Possesses knowledge, skill and experience in the provision of services to children begins on July 1, 2007, and expires on June 30, 2008.

~~(f) [Possesses knowledge, skill and experience in the provision of services to children begins on July 1, 2007, and expires on June 30, 2008.]~~

~~(g)]~~ Possesses knowledge, skill and experience in building partnerships between the public sector and the private sector begins on July 1, 2007, and expires on June 30, 2009.

Sec. 14. The Legislative Committee on Health Care shall examine and review the allocations of money from the Fund for a Healthy Nevada pursuant to NRS 439.630 to determine whether the allocations reflect the needs of this State and the residents of this State. The examination and review must consider whether the money allocated for programs that prevent, reduce or treat the use of tobacco and the consequences of the use of tobacco should be reduced and determine whether such money should be allocated directly to the Health Division of the Department of Health and Human Services and the district boards of health in counties whose population is 50,000 or more.

~~[Sec. 8.]~~ *Sec. 15.* Notwithstanding the provisions of this act, an award of money granted by the Task Force for the Fund for a Healthy Nevada

pursuant to NRS 439.630 on or before June 30, 2007, remains in effect and the Grants Management Advisory Committee shall monitor the award of money pursuant to NRS 232.385.

~~[Sec. 9.]~~ *Sec. 16.* This act becomes effective on July 1, 2007.

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, reengrossed and to third reading.

Assembly Bill No. 440.

Bill read second time.

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

Amendment No. 1064.

"SUMMARY—Makes various changes concerning ~~loans secured by a mortgage or other lien on residential real property~~ *financial transactions*. (BDR 52-879)"

"AN ACT relating to financial transactions; *revising consumer credit protections for members of the military; revising provisions governing civil actions brought against certain borrowers who engage in fraudulent conduct*; prohibiting a person from engaging in certain conduct with the intent to defraud a participant in a mortgage lending transaction; prohibiting certain conduct by a foreclosure consultant; providing an administrative penalty for certain conduct by a foreclosure consultant; providing a civil cause of action against a foreclosure consultant under certain circumstances; prohibiting a foreclosure purchaser from engaging in certain fraudulent conduct; providing penalties; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under existing law, it is an unfair lending practice for a lender to knowingly or intentionally make a home loan to a borrower based solely on the borrower's equity in the home property and without determining that the

borrower has the ability to repay the home loan from income or other assets. (NRS 598D.100) Section 2 of this bill revises this provision to remove the requirement that the lender based the home loan solely on the borrower's equity. Section 2 also clarifies that the provision applies to a low-document, no-document or stated-document home loan, other than a reverse mortgage, if the loan is made based solely on the borrower's equity in the property or without determining, using any commercially reasonable means or mechanism, the borrower's ability to repay the loan.

Existing federal law imposes limitations on the terms of consumer credit that is extended to members of the Armed Forces of the United States who are on active duty and their dependents, including, without limitation, a prohibition against a lender imposing an interest rate greater than 36 percent. The federal law preempts any state law that is inconsistent with the federal law. (Section 670 of the John Warner National Defense Authorization Act for Fiscal Year 2007, Public Law 109-364) Section 2.2 of this bill provides that any violation of the federal law shall be deemed to be a violation of chapter 604A of NRS, thereby making violators subject to the remedies and penalties set forth in that chapter, including the imposition of an administrative fine of not more than \$10,000 for each violation, the revocation or suspension of a license issued pursuant to that chapter and civil actions for damages. (NRS 604A.820, 604A.930) Section 22 of this bill provides that any violation of the federal law shall be deemed to be a violation of chapter 675 of NRS, thereby making violators subject to the remedies and penalties set forth in that chapter, including the imposition of an administrative fine of not more than \$10,000 for each violation and the revocation or suspension of a license issued pursuant to that chapter. (NRS 675.440)

Existing law authorizes parties to agree to any rate of interest on money due pursuant to a contract. (NRS 99.050) Section 2.9 of this bill provides an exception to this provision for agreements which are subject to the federal law discussed above which limits the interest rate on such agreements to 36 percent.

Existing law provides certain practices that must be followed by a person licensed to operate a check-cashing service, deferred deposit loan service, short-term loan service or title loan service pursuant to chapter 604A of NRS when dealing with a customer who is called to active duty in the military. (NRS 604A.420) Section 2.4 of this bill revises this list of practices and provides that the provision applies to any customer who is a member of the military. Section 23 of this bill sets forth a new provision which is identical to section 2.4 for persons who are licensed pursuant to chapter 675 of NRS to make loans.

Existing law provides remedies for a financial institution that relied on certain fraudulent conduct of a borrower who engaged in the conduct to obtain certain loans secured by a lien on real property. (NRS 40.750) Section 2.8 of this bill provides that these remedies are available to other

lenders as well. Existing law authorizes a financial institution to commence an action against a borrower who engaged in such fraudulent conduct within 3 years after discovering the fraudulent conduct. (NRS 11.190) Section 2.7 of this bill provides that this period of limitation applies to other lenders as well.

Section 3 of this bill establishes the crime of mortgage lending fraud, which is a category C felony. Section 3 also provides that a person who engages in a pattern of mortgage lending fraud is guilty of a category B felony. Furthermore, under section 3, if a lender ~~[commits]~~ is convicted of mortgage lending fraud, the borrower in the transaction involving the mortgage lending fraud may rescind the transaction within ~~[2 years]~~ 6 months after the ~~[transaction has been completed.]~~ date of the conviction. Chapters 645B and 645E of NRS govern mortgage brokers and mortgage agents and mortgage bankers, respectively.

Sections 7-20 of this bill establish specific rights and duties concerning foreclosure consultants and foreclosure purchasers. Section 9 defines a foreclosure consultant as a person who promises to perform, for compensation, various services for a homeowner whose residence is in foreclosure that the foreclosure consultant represents will assist the homeowner to, for example, postpone or prevent a foreclosure sale, obtain an extension of time to repay his mortgage loan, obtain an alternative loan or mortgage, file documents with a bankruptcy court or repair the homeowner's credit after foreclosure. Section 16 prohibits a foreclosure consultant from claiming or receiving any compensation from a homeowner until after the consultant has fully performed all the services he promised to perform and prohibits other conduct relating to his compensation. Section 16 also prohibits a foreclosure consultant from acquiring any interest in the residence of the homeowner. Section 17 authorizes the Commissioner of Mortgage Lending to impose an administrative penalty of not more than \$10,000 on a foreclosure consultant who violates any provision of section 16. Section 18 creates a civil cause of action against a foreclosure consultant for a homeowner who is injured as a result of a foreclosure consultant's violation of any provision of section 16. If the homeowner prevails in his action against the foreclosure consultant, the court may award him his actual damages, punitive damages of at least 1 1/2 times his actual damages, his attorney's fees and costs of bringing the action.

Section 10 of this bill defines a foreclosure purchaser as a person who engages in the business of acquiring residences that are in foreclosure from their owners. Section 19 of this bill provides that a foreclosure purchaser who engages in conduct that defrauds or deceives a homeowner whose residence is in foreclosure is guilty of a gross misdemeanor. Section 19.5 of this bill provides that if a foreclosure purchaser engages in conduct that defrauds or deceives a homeowner whose residence is in foreclosure, the homeowner may rescind the transaction in which the foreclosure purchaser acquired the residence of the homeowner. Section 19.5 further provides the procedures a

homeowner must follow to rescind the transaction and prevents a homeowner from rescinding a transaction if the foreclosure purchaser has transferred an interest in the property to a bona fide purchaser.

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

Section 1. NRS 598D.040 is hereby amended to read as follows:

598D.040 "Home loan" means a consumer credit transaction that ~~is~~

~~1. is~~ is secured by a mortgage loan which involves real property located within this State ~~and~~

~~2. Constitutes~~ and includes, without limitation, a consumer credit transaction that constitutes a mortgage under § 152 of the Home Ownership and Equity Protection Act of 1994, 15 U.S.C. § 1602(aa), and the regulations adopted by the Board of Governors of the Federal Reserve System pursuant thereto, including, without limitation, 12 C.F.R. § 226.32.

Sec. 2. NRS 598D.100 is hereby amended to read as follows:

598D.100 1. It is an unfair lending practice for a lender to:

(a) Require a borrower, as a condition of obtaining or maintaining a home loan secured by home property, to provide property insurance on improvements to home property in an amount that exceeds the reasonable replacement value of the improvements.

(b) Knowingly or intentionally make a home loan, other than a reverse mortgage, to a borrower ~~based~~, including, without limitation, a low-document home loan, no-document home loan or stated-document home loan ~~;~~

~~(1) Based solely upon the equity of the borrower in the home property]~~
~~[and without] ~~;~~ or~~

~~(2) Without~~, without determining, using any commercially reasonable means or mechanism, that the borrower has the ability to repay the home loan ~~;~~ ~~[from other assets, including, without limitation, income.]~~

(c) Finance a prepayment fee or penalty in connection with the refinancing by the original borrower of a home loan owned by the lender or an affiliate of the lender.

(d) Finance, directly or indirectly in connection with a home loan, any credit insurance.

2. As used in this section:

(a) "Credit insurance" has the meaning ascribed to it in NRS 690A.015.

(b) "Low-document home loan" means a home loan:

(1) Whose terms allow a borrower to establish his ability to repay the home loan by providing only limited verification of his income and other assets; or

(2) Which is evidenced only by a deed transferring some or all of the interest of the borrower in the home property to the creditor.

(c) "No-document home loan" means a home loan whose terms allow a borrower to establish his ability to repay the home loan without providing any verification of his income and other assets.

(d) "Prepayment fee or penalty" means any fee or penalty imposed by a lender if a borrower repays the balance of a loan or otherwise makes a payment on a loan before the regularly scheduled time for repayment.

(e) "Stated-document home loan" means a home loan whose terms allow a borrower to establish his ability to repay the home loan by providing only his own statement of verification of his income and other assets.

Sec. 2.2. Chapter 604A of NRS is hereby amended by adding thereto a new section to read as follows:

Notwithstanding any other provision of law, a violation of any provision of section 670 of the John Warner National Defense Authorization Act for Fiscal Year 2007, Public Law 109-364, or any regulation adopted pursuant thereto shall be deemed to be a violation of this chapter.

Sec. 2.4. NRS 604A.420 is hereby amended to read as follows:

604A.420 Notwithstanding any other provision of law:

1. If a customer is ~~called to active duty in~~ a member of the military, a licensee shall:

(a) ~~Defer for the duration of the active duty all collection activity against the customer and his property, including, without limitation, any community property in which the customer has an interest; and~~

~~(b)~~ Honor the terms of any repayment plan between the licensee and customer, including, without limitation, any repayment plan negotiated through military counselors or third-party credit counselors.

(b) Honor any proclamation by a base commander that a certain branch location of the licensee is off-limits to members of the military and their spouses.

2. ~~When collecting any defaulted loan,~~ If a customer is a member of the military, a licensee shall not:

(a) Garnish or threaten to garnish any wages or salary ~~paid to a customer for active service in the military;~~ of the customer or his spouse; or

(b) Contact or threaten to contact the military chain of command of a customer in an effort to collect the ~~defaulted~~ loan.

3. If a customer is a member of the military and is deployed to a combat or combat supporting position, a licensee shall not engage in any collection activity against the customer or his spouse.

4. As used in this section, "military" means the Armed Forces of the United States, a reserve component thereof or the National Guard.

Sec. 2.6. NRS 604A.930 is hereby amended to read as follows:

604A.930 1. Subject to the affirmative defense set forth in subsection 3, in addition to any other remedy or penalty, if a person violates any provision of NRS 604A.400, 604A.410 to 604A.500, inclusive, 604A.610, 604A.615, 604A.650 or 604A.655 or section 2.2 of this act or any regulation adopted pursuant thereto, the customer may bring a civil action against the person for ~~any or all of the following relief:~~

(a) Actual and consequential damages;

(b) Punitive damages, which are subject to the provisions of NRS 42.005;

- (c) Reasonable attorney's fees and costs; and
- (d) Any other legal or equitable relief that the court deems appropriate.

2. Subject to the affirmative defense set forth in subsection 3, in addition to any other remedy or penalty, the customer may bring a civil action against a person pursuant to subsection 1 to recover an additional amount, as statutory damages, which is equal to \$1,000 for each violation if the person knowingly:

(a) Operates a check-cashing service, deferred deposit loan service, short-term loan service or title loan service without a license, in violation of NRS 604A.400;

(b) Fails to include in a loan agreement a disclosure of the right of the customer to rescind the loan, in violation of NRS 604A.410;

(c) Violates any provision of NRS 604A.420;

(d) Accepts collateral or security for a deferred deposit loan, in violation of NRS 604A.435, except that a check or written authorization for an electronic transfer of money shall not be deemed to be collateral or security for a deferred deposit loan;

(e) Uses or threatens to use the criminal process in this State or any other state to collect on a loan made to the customer, in violation of NRS 604A.440;

(f) Includes in any written agreement a promise by the customer to hold the person harmless, a confession of judgment by the customer or an assignment or order for the payment of wages or other compensation due the customer, in violation of NRS 604A.440;

(g) Violates any provision of NRS 604A.485; ~~for~~

(h) Violates any provision of NRS 604A.490 ~~for~~; or

(i) Violates any provision of section 2.2 of this act.

3. A person may not be held liable in any civil action brought pursuant to this section if the person proves, by a preponderance of evidence, that the violation:

(a) Was not intentional;

(b) Was technical in nature; and

(c) Resulted from a bona fide error, notwithstanding the maintenance of procedures reasonably adapted to avoid any such error.

4. For the purposes of subsection 3, a bona fide error includes, without limitation, clerical errors, calculation errors, computer malfunction and programming errors and printing errors, except that an error of legal judgment with respect to the person's obligations under this chapter is not a bona fide error.

Sec. 2.7. 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 or other lender 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 or other lender 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.

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. 2.8. NRS 40.750 is hereby amended to read as follows:

40.750 1. As used in this section, "financial institution" means a bank, mortgage broker, mortgage banker, credit union, thrift company or savings and loan association, or any subsidiary or affiliate of a bank, mortgage broker, mortgage banker, credit union, thrift company or savings and loan association, which is authorized to transact business in this State and which makes or acquires, in whole or in part, any loan of the kind described in subsection 2.

2. Except as otherwise provided in subsection 5, a person who, for the purpose of obtaining a loan secured by a lien on real property, knowingly conceals a material fact, or makes a false statement concerning a material fact knowing that the statement is false, is liable to any financial institution or other lender which relied upon the absence of that concealed fact or on that false statement for any damages it sustains because of the fraud.

3. In addition to its actual damages, a financial institution or other lender may recover exemplary or punitive damages in an amount not to exceed 50 percent of the actual damages awarded.

4. The cause of action provided by this section:

(a) Is not, for the purposes of NRS 40.430, an action for the recovery of any debt or an action for the enforcement of any right secured by mortgage or lien upon real estate.

(b) Is in addition to and not in substitution for any right of foreclosure existing in favor of the financial institution ~~or~~ or other lender. Any recovery pursuant to this section does not limit the amount of a judgment awarded pursuant to NRS 40.459, but the financial institution or other lender is not entitled to recover actual damages more than once for the same loss.

5. The provisions of this section do not apply to any loan which is secured by a lien on real property used for residential purposes if:

(a) The residence is a single-family dwelling occupied by the person obtaining the loan, as represented by him in connection with his application for the loan; and

(b) The loan is for the principal amount of \$150,000 or less.

Sec. 2.9. NRS 99.050 is hereby amended to read as follows:

99.050 ~~Parties~~ Except as otherwise provided in section 670 of the John Warner National Defense Authorization Act for Fiscal Year 2007, Public Law 109-364, or any regulation adopted pursuant thereto, parties may agree for the payment of any rate of interest on money due or to become due on any contract, for the compounding of interest if they choose, and for any other charges or fees. The parties shall specify in writing the rate upon which they agree, that interest is to be compounded if so agreed, and any other charges or fees to which they have agreed.

Sec. 3. Chapter 205 of NRS is hereby amended by adding thereto a new section to read as follows:

1. *A person who, with the intent to defraud a participant in a mortgage lending transaction:*

(a) *Knowingly makes a false statement or misrepresentation concerning a material fact or deliberately conceals or fails to disclose a material fact;*

(b) *Knowingly uses or facilitates the use of a false statement or misrepresentation made by another person concerning a material fact or deliberately uses or facilitates the use of another person's concealment or failure to disclose a material fact;*

(c) *Receives any proceeds or any other money in connection with a mortgage lending transaction that the person knows resulted from a violation of paragraph (a) or (b);*

(d) *Conspires with another person to violate any of the provisions of paragraph (a), (b) or (c); or*

(e) *Files or causes to be filed with a county recorder any document that the person knows to include a misstatement, misrepresentation or omission concerning a material fact,*

↪ commits the offense of mortgage lending fraud which is a category C felony and, upon conviction, 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 10 years, or by a fine of not more than \$10,000, or by both fine and imprisonment.

2. *A person who engages in a pattern of mortgage lending fraud or conspires or attempts to engage in a pattern of mortgage lending fraud is*

guilty of a category B felony and, upon conviction, shall be punished by imprisonment in the state prison for a minimum term of not less than 3 years and a maximum term of not more than 20 years, or by a fine of not more than \$50,000, or by both fine and imprisonment.

3. Each mortgage lending transaction in which a person violates any provision of subsection 1 constitutes a separate violation.

4. Except as otherwise provided in this subsection, if a lender or any agent of the lender ~~commits~~ is convicted of the offense of mortgage lending fraud in violation of this section, the mortgage lending transaction ~~is voidable by the borrower and the transaction~~ with regard to which the fraud was committed may be rescinded by the borrower within ~~(2 years)~~ 6 months after the date ~~(the transaction is completed)~~ of the conviction if the borrower gives written notice to the lender and records that notice with the recorder of the county in which the mortgage was recorded. A mortgage lending transaction ~~is not voidable~~ may not be rescinded pursuant to this subsection if the lender has transferred the mortgage to a bona fide purchaser.

5. The Attorney General may investigate and prosecute a violation of this section.

6. As used in this section:

(a) "Bona fide purchaser" means any person who purchases a mortgage in good faith and for valuable consideration and who does not know or have reasonable cause to believe that the lender or any agent of the lender engaged in mortgage lending fraud in violation of this section.

(b) "Mortgage lending transaction" means any transaction between two or more persons for the purpose of making or obtaining, attempting to make or obtain, or assisting another person to make or obtain a loan that is secured by a mortgage or other lien on residential real property. The term includes, without limitation:

- (1) The solicitation of a person to make or obtain the loan;
- (2) The representation or offer to represent another person to make or obtain the loan;
- (3) The negotiation of the terms of the loan;
- (4) The provision of services in connection with the loan; and
- (5) The execution of any document in connection with making or obtaining the loan.

(c) "Participant in a mortgage lending transaction" includes, without limitation:

- (1) A borrower as defined in NRS 598D.020;
- (2) An escrow agent as defined in NRS 645A.010;
- (3) A foreclosure consultant as defined in section 9 of this act;
- (4) A foreclosure purchaser as defined in section 10 of this act;
- (5) An investor as defined in NRS 645B.0121;
- (6) A lender as defined in NRS 598D.050;
- (7) A mortgage agent as defined in NRS 645B.0125;

(8) *A mortgage banker as defined in NRS 645E.100; and*

(9) *A mortgage broker as defined in NRS 645B.0127.*

(d) *"Pattern of mortgage lending fraud" means one or more violations of a provision of subsection 1 committed in two or more mortgage lending transactions which have the same or similar intents, results, accomplices, victims or methods of commission, or are otherwise interrelated by distinguishing characteristics.*

Sec. 4. (Deleted by amendment.)

Sec. 5. (Deleted by amendment.)

Sec. 5.3. NRS 645B.020 is hereby amended to read as follows:

645B.020 1. A person who wishes to be licensed as a mortgage broker must file a written application for a license with the Office of the Commissioner and pay the fee required pursuant to NRS 645B.050. An application for a license as a mortgage broker must:

(a) ~~{Be verified.}~~

~~{b)}~~ State the name, residence address and business address of the applicant and the location of each principal office and branch office at which the mortgage broker will conduct business within this State.

~~{c)}~~ (b) State the name under which the applicant will conduct business as a mortgage broker.

~~{d)}~~ (c) List the name, residence address and business address of each person who will:

(1) If the applicant is not a natural person, have an interest in the mortgage broker as a principal, partner, officer, director or trustee, specifying the capacity and title of each such person.

(2) Be associated with or employed by the mortgage broker as a mortgage agent.

~~{e)}~~ (d) Include a general business plan and a description of the policies and procedures that the mortgage broker and his mortgage agents will follow to arrange and service loans and to conduct business pursuant to this chapter.

~~{f)}~~ (e) State the length of time the applicant has been engaged in the business of a broker.

~~{g)}~~ (f) Include a financial statement of the applicant and, if applicable, satisfactory proof that the applicant will be able to maintain continuously the net worth required pursuant to NRS 645B.115.

~~{h)}~~ (g) Include all information required to complete the application.

~~{i)}~~ (h) Include any other information required pursuant to the regulations adopted by the Commissioner or an order of the Commissioner.

2. If a mortgage broker will conduct business at one or more branch offices within this State, the mortgage broker must apply for a license for each such branch office.

3. Except as otherwise provided in this chapter, the Commissioner shall issue a license to an applicant as a mortgage broker if:

(a) The application *is verified by the Commissioner and* complies with the requirements of this chapter; and

(b) The applicant and each general partner, officer or director of the applicant, if the applicant is a partnership, corporation or unincorporated association:

(1) Has a good reputation for honesty, trustworthiness and integrity and displays competence to transact the business of a mortgage broker in a manner which safeguards the interests of the general public. The applicant must submit satisfactory proof of these qualifications to the Commissioner.

(2) Has not been convicted of, or entered a plea of nolo contendere to, a felony relating to the practice of mortgage brokers or any crime involving fraud, misrepresentation or moral turpitude.

(3) Has not made a false statement of material fact on his application.

(4) Has not had a license that was issued pursuant to the provisions of this chapter or chapter 645E of NRS suspended or revoked within the 10 years immediately preceding the date of his application.

(5) Has not had a license that was issued in any other state, district or territory of the United States or any foreign country suspended or revoked within the 10 years immediately preceding the date of his application.

(6) Has not violated any provision of this chapter or chapter 645E of NRS, a regulation adopted pursuant thereto or an order of the Commissioner.

Sec. 5.5. NRS 645B.410 is hereby amended to read as follows:

645B.410 1. To obtain a license as a mortgage agent, a person must:

(a) Be a natural person;

(b) File a written application for a license as a mortgage agent with the Office of the Commissioner;

(c) Comply with the applicable requirements of this chapter; and

(d) Pay an application fee set by the Commissioner of not more than \$185.

2. An application for a license as a mortgage agent must:

(a) ~~Be verified;~~

~~(b)~~ State the name and residence address of the applicant;

~~(c)~~ (b) Include a provision by which the applicant gives his written consent to an investigation of his credit history, criminal history and background;

~~(d)~~ (c) Include a complete set of fingerprints which the Division may forward to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report;

~~(e)~~ (d) Include a verified statement from the mortgage broker with whom the applicant will be associated that expresses the intent of that mortgage broker to associate the applicant with the mortgage broker and to be responsible for the activities of the applicant as a mortgage agent; and

~~(f)~~ (e) Include any other information or supporting materials required pursuant to the regulations adopted by the Commissioner or by an order of the Commissioner. Such information or supporting materials may include, without limitation, other forms of identification of the person.

3. Except as otherwise provided in this chapter, the Commissioner shall issue a license as a mortgage agent to an applicant if:

(a) The application *is verified by the Commissioner and* complies with the applicable requirements of this chapter; and

(b) The applicant:

(1) Has not been convicted of, or entered a plea of nolo contendere to, a felony relating to the practice of mortgage agents or any crime involving fraud, misrepresentation or moral turpitude;

(2) Has not had a financial services license suspended or revoked within the immediately preceding 10 years;

(3) Has not made a false statement of material fact on his application;

(4) Has not violated any provision of this chapter or chapter 645E of NRS, a regulation adopted pursuant thereto or an order of the Commissioner; and

(5) Has a good reputation for honesty, trustworthiness and integrity and displays competence to transact the business of a mortgage agent in a manner which safeguards the interests of the general public. The applicant must submit satisfactory proof of these qualifications to the Commissioner.

4. Money received by the Commissioner pursuant to this section must be deposited in the Fund for Mortgage Lending created by NRS 645F.270.

Sec. 6. Chapter 645F of NRS is hereby amended by adding thereto the provisions set forth as sections 7 to 20, inclusive, of this act.

Sec. 7. *As used in sections 7 to 20, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 8 to 14, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 8. *"Covered service" includes, without limitation:*

1. *Financial counseling, including, without limitation, debt counseling and budget counseling.*

2. *Receiving money for the purpose of distributing it to creditors in payment or partial payment of any obligation secured by a mortgage or other lien on a residence in foreclosure.*

3. *Contacting a creditor on behalf of a homeowner.*

4. *Arranging or attempting to arrange for an extension of the period within which a homeowner may cure his default and reinstate his obligation pursuant to a note, mortgage or deed of trust.*

5. *Arranging or attempting to arrange for any delay or postponement of the time of a foreclosure sale.*

6. *Advising the filing of any document or assisting in any manner in the preparation of any document for filing with a bankruptcy court.*

7. *Giving any advice, explanation or instruction to a homeowner which in any manner relates to the cure of a default in or the reinstatement of an obligation secured by a mortgage or other lien on the residence in foreclosure, the full satisfaction of the obligation, or the postponement or avoidance of a foreclosure sale.*

Sec. 9. *"Foreclosure consultant" means a person who, directly or indirectly, makes any solicitation, representation or offer to a homeowner to*

perform for compensation, or who, for compensation, performs any covered service that the person represents will do any of the following:

- 1. Prevent or postpone a foreclosure sale;*
- 2. Obtain any forbearance from any mortgagee or beneficiary of a deed of trust;*
- 3. Assist the homeowner to exercise the right of reinstatement provided in the legal documents;*
- 4. Obtain any extension of the period within which the homeowner may reinstate the homeowner's obligation;*
- 5. Obtain any waiver of an acceleration clause contained in any promissory note or contract secured by a mortgage on a residence in foreclosure or included in the mortgage or deed of trust;*
- 6. Assist the homeowner in foreclosure or loan default to obtain a loan or advance of money;*
- 7. Avoid or ameliorate the impairment of the homeowner's credit resulting from the recording of a notice of default or the conduct of a foreclosure sale;*
- 8. Save the homeowner's residence from foreclosure; or*
- 9. Assist the homeowner to obtain a foreclosure reconveyance.*

Sec. 10. "Foreclosure purchaser" means a person who, in the course of his business, vocation or occupation, acquires or attempts to acquire title to a residence in foreclosure from a homeowner.

Sec. 11. 1. "Foreclosure reconveyance" means a transaction that involves:

(a) The transfer of title to a residence in foreclosure by a homeowner during a foreclosure proceeding by:

(1) The transfer of an interest in the residence in foreclosure from the homeowner; or

(2) The creation of a mortgage or other lien during the foreclosure process that allows the acquirer to obtain title to the residence in foreclosure by redeeming the property as a junior lien holder; and

(b) The subsequent conveyance, or promise of a subsequent conveyance, of an interest in the residence to the former homeowner by the acquirer, or a person acting in concert with the acquirer, that allows the former homeowner to remain in possession of the residence following the completion of the foreclosure proceeding.

2. As used in this section, "interest in the residence" includes, without limitation, an interest in a contract for a deed, a purchase agreement, and an option to purchase or lease.

Sec. 12. "Foreclosure sale" means the sale of real property to enforce an obligation secured by a mortgage or lien on the property, including the exercise of a trustee's power of sale pursuant to NRS 107.080.

Sec. 13. "Homeowner" means the record owner of a residence in foreclosure at the time the notice of the pendency of an action for foreclosure

is recorded pursuant to NRS 14.010 or the notice of default and election to sell is recorded pursuant to NRS 107.080.

Sec. 14. *"Residence in foreclosure" means residential real property consisting of not more than four family dwelling units, one of which the homeowner occupies as his principal place of residence, and against which there is an outstanding notice of the pendency of an action for foreclosure recorded pursuant to NRS 14.010 or notice of default and election to sell recorded pursuant to NRS 107.080.*

Sec. 15. *The provisions of sections 7 to 20, inclusive, of this act do not apply to, and the terms "foreclosure consultant" and "foreclosure purchaser" do not include:*

1. *An attorney at law rendering services in the performance of his duties as an attorney at law;*

2. *A person, firm, company or corporation licensed to engage in the business of debt adjustment pursuant to chapter 676 of NRS while engaging in that business;*

3. *A person licensed as a real estate broker, broker-salesman or salesman pursuant to chapter 645 of NRS while acting under the authority of that license;*

4. *A person or the authorized agent of a person acting under the provisions of a program sponsored by the Federal Government, this State or a local government, including, without limitation, the Department of Housing and Urban Development, the Federal Home Loan Mortgage Corporation, the Federal National Mortgage Association or the Federal Home Loan Bank;*

5. *A person who holds or is owed an obligation secured by a mortgage or other lien on a residence in foreclosure if the person performs services in connection with this obligation or lien and the obligation or lien did not arise as the result of or as part of a proposed foreclosure reconveyance;*

6. *Any person doing business under the laws of this State or of the United States relating to banks, trust companies, savings and loan associations, industrial loan and thrift companies, regulated lenders, credit unions, insurance companies, or a mortgagee which is a United States Department of Housing and Urban Development approved mortgagee and any subsidiary or affiliate of those persons, and any agent or employee of those persons while engaged in the business of those persons;*

7. *A person licensed as an escrow agent, title agent, mortgage agent, mortgage broker or mortgage banker pursuant to chapter 645A, 692A, 645B or 645E of NRS, while acting under the authority of his license;*

8. *A nonprofit agency or organization that offers credit counseling or advice to a homeowner of a residence in foreclosure or a person in default on a loan; or*

9. *A judgment creditor of the homeowner whose claim accrued before the recording of the notice of the pendency of an action for foreclosure*

against the homeowner pursuant to NRS 14.010 or the recording of the notice of default and election to sell pursuant to NRS 107.080.

Sec. 16. A foreclosure consultant shall not:

1. Claim, demand, charge, collect or receive any compensation until after the foreclosure consultant has fully performed each covered service that he contracted to perform or represented he would perform.

2. Claim, demand, charge, collect or receive any fee, interest or other compensation for any reason which is not fully disclosed to the homeowner.

3. Take any wage assignment, lien on real or personal property, assignment of a homeowner's equity or other interest in a residence in foreclosure or other security for the payment of compensation. Any such security is void and unenforceable.

4. Receive any consideration from any third party in connection with a covered service provided to a homeowner unless the consideration is first fully disclosed to the homeowner.

5. Acquire, directly or indirectly, any interest in the residence in foreclosure of a homeowner with whom the foreclosure consultant has contracted to perform a covered service.

6. Accept a power of attorney from a homeowner for any purpose, other than to inspect documents as provided by law.

Sec. 17. 1. In addition to any other remedy or penalty, the Commissioner may, after giving notice and opportunity to be heard, impose an administrative penalty of not more than \$10,000 on a foreclosure consultant who violates any provision of section 16 of this act.

2. Except as otherwise provided in this section, all money collected from administrative penalties imposed pursuant to this section must be deposited in the State General Fund.

3. The money collected from an administrative penalty may be deposited with the State Treasurer for credit to the Fund for Mortgage Lending created by NRS 645F.270 if:

(a) The person pays the administrative penalty without exercising his right to a hearing to contest the penalty; or

(b) The administrative penalty is imposed in a hearing conducted by a hearing officer or panel appointed by the Commissioner.

4. The Commissioner may appoint one or more hearing officers or panels and may delegate to those hearing officers or panels the power of the Commissioner to conduct hearings, determine violations and impose the penalties authorized by this section.

5. If money collected from an administrative penalty is deposited in the State General Fund, the Commissioner 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. 18. 1. A homeowner who is injured as a result of a foreclosure consultant's violation of a provision of section 16 of this act may bring an

action against the foreclosure consultant to recover damages caused by the violation, together with reasonable attorney's fees and costs.

2. If the homeowner prevails in the action, the court may award such punitive damages as may be determined by a jury, or by a court sitting without a jury, but in no case may the punitive damages be less than 1 1/2 times the amount awarded to the homeowner as actual damages.

Sec. 19. A foreclosure purchaser who engages in any conduct that operates as a fraud or deceit upon a homeowner in connection with a transaction that is subject to the provisions of sections 7 to 20, inclusive, of this act, including, without limitation, a foreclosure reconveyance, is guilty of a gross misdemeanor and shall be punished by imprisonment in the county jail for not more than 1 year, or by a fine of not more than \$50,000, or by both fine and imprisonment.

Sec. 19.5. 1. In addition to the penalty provided in section 19 of this act and except as otherwise provided in subsection 5, if a foreclosure purchaser engages in any conduct that operates as a fraud or deceit upon a homeowner in connection with a transaction that is subject to the provisions of sections 7 to 20, inclusive, of this act, including, without limitation, a foreclosure reconveyance, the transaction in which the foreclosure purchaser acquired title to the residence in foreclosure ~~is voidable by the homeowner and the transaction~~ may be rescinded by the homeowner within 2 years after the date of the recording of the conveyance.

2. To rescind a transaction pursuant to subsection 1, the homeowner must give written notice to the foreclosure purchaser and a successor in interest to the foreclosure purchaser, if the successor in interest is not a bona fide purchaser, and record that notice with the recorder of the county in which the property is located. The notice of rescission must contain:

(a) The name of the homeowner, the foreclosure purchaser and any successor in interest who holds title to the property; and

(b) A description of the property.

3. Within 20 days after receiving notice pursuant to subsection 2:

(a) The foreclosure purchaser and the successor in interest, if the successor in interest is not a bona fide purchaser, shall reconvey to the homeowner title to the property free and clear of encumbrances which were created subsequent to the rescinded transaction and which are due to the actions of the foreclosure purchaser; and

(b) The homeowner shall return to the foreclosure purchaser any consideration received from the foreclosure purchaser in exchange for the property.

4. If the foreclosure purchaser has not reconveyed to the homeowner title to the property within the period described in subsection 3, the homeowner may bring an action to enforce the rescission in the district court of the county in which the property is located.

5. ~~A transaction is not voidable~~ may not be rescinded pursuant to this section if the foreclosure purchaser has transferred the property to a bona fide purchaser.

6. As used in this section, "bona fide purchaser" means any person who purchases an interest in a residence in foreclosure from a foreclosure purchaser in good faith and for valuable consideration and who does not know or have reasonable cause to believe that the foreclosure purchaser engaged in conduct which violates subsection 1.

Sec. 20. The rights, remedies and penalties provided pursuant to the provisions of sections 7 to 20, inclusive, of this act are cumulative and do not abrogate and are in addition to any other rights, remedies and penalties that may exist at law or in equity, including, without limitation, any criminal penalty that may be imposed pursuant to section 19 of this act.

Sec. 21. Chapter 675 of NRS is hereby amended by adding thereto the provisions set forth as sections 22 and 23 of this act.

Sec. 22. Notwithstanding any other provision of law, a violation of any provision of section 670 of the John Warner National Defense Authorization Act for Fiscal Year 2007, Public Law 109-364, or any regulation adopted pursuant thereto shall be deemed to be a violation of this chapter.

Sec. 23. Notwithstanding any other provision of law:

1. If a borrower is a member of the military, a licensee shall:

(a) Honor the terms of any repayment plan between the licensee and borrower, including, without limitation, any repayment plan negotiated through military counselors or third-party credit counselors.

(b) Honor any proclamation by a base commander that a certain branch location of the licensee is off-limits to members of the military and their spouses.

2. If a borrower is a member of the military, a licensee shall not:

(a) Garnish or threaten to garnish any wages or salary of the borrower or his spouse; or

(b) Contact or threaten to contact the military chain of command of a borrower in an effort to collect the loan.

3. If a borrower is a member of the military and is deployed to a combat or combat supporting position, a licensee shall not engage in any collection activity against the borrower or his spouse.

4. As used in this section, "military" means the Armed Forces of the United States, a reserve component thereof or the National Guard.

Senator Townsend moved the adoption of the amendment.

Remarks by Senator Townsend.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Assembly Bill No. 594.

Bill read second time.

The following amendment was proposed by the Committee on Transportation and Homeland Security:

Amendment No. 1071.

"SUMMARY—Creates a Class A certification designation for certain body shops. (BDR 43-451)"

"AN ACT relating to body shops; creating a Class A certification designation for body shops that meet certain criteria; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law requires body shops to submit an application to the Department of Motor Vehicles for a license to operate and file with the Department a bond in the amount of \$10,000 before doing business in the State. (NRS 487.630, 487.640) Sections 3, 4, 6 and 7 of this bill create a Class A certification for a body shop that demonstrates compliance with certain criteria. Section 8 of this bill establishes the process for applying for and renewing a Class A certification. Section 11 of this bill provides for the suspension or revocation of a Class A certification under certain circumstances. (NRS 487.660)

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

Section 1. Chapter 487 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 8, inclusive, of this act.

Sec. 2. *"Body shop" means any place where the body of a motor vehicle is painted, fixed, repaired or replaced for compensation.*

Sec. 3. *"Class A certificate" means a certificate issued to a licensed body shop that has been granted Class A certification status with the Department pursuant to section 6 of this act.*

Sec. 4. *"Class A certification" means a designation granted to a licensed body shop by the Department indicating that the body shop meets the criteria set forth in section 6 of this act and any criteria established in regulations adopted pursuant to section 7 of this act.*

Sec. 5. *"Garagekeepers' insurance" means insurance which protects an operator of a body shop against liability for damage to a vehicle in the care, custody or control of the body shop.*

Sec. 6. *To be eligible for Class A certification, a licensed body shop must:*

1. *Comply with local zoning laws and possess all required local, state and federal licenses and permits.*

2. ~~*{Maintain active membership in any association in this State for the automotive industry concerning collisions involving motor vehicles.*~~

~~3. *Possess garagekeepers' and workers' compensation insurance.*~~

~~4. *Provide employees with:*~~

~~*(a) Health insurance;*~~

~~*(b) Retirement benefits; and*~~

~~(e) Continuing education and training in subjects and for periods of time as prescribed by regulation.~~

~~5-1~~ 3. Have the ability to:

- (a) Obtain proper specifications for each vehicle being repaired;
- (b) Make three dimensional measurements that are verified by a computer of each vehicle being repaired; and
- (c) Hoist a vehicle for inspection.

~~6-1~~ 4. Perform a wide range of services for vehicles being repaired, including, without limitation:

- (a) Alignment of the wheels of a vehicle that is verified by a computer;
- (b) Stabilization of a vehicle through the use of a four-point anchoring system;
- (c) Simultaneous adjustment of the exterior and undercarriage of a vehicle;
- (d) Removal and reinstallation of a frame, suspension, engine or a drivetrain component;

(e) Painting the exterior of a vehicle with a system for applying paint that provides a finish similar to the finish applied by the manufacturer;

(f) Inspection of airbags and other occupant restraint devices to the specifications of the manufacturer; and

(g) Welding, by a certified technician, with a gas metal arc welder or an ~~inverted~~ inverter welder, as appropriate.

~~7-1~~ 5. Adhere to current federal, state and local safety requirements by:

- (a) Performing repairs on an air-conditioning system using equipment approved by the United States Environmental Protection Agency;
- (b) Performing repairs with emission-reducing equipment, as prescribed by regulation;
- (c) Performing repairs with equipment that meets all safety requirements as prescribed by regulation; and
- (d) Disposing of hazardous waste as prescribed by regulation.

~~8-1~~ 6. Ensure customer satisfaction by providing to each customer:

- (a) A computer-generated estimate of repairs; and
- (b) A written, limited lifetime warranty that is valid against workmanship defects. ~~at other affiliated body shops which must be located in each state of the United States and the District of Columbia.~~

~~9-1~~ 7. Have a system for documenting and maintaining customer complaints and responses to service.

Sec. 7. ~~1-1. The Department shall adopt regulations establishing the requirements for continuing education and training required by subsection 4 of section 6 of this act.~~

~~2-1~~ The Department may adopt such regulations as it deems necessary to carry out the provisions of sections 2 to 8, inclusive, of this act.

Sec. 8. 1. An application for a Class A certification or for the renewal of such a certification must be filed with the Department upon forms supplied by the Department. The application must be accompanied by such proof as

the Department requires to demonstrate that the applicant is in compliance with all criteria set forth in section 6 of this act and any regulations adopted pursuant thereto.

2. Before a Class A certificate is issued to a licensed body shop, the Department must inspect the body shop to ensure that the body shop meets or exceeds the requirements set forth in section 6 of this act and any regulations adopted pursuant thereto.

3. The Department shall notify a licensed body shop at least 72 hours before an inspection is performed pursuant to subsection 2.

4. The Department shall charge an application fee of \$300 for the issuance or renewal of a Class A certificate which must be submitted with the application. Fees collected by the Department pursuant to this subsection must be deposited with the State Treasurer to the credit of the Account for Regulation of Salvage Pools, Automobile Wreckers, Body Shops and Garages.

5. Upon receipt of the application and the required fee, and when satisfied that the applicant meets or exceeds the requirements set forth in section 6 of this act and any regulations adopted pursuant thereto, the Department must issue to the licensed body shop a Class A certificate or renew such certification. The certificate must contain the name and the address of the licensed body shop and the name of the operator of the licensed body shop.

6. A Class A certificate expires on April 30 of each year.

Sec. 9. NRS 487.600 is hereby amended to read as follows:

487.600 As used in NRS ~~[487.610]~~ 487.600 to 487.690, inclusive, ~~["body shop" means any place where the body of a motor vehicle is painted, fixed, repaired or replaced for compensation.]~~ and sections 2 to 8, inclusive, of this act, the words and terms defined in sections 2 to 5, inclusive, of this act have the meanings ascribed to them in those sections.

Sec. 10. NRS 487.650 is hereby amended to read as follows:

487.650 1. The Department may refuse to issue a license or, after notice and hearing, may suspend, revoke or refuse to renew a license to operate a body shop upon any of the following grounds:

(a) Failure of the applicant or licensee to have or maintain an established place of business in this State.

(b) Conviction of the applicant or licensee or an employee of the applicant or licensee of a felony, or of a misdemeanor or gross misdemeanor for a violation of a provision of this chapter.

(c) Any material misstatement in the application for the license.

(d) Willful failure of the applicant or licensee to comply with the motor vehicle laws of this State and NRS 487.035, ~~[487.610]~~ 487.600 to 487.690, inclusive, and sections 2 to 8, inclusive, of this act, or 597.480 to 597.590, inclusive.

(e) Failure or refusal by the licensee to pay or otherwise discharge any final judgment against him arising out of the operation of the body shop.

(f) Failure or refusal to provide to the Department an authorization for the disclosure of financial records for the business as required pursuant to subsection 2.

(g) A finding of guilt by a court of competent jurisdiction in a case involving a fraudulent inspection, purchase, sale or transfer of a salvage vehicle by the applicant or licensee or an employee of the applicant or licensee.

(h) An improper, careless or negligent inspection of a salvage vehicle pursuant to NRS 487.800 by the applicant or licensee or an employee of the applicant or licensee.

(i) A false statement of material fact in a certification of a salvage vehicle pursuant to NRS 487.800 or a record regarding a salvage vehicle by the applicant or licensee or an employee of the applicant or licensee.

2. Upon the receipt of any report or complaint alleging that an applicant or a licensee has engaged in financial misconduct or has failed to satisfy financial obligations related to the operation of a body shop, the Department may require the applicant or licensee to submit to the Department an authorization for the disclosure of financial records for the business as provided in NRS 239A.090. The Department may use any information obtained pursuant to such an authorization only to determine the suitability of the applicant or licensee for initial or continued licensure. Information obtained pursuant to such an authorization may be disclosed only to those employees of the Department who are authorized to issue a license to an applicant pursuant to NRS ~~{487.610}~~ 487.600 to 487.690, inclusive, and sections 2 to 8, inclusive, of this act, or to determine the suitability of an applicant or a licensee for such licensure.

3. As used in this section, "salvage vehicle" has the meaning ascribed to it in NRS 487.770.

Sec. 11. NRS 487.660 is hereby amended to read as follows:

487.660 1. If the Director finds that the action is necessary in the public interest, upon notice to the licensee, he may ~~{temporarily}~~ :

(a) Temporarily suspend or refuse to renew the license to operate a body shop for not more than 30 days.

(b) Temporarily suspend or refuse to renew a Class A certificate of a licensed body shop for not more than 30 days.

2. The Department shall conduct a hearing and issue a final decision on the matter within 30 days after it sends notice ~~{to the licensee}~~ of the temporary suspension ~~{}~~ of a license or a Class A certificate, or both.

3. The Department shall adopt regulations:

(a) Prescribing the circumstances under which the Department may suspend or refuse to renew a Class A certificate; and

(b) Providing an appeals process for an operator of a licensed body shop whose Class A certificate has been suspended or has not been renewed.

4. A Class A certificate must be automatically revoked by the Department if the license to operate the body shop is suspended or revoked pursuant to NRS 487.650.

Sec. 12. NRS 487.690 is hereby amended to read as follows:

487.690 Any person who violates any of the provisions of NRS ~~[487.610]~~ 487.600 to 487.680, inclusive, *and sections 2 to 8, inclusive, of this act* is guilty of a misdemeanor.

Senator Nolan moved the adoption of the amendment.

Remarks by Senators Nolan and Carlton.

Senator Carlton requested that her remarks be entered in the Journal.

Thank you, Mr. President. My colleagues on the Commerce and Labor subcommittee on boards had some concerns about some of the language about having to join an organization in order to have the other issues such as health insurance and retirement benefits come into play. Since we did this, I received an e-mail on continuing education.

I believe continuing education and training is truly an employer-employee issue, and we do not need to put that in state statute. If someone has a problem getting an employee to go to training, I do not think it needs to become a crime, or possibly in the future, a class E felony. We took that provision out.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 624.

Bill read second time.

The following amendment was proposed by the Committee on Transportation and Homeland Security:

Amendment No. 1070.

"SUMMARY—Provides that special mobile equipment or a farm vehicle that contains dyed special fuel in the fuel tank may be operated on certain highways in this State in certain circumstances. (BDR 32-1509)"

"AN ACT relating to special fuel; providing that a farm vehicle or special mobile equipment that contains dyed special fuel in the fuel tank may be operated on certain highways in this State under certain circumstances; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law allows a farm vehicle that contains dyed special fuel in the fuel tank to be operated on a highway in this State only when it is crossing the highway from one parcel of land to another parcel of land which is owned by or under the control of the person operating the farm vehicle. (NRS 366.203) This bill provides that any farm vehicle that is not required to be registered with the Department of Motor Vehicles or special mobile equipment that is incidentally operated or moved upon a highway may contain dyed special fuel in the fuel tank of the farm vehicle or special mobile equipment while it is operated on certain highways in this State.

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

Section 1. NRS 366.203 is hereby amended to read as follows:

366.203 1. Special fuel, other than compressed natural gas, liquefied petroleum gas or kerosene, which is exempt from the tax pursuant to subsection 3 or 4 of NRS 366.200 must be dyed before it is removed for distribution from a rack. The dye added to the exempt special fuel must be of the color and concentration required by the regulations adopted by the Secretary of the Treasury pursuant to 26 U.S.C. § 4082.

2. Except as otherwise provided in subsections 3 ~~[, 4 and 5,]~~ and 4, a person shall not operate or maintain on any highway in this State a motor vehicle which contains dyed special fuel in the fuel tank of that vehicle. A person who operates or maintains a motor vehicle in violation of this subsection and the registered owner of the motor vehicle are jointly and severally liable for any taxes, penalties and interest payable to the Department.

3. A person who, pursuant to subsection 2, 3 or 4 of NRS 366.200, is exempt from the tax imposed by this chapter may operate or maintain a motor vehicle on a highway in this State which contains dyed special fuel in the fuel tank of that vehicle.

4. ~~[To the extent permitted by federal law, a]~~ A person may operate or maintain on a highway in this State any special mobile equipment *that is incidentally operated or moved upon a highway* or farm equipment ~~[that]~~ which contains dyed special fuel in the fuel tank of the special mobile equipment or farm equipment. As used in this subsection:

(a) "Farm equipment" means any self-propelled machinery or motor vehicle that is designed solely for tilling soil or for cultivating, harvesting or transporting crops or other agricultural products ~~[from a field or other area owned or leased by the operator of the farm equipment and in which the crops or agricultural products are grown, to a field, yard, silo, cellar, shed or other facility which is:~~

~~(1) Owned or leased by the operator of the farm equipment; and~~

~~(2) Used to store or process the crops or agricultural products.~~

~~→]~~ and which is not required to be registered with the Department. The term includes a tractor, baler or swather, ~~[or]~~ any implement used to retrieve hay ~~[,]~~ or any special mobile equipment that is used for farming purposes. The term does not include a truck-tractor or any other vehicle primarily used for hauling loads long distances over a public highway.

(b) "Highway" does not include a controlled-access highway as defined in NRS 484.041.

(c) "Truck-tractor" has the meaning ascribed to it in NRS 482.130.

(d) "Vehicle" has the meaning ascribed to it in NRS 482.135.

~~[5. To the extent authorized by federal law, a person may operate or maintain a motor vehicle on a highway in this State that contains dyed special fuel in the fuel tank if the motor vehicle is used only to cross the highway to travel from one parcel of land owned or controlled by the person to another parcel of land owned or controlled by the person.~~

~~6.]~~ 5. There is a rebuttable presumption that all special fuel which is not dyed special fuel and which is sold or distributed in this State is for the purpose of propelling a motor vehicle.

6. *The Department shall, by regulation, define "incidentally operated or moved upon a highway" for purposes of this section.*

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

Senator Nolan moved the adoption of the amendment.

Remarks by Senator Nolan.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

UNFINISHED BUSINESS

CONSIDERATION OF ASSEMBLY AMENDMENTS

Senate Bill No. 310.

The following Assembly amendment was read:

Amendment No. 700.

"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 expiration of the licenses of cosmetological establishments and certain licensees; revising the authority of certain professional and occupational boards to establish fees for providing certain services; 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.

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.

Sections 5.5, 10.5, 20.5, 31.5, 36.5 and 51.5 of this bill revise the authority of certain professional and occupational boards to establish fees for providing certain services.

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 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 ~~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. 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. 5.5. NRS 623A.240 is hereby amended to read as follows:

623A.240 1. The following fees must be prescribed by the Board and must not exceed the following amounts:

Application fee	\$200.00
Examination fee.....	100.00,
	plus the actual
	cost of the
	examination
Certificate of registration	25.00
Annual renewal fee.....	200.00
Reinstatement fee	300.00
Delinquency fee.....	50.00
Change of address fee	10.00
Copy of a document, per page.....	.25

2. In addition to the fees set forth in subsection 1, the Board may charge and collect a fee for the expedited processing of a request or for any other incidental service it provides. The fee must not exceed the cost incurred by the Board to provide the service.

3. The Board may authorize a landscape architect intern to pay the application fee or any portion of that fee during any period in which he is the holder of a certificate to practice as a landscape architect intern. If a landscape architect intern pays the fee or any portion of the fee during that period, the Board shall credit the amount paid by him towards the entire amount of the application fee for the certificate of registration required pursuant to this section.

4. The fees prescribed by the Board pursuant to this section must be paid in United States currency in the form of a check, cashier's check or money order. If any check submitted to the Board is dishonored upon presentation for payment, repayment of the fee, including the fee for a returned check in the amount established by the State Controller pursuant to NRS 353C.115, must be made by money order or certified check.

5. The fees prescribed by the Board pursuant to this section are nonrefundable.

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. 10.5. NRS 630.268 is hereby amended to read as follows:

630.268 1. The Board shall charge and collect not more than the following fees:

For application for and issuance of a license to practice as a physician, including a license by endorsement	\$600
For application for and issuance of a temporary, locum tenens, limited, restricted, special or special purpose license	400
For renewal of a limited, restricted or special license	400
For application for and issuance of a license as a physician assistant.....	400
For biennial registration of a physician assistant.....	800
For biennial registration of a physician	800
For application for and issuance of a license as a practitioner of respiratory care.....	400
For biennial registration of a practitioner of respiratory care.....	600
For biennial registration for a physician who is on inactive status	400
For written verification of licensure	50
For a duplicate identification card	25
For a duplicate license	50

For computer printouts or labels	500
For verification of a listing of physicians, per hour.....	20
For furnishing a list of new physicians	100

2. In addition to the fees prescribed in subsection 1, the Board shall charge and collect necessary and reasonable fees for ~~its other services.~~ the expedited processing of a request or for any other incidental service the Board provides.

3. The cost of any special meeting called at the request of a licensee, an institution, an organization, a state agency or an applicant for licensure must be paid for by the person or entity requesting the special meeting. Such a special meeting must not be called until the person or entity requesting it has paid a cash deposit with the Board sufficient to defray all expenses of the meeting.

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. 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. 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. 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. 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. 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. 20.5. NRS 634.135 is hereby amended to read as follows:

634.135 1. The Board may charge and collect fees not to exceed:

For an application for a license to practice chiropractic	\$200.00
For an examination for a license to practice chiropractic	200.00
For an application for, and the issuance of, a certificate as a chiropractor's assistant	\$100.00
For an examination for a certificate as a chiropractor's assistant	100.00
For the issuance of a license to practice chiropractic	300.00
For the annual renewal of a license to practice chiropractic	500.00
For the annual renewal of an inactive license to practice chiropractic	150.00
For the annual renewal of a certificate as a chiropractor's assistant	100.00
For the restoration to active status of an inactive license to practice chiropractic	300.00
For reinstating a license to practice chiropractic which has been suspended or revoked	500.00
For reinstating a certificate as a chiropractor's assistant which has been suspended pursuant to NRS 634.130	100.00
For a review of any subject on the examination	25.00
For the issuance of a duplicate license or for changing the name on a license	35.00
For written certification of licensure	25.00
For providing a list of persons who are licensed to practice chiropractic to a person who is not licensed to practice chiropractic	25.00
For providing a list of persons who were licensed to practice chiropractic following the most recent examination of the Board to a person who is not licensed to practice chiropractic	10.00
For a set of mailing labels containing the names and addresses of the persons who are licensed to practice chiropractic in this State	35.00
For providing a copy of the statutes, regulations and other rules governing the practice of chiropractic in this State to a person who is not licensed to practice chiropractic	25.00
For each page of a list of continuing education courses that have been approved by the Board50
For an application to a preceptor program offered by the Board to graduates of chiropractic schools or colleges	35.00

For a review by the Board of a course offered by a chiropractic school or college or a course of continuing education in chiropractic..... 25.00

2. In addition to the fees set forth in subsection 1, the Board may charge and collect reasonable and necessary fees for *the expedited processing of a request or for any other incidental* service it provides.

3. For a check or other method of payment made payable to the Board or tendered to the Board that is returned to the Board or otherwise dishonored upon presentation for payment, the Board shall assess and collect a fee in the amount established by the State Controller pursuant to NRS 353C.115.

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. 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. 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. ~~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. 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. ~~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. 31.5. NRS 639.070 is hereby amended to read as follows:

639.070 1. The Board may:

(a) Adopt such regulations, not inconsistent with the laws of this State, as are necessary for the protection of the public, appertaining to the practice of pharmacy and the lawful performance of its duties.

(b) Adopt regulations requiring that prices charged by retail pharmacies for drugs and medicines which are obtained by prescription be posted in the pharmacies and be given on the telephone to persons requesting such information.

(c) Adopt regulations, not inconsistent with the laws of this State, authorizing the Executive Secretary of the Board to issue certificates, licenses and permits required by this chapter and chapters 453 and 454 of NRS.

(d) Adopt regulations governing the dispensing of poisons, drugs, chemicals and medicines.

(e) Regulate the practice of pharmacy.

(f) Regulate the sale and dispensing of poisons, drugs, chemicals and medicines.

(g) Regulate the means of recordkeeping and storage, handling, sanitation and security of drugs, poisons, medicines, chemicals and devices, including, but not limited to, requirements relating to:

(1) Pharmacies, institutional pharmacies and pharmacies in correctional institutions;

(2) Drugs stored in hospitals; and

(3) Drugs stored for the purpose of wholesale distribution.

(h) Examine and register, upon application, pharmacists and other persons who dispense or distribute medications whom it deems qualified.

(i) Charge and collect necessary and reasonable fees for ~~its services,~~ the expedited processing of a request or for any other incidental service the Board provides, other than those specifically set forth in this chapter.

(j) Maintain offices in as many localities in the State as it finds necessary to carry out the provisions of this chapter.

(k) Employ an attorney, inspectors, investigators and other professional consultants and clerical personnel necessary to the discharge of its duties.

(l) Enforce the provisions of NRS 453.011 to 453.552, inclusive, and enforce the provisions of this chapter and chapter 454 of NRS.

(m) Adopt regulations concerning the information required to be submitted in connection with an application for any license, certificate or permit required by this chapter or chapter 453 or 454 of NRS.

(n) Adopt regulations concerning the education, experience and background of a person who is employed by the holder of a license or permit issued pursuant to this chapter and who has access to drugs and devices.

(o) Adopt regulations concerning the use of computerized mechanical equipment for the filling of prescriptions.

(p) Participate in and expend money for programs that enhance the practice of pharmacy.

2. This section does not authorize the Board to prohibit open-market competition in the advertising and sale of prescription drugs and pharmaceutical services.

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. 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. 36.5. NRS 641.370 is hereby amended to read as follows:

641.370 1. The Board shall charge and collect not more than the following fees respectively:

For the written examination, in addition to the actual cost to the Board of the examination.....	\$100
For the special oral examination, in addition to the actual costs to the Board of the examination.....	100
For the issuance of an initial license	25
For the biennial renewal of a license.....	500
For the restoration of a license suspended for the nonpayment of the biennial fee for the renewal of a license.....	100
For the registration of a firm, partnership or corporation which engages in or offers to engage in the practice of psychology.....	300
For the registration of a nonresident to practice as a consultant	100

2. An applicant who passes the examination and is eligible for a license shall pay the biennial fee for the renewal of a license which must be prorated for the period from the date the license is issued to the end of the biennium.

3. In addition to the fees set forth in subsection 1, the Board may charge and collect a fee for the expedited processing of a request or for any other incidental service it provides. The fee must not exceed the cost to provide the service.

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. 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. 40. (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. 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. 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. 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. 51.5. NRS 656.220 is hereby amended to read as follows:

656.220 1. The fees required by this chapter are fixed by the following schedule:

(a) The fee for filing an application for an examination must be fixed by the Board annually at not more than \$250 and not less than \$90.

(b) The fee for the original issuance of a certificate must be fixed by the Board annually at not more than \$250 and not less than \$150.

(c) For a certificate issued after July 1, 1973, the fee is an amount equal to the renewal fee in effect on the last regular renewal date before the date on which the certificate is issued, except that if the certificate will expire less than 1 year after its issuance, then the fee is 50 percent of the renewal fee in effect on the last regular renewal date before the date on which the certificate is issued. The Board may by regulation provide for the waiver or refund of the initial certificate fee if the certificate is issued less than 45 days before the date on which it will expire.

(d) The annual renewal fee for a certificate must be fixed by the Board annually at not more than \$250 and not less than \$150. Every holder of a certificate desiring renewal must pay the annual renewal fee to the board on or before May 15 of each year.

(e) For the renewal of a certificate which was suspended for failure to renew, the fee is an amount equal to all unpaid renewal fees accrued plus a reinstatement fee that must be fixed by the Board annually at not more than \$125 and not less than \$75.

(f) The fee for the original issuance of a license as a court reporting firm is \$250.

(g) The fee for the annual renewal of a license as a court reporting firm is \$175.

(h) The fee for the reinstatement of a license as a court reporting firm is \$175.

2. In addition to the fees set forth in subsection 1, the Board may charge and collect a fee for *the expedited processing of a request or for any other incidental* service it provides. The fee must not exceed the cost incurred by the Board to provide the service.

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. 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. 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 that the Senate concur in the Assembly amendment to Senate Bill No. 310.

Remarks by Senator Carlton.

Motion carried by a constitutional majority.

Bill ordered enrolled.

Senate Bill No. 303.

The following Assembly amendment was read:

Amendment No. 836.

"SUMMARY—Amends the Charter of the City of North Las Vegas concerning the qualifications of municipal judges ~~to~~ prospectively contingent upon voter approval. (BDR S-80)"

"AN ACT relating to judges; prospectively amending the Charter of the City of North Las Vegas concerning the qualifications of municipal judges ~~to~~ contingent upon voter approval; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

~~[This]~~ Section 1 of this bill amends the Charter of the City of North Las Vegas to require a municipal judge to devote his full time to the duties of his office and to be a duly licensed member, in good standing, of the State Bar of Nevada. This requirement does not apply to a municipal judge who holds the office of municipal judge on ~~October 1, 2007~~, January 1, 2009, and who continues to serve as such in uninterrupted terms. The provisions of section 1 will become effective on January 1, 2009, only if the voters of the City of North Las Vegas approve of the effect of those provisions at the 2008 General Election.

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

Section 1. Section 4.020 of the Charter of the City of North Las Vegas, being Chapter 573, Statutes of Nevada 1971, as last amended by Chapter 73, Statutes of Nevada 2003, at page 485, is hereby amended to read as follows:

Sec. 4.020 Municipal Court: ~~{Residency—requirement}~~
Qualifications of Municipal Judge; salary.

1. A Municipal Judge must have been a resident of the City for a continuous period of at least 6 months immediately preceding his election.

2. *A Municipal Judge shall devote his full time to the duties of his office and must be a duly licensed member, in good standing, of the State Bar of Nevada, except that the requirement to be a duly licensed member, in good standing, of the State Bar of Nevada does not apply to any Municipal Judge who holds the office of Municipal Judge on ~~{October 1, 2007}~~ January 1, 2009, as long as he continues to serve as such in uninterrupted terms.*

3. If so required by an ordinance duly enacted, candidates for the office of Municipal Judge, at the time of filing, shall produce evidence in satisfaction of any or all of the qualifications for office.

~~{3-}~~ 4. The salary of a Municipal Judge must be fixed by the City Council, must be uniform for all departments of the Municipal Court and may be increased during the term for which a Municipal Judge is elected or appointed.

Sec. 2. *At the general election on November 4, 2008, in the City of North Las Vegas, a question must be placed on the general election ballot in substantially the following form:*

Shall Section 4.020 of the Charter of the City of North Las Vegas be amended to require a Municipal Judge who holds the office of Municipal Judge after January 1, 2009:

1. To devote his full time to the duties of his office; and

2. Except for a Municipal Judge who holds the office of Municipal Judge on January 1, 2009, and continues to serve in uninterrupted terms, to be a duly licensed member, in good standing, of the State Bar of Nevada?

Sec. 3. *1. This section and section 2 of this act become effective on October 1, 2007.*

2. Section 1 of this act becomes effective on January 1, 2009, only if a majority of the voters voting on the question placed on the ballot pursuant to section 2 of this act vote affirmatively on the question.

Senator Amodei moved that the Senate do not concur in the Assembly amendment to Senate Bill No. 303.

Remarks by Senator Amodei.

Motion carried.

Bill ordered transmitted to the Assembly.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Amodei moved that Senate Bill No. 542 be taken from Unfinished Business and placed on Unfinished Business on the last agenda for the next legislative day.

Remarks by Senator Amodei.

Motion carried.

Senator Raggio moved that the Senate recess until 4 p.m.

Motion carried.

Senate in recess at 12:41 p.m.

SENATE IN SESSION

At 5 p.m.

President pro Tempore Amodei presiding.

Quorum present.

REPORTS OF COMMITTEES

Mr. President pro Tempore:

Your Committee on Commerce and Labor, to which was referred Assembly Bill No. 128, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

RANDOLPH J. TOWNSEND, *Chair*

Mr. President pro Tempore:

Your Committee on Finance, to which was rereferred Senate Bill No. 73, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

WILLIAM J. RAGGIO, *Chair*

Mr. President pro Tempore:

Your Committee on Government Affairs, to which was referred Assembly Bill No. 445, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

WARREN B. HARDY II, *Chair*

MESSAGES FROM THE ASSEMBLY

ASSEMBLY CHAMBER, Carson City, May 30, 2007

To the Honorable the Senate:

I have the honor to inform your honorable body that the Assembly on this day adopted the report of the first Conference Committee concerning Assembly Bill No. 418.

LUCINDA BENJAMIN

Assistant Chief Clerk of the Assembly

SECOND READING AND AMENDMENT

Senate Bill No. 73.

Bill read second time.

The following amendment was proposed by the Committee on Finance:

Amendment No. 1050.

"SUMMARY—Provides for allowances for certain travel expenses incurred by Legislators during the legislative interim. (BDR 17-265)"

"AN ACT relating to the State Legislature; providing for allowances for certain travel expenses incurred by Legislators during the legislative interim; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Section 1 of this bill provides that each Legislator is entitled to receive, during the legislative interim, a travel allowance not to exceed a total of

\$5,000 for travel within his legislative district to participate in ~~public meetings with elected bodies such as a board of county commissioners, city council, town board or board of trustees of a school district.~~ a meeting of a legislative committee or subcommittee of which he is not a member or with an officer, employee, agency, board, bureau, commission, department, division, district or other unit of federal, state or local government or any other public entity regarding an issue relating to that legislative district. The travel allowance applies only to trips that are 50 miles or more one way or 100 miles or more round trip. The travel allowance does not apply to travel that occurs after the Legislator has filed a declaration or an acceptance of candidacy for an elective office and remains a candidate for that office.

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

Section 1. Chapter 218 of NRS is hereby amended by adding thereto a new section to read as follows:

1. *Except as otherwise provided in this section and NRS 218.2207, each Senator and Assemblyman is entitled to receive, during the legislative interim, an allowance for travel within his legislative district to participate in ~~public meetings~~ a meeting of a legislative committee or subcommittee of which he is not a member or with ~~elected bodies having jurisdiction over any area within~~ an officer, employee, agency, board, bureau, commission, department, division, district or other unit of federal, state or local government or any other public entity regarding an issue relating to that legislative district . ~~f, including, without limitation, a board of county commissioners, city council, town board or board of trustees of a school district.~~*

2. *The allowance for travel payable pursuant to this section applies only to trips whose one-way distance is 50 miles or more or whose round-trip distance is 100 miles or more.*

3. *The maximum allowance for travel payable to each Senator and Assemblyman pursuant to this section during a legislative interim is \$5,000, except that no allowance for travel pursuant to this section is payable to a Senator or Assemblyman for travel that occurs during the legislative interim at any time after the date on which the Senator or Assemblyman has filed a declaration or an acceptance of candidacy for an elective office and remains a candidate for that office.*

4. *Transportation must be by the most economical means, considering total cost and time spent in transit. The allowance is:*

(a) If the travel is by private conveyance, the standard mileage reimbursement rate for which a deduction is allowed for the purposes of federal income tax.

(b) If the travel is not by private conveyance, the actual amount expended.

5. *Claims made pursuant to this section must be paid from the Legislative Fund unless otherwise provided by specific statute. A claim must*

not be paid unless the Senator or Assemblyman submits a signed statement affirming:

- (a) The date of travel; and
- (b) The places of departure and arrival and, if the travel is by private conveyance, the actual miles traveled. If the travel is not by private conveyance, the claim must include a receipt or other evidence of the expenditure.

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

Senator Rhoads moved the adoption of the amendment.

Remarks by Senator Rhoads.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 226.

Bill read second time.

The following amendment was proposed by the Committee on Finance:

Amendment No. 1065.

"SUMMARY—~~[Creates a revolving account for paying]~~ *Makes an appropriation for* the expenses involved in thinning the forests in state parks. (BDR ~~[35-1159]~~) *S-1159*)

"AN ACT ~~[relating to state parks; creating a revolving account for the use of]~~ *Making an appropriation to* the Division of State Parks of the State Department of Conservation and Natural Resources to pay the expenses involved in thinning the forests in state parks; ~~[making an appropriation;]~~ and providing other matters properly relating thereto."

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

Section 1. ~~[Chapter 407 of NRS is hereby amended by adding thereto a new section to read as follows:~~

~~1.—A revolving account for the use of the Division is hereby created in the State General Fund. The Administrator shall administer the account.~~

~~2.—The money in the account may be used only to pay the expenses involved in thinning the forests in state parks, including, without limitation, expenses related to the use of prison crews to perform the thinning and the costs of any other services that are necessary to manage effectively the thinning of the forests through the harvesting of timber.~~

~~3.—The Division shall sell all the timber harvested pursuant to subsection 2.~~

~~4.—All money received by the Division from the sale of timber pursuant to subsection 3 or for the use of the Division in carrying out the provisions of this section must be deposited in the State General Fund for credit to the account.~~

~~5.—All interest and income earned on the money in the account must be credited to the account.~~

~~6. The balance in the account must be carried forward at the end of each fiscal year. (Deleted by amendment.)~~

Sec. 2. 1. There is hereby appropriated from the State General Fund to the Division of State Parks of the State Department of Conservation and Natural Resources the sum of ~~[\$500,000 for the use of the Division in carrying out the provisions of section 1 of this act.] \$150,000 to be used to pay the expenses involved in thinning forests in state parks, including, without limitation, expenses related to the use of prison crews to perform the thinning and the costs of any other services that are necessary to manage effectively the thinning of the forests through harvesting of timber.~~

2. Any remaining balance of the appropriation made by subsection 1 must not be committed for expenditure after June 30, 2009, by the entity to which the appropriation is made or any entity to which money from the appropriation is granted or otherwise transferred in any manner, and any portion of the appropriated money remaining must not be spent for any purpose after September 18, 2009, by either the entity to which the money was appropriated or the entity to which the money was subsequently granted or transferred, and must be reverted to the State General Fund on or before September 18, 2009.

Sec. 3. 1. The Division of State Parks of the State Department of Conservation and Natural Resources shall, during the 2007-2009 interim, conduct a study:

(a) To determine the feasibility of generating revenue for forest management through thinning the forests in state parks, including, without limitation, the use of forest products for biomass fuel, soil amendments, commercial Christmas trees, firewood and commercial lumber harvesting; and

(b) To evaluate the fireshed management plan for protecting the Lake Tahoe Basin from fire incursion from outside the Basin.

2. The Administrator of the Division shall submit a report of the results of the study and any recommendations for legislation to the Director of the Legislative Counsel Bureau for transmission to the 75th Session of the Nevada Legislature.

~~{Sec. 3.}~~ Sec. 4. This act becomes effective on July 1, 2007.

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. 252.

Bill read second time.

The following amendment was proposed by the Committee on Finance:

Amendment No. 1069.

"SUMMARY—Makes appropriations to the Division of Welfare and Supportive Services of the Department of Health and Human Services for the replacement of certain office equipment and computers. (BDR S-1217)"

"AN ACT making appropriations to the Division of Welfare and Supportive Services of the Department of Health and Human Services for the replacement of certain office equipment and computers; and providing other matters properly relating thereto."

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

Section 1. 1. There is hereby appropriated from the State General Fund to the Division of Welfare and Supportive Services, Administration, of the Department of Health and Human Services the sum of ~~[\$380,406]~~ \$333,829 for routine replacement of aging equipment and computers.

2. There is hereby appropriated from the State General Fund to the Division of Welfare and Supportive Services for Welfare Field Services the sum of ~~[\$900,865]~~ \$748,792 for replacement of aging computers, software and telephones.

Sec. 2. Any remaining balance of the appropriations made by section 1 of this act must not be committed for expenditure after June 30, 2009, by the entity to which the appropriations are made or any entity to which money from the appropriations is granted or otherwise transferred in any manner, and any portion of the appropriated money remaining must not be spent for any purpose after September 18, 2009, by either the entity to which the money was appropriated or the entity to which the money was subsequently granted or transferred, and must be reverted to the State General Fund on or before September 18, 2009.

Sec. 3. 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. 462.

Bill read second time.

The following amendment was proposed by the Committee on Finance:

Amendment No. 1068.

"SUMMARY—Makes an appropriation to the Office of Veterans' Services for the Veterans' Home Account. (BDR S-1227)"

"AN ACT making an appropriation to the Office of Veterans' Services for the Veterans' Home Account; and providing other matters properly relating thereto."

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

Section 1. There is hereby appropriated from the State General Fund to the Office of Veterans' Services for the Veterans' Home Account created

pursuant to NRS 417.145 the sum of ~~[\$650,610]~~ \$708,736 for the repair of showers and replacement of carpeting, computers, a washer and dryer, resident tubs and other equipment and for the acquisition and installation of a commercial water softener.

Sec. 2. Any remaining balance of the appropriation made by section 1 of this act must not be committed for expenditure after June 30, 2009, by the entity to which the appropriation is made or any entity to which money from the appropriation is granted or otherwise transferred in any manner, and any portion of the appropriated money remaining must not be spent for any purpose after September 18, 2009, by either the entity to which the money was appropriated or the entity to which the money was subsequently granted or transferred, and must be reverted to the State General Fund on or before September 18, 2009.

Sec. 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.

Assembly Bill No. 621.

Bill read second time.

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

Amendment No. 1083.

"SUMMARY—Makes various changes in the provision of tax abatements and exemptions based upon the use of energy and repeals certain prospective energy requirements for public buildings. (BDR 58-1512)"

"AN ACT relating to energy; making various changes relating to the application procedures for and the provision of tax abatements and exemptions based upon the use of energy; repealing certain prospective energy requirements for public buildings; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Sections 2 and 3 of this bill require the Director of the Office of Energy to adopt a system for rating buildings based upon the Leadership in Energy and Environmental Design Green Building Rating System, and authorize the Director to grant, under certain conditions, a partial abatement of property taxes for certain buildings based upon the rating of the building.

Existing law authorizes the Commission on Economic Development to approve, under certain conditions, a partial abatement of certain taxes for a person who intends to locate or expand a business in this State. (NRS 360.750) Existing law prescribes the terms of such a partial abatement of property taxes for certain businesses that conserve energy or fossil sources of energy through recycling, for certain facilities that generate electrical energy from renewable energy and for facilities that produce certain devices

for the storage of electrical energy. (NRS 361.0685, 361.0687) Sections 4, 5, 8 and 16 of this bill repeal those terms and prescribe substantially identical terms.

Existing law provides an exemption from property taxes for any value added to the assessed value of a building by certain qualified systems that provide heating, cooling or electricity. (NRS 361.079) Sections 6 and 16 of this bill repeal that exemption and provide a substantially similar exemption.

Existing law prescribes the terms of a partial abatement of certain sales and use taxes, if approved by the Commission on Economic Development, for certain facilities that generate electricity from renewable energy or produce certain devices for the storage of electrical energy. (NRS 374.357) Sections 7 and 11 of this bill repeal those terms and prescribe substantially identical terms.

Sections 12 and 16 of this bill repeal certain energy requirements for public buildings which otherwise would have become effective on July 1, 2007. ~~[Section 13 of this bill prescribes similar requirements for certain public buildings for which construction has not yet been completed on that date.]~~

Existing law requires an analysis of the cost of operating and maintaining certain public buildings prior to their construction or renovation. (NRS 338.190) Section 16 of this bill repeals those requirements.

Existing law requires the Director of the Office of Energy to adopt a system for rating buildings for the purposes of certain tax exemptions and the construction of certain public buildings. (NRS 701.217) Section 16 of this bill repeals those requirements.

Existing law authorizes the Commission on Economic Development to grant a partial abatement of property taxes for certain structures that use resources efficiently. (NRS 361.0775) Section 16 of this bill repeals that authority.

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

Section 1. Title 58 of NRS is hereby amended by adding thereto a new chapter to consist of the provisions set forth as sections 2 to 7, inclusive, of this act.

Sec. 2. 1. *The Director of the Office of Energy shall adopt a Green Building Rating System for the purposes of determining the eligibility of a building or other structure for a tax abatement pursuant to section 3 of this act.*

2. *The Green Building Rating System must include standards and ratings equivalent to the standards and ratings provided pursuant to the Leadership in Energy and Environmental Design Green Building Rating System, except that the standards adopted by the Director:*

(a) Except as otherwise provided in paragraphs (b) and (c), must not include:

(1) Any standard that has not been included in the Leadership in Energy and Environmental Design Green Building Rating System for at least 2 years; or

(2) Standards for homes;

(b) Must provide reasonable exceptions based on the size of the area occupied by the building or other structure; and

(c) Must require a building or other structure to obtain:

(1) At least 3 points of credit for energy conservation to meet the equivalent of the silver level;

(2) At least 5 points of credit for energy conservation to meet the equivalent of the gold level; and

(3) At least 8 points of credit for energy conservation to meet the equivalent of the platinum level.

3. As used in this section, "home" means a building or other structure for which the principal use is as a residential dwelling for not more than four families.

Sec. 3. 1. Except as otherwise provided in this section, the Director shall grant a partial abatement from the portion of the taxes imposed pursuant to chapter 361 of NRS, other than any taxes imposed for public education, on a building or other structure that is determined to meet the equivalent of the silver level or higher by an independent contractor authorized to make that determination in accordance with the Green Building Rating System adopted by the Director pursuant to section 2 of this act, if:

(a) No funding is provided by any governmental entity in this State for the acquisition, design or construction of the building or other structure or for the acquisition of any land therefor. For the purposes of this paragraph:

(1) Private activity bonds must not be considered funding provided by a governmental entity.

(2) The term "private activity bond" has the meaning ascribed to it in 26 U.S.C. § 141.

(b) The owner of the property:

(1) Submits an application for the partial abatement to the Director. If such an application is submitted for a project that has not been completed on the date of that submission and there is a significant change in the scope of the project after that date, the application must be amended to include the change or changes.

(2) Except as otherwise provided in this subparagraph, provides to the Director, within 48 months after applying for the partial abatement, proof that the building or other structure meets the equivalent of the silver level or higher, as determined by an independent contractor authorized to make that determination in accordance with the Green Building Rating System adopted by the Director pursuant to section 2 of this act. The Director may, for good cause shown, extend the period for providing such proof.

2. As soon as practicable after the Director receives:

(a) *The application required by subsection 1, the Director shall forward a copy of that application to the:*

- (1) *Chief of the Budget Division of the Department of Administration;*
- (2) *Department of Taxation;*
- (3) *County assessor;*
- (4) *County treasurer; and*
- (5) *Commission on Economic Development.*

(b) *The application and proof required by subsection 1, the Director shall determine whether the building or other structure is eligible for the abatement and, if so, forward a certificate of eligibility for the abatement to the:*

- (1) *Department of Taxation;*
- (2) *County assessor;*
- (3) *County treasurer; and*
- (4) *Commission on Economic Development.*

3. *As soon as practicable after receiving a copy of ~~the~~ ~~an~~ :*

(a) An application pursuant to paragraph (a) of subsection 2 ~~for the~~ :

(1) The Chief of the Budget Division ~~and each affected local government~~ shall publish a fiscal note that indicates an estimate of the fiscal impact of the partial abatement on ~~that governmental entity~~ the State; and

(2) The Department of Taxation shall publish a fiscal note that indicates an estimate of the fiscal impact of the partial abatement on each affected local government, and forward a copy of the fiscal note to each affected local government.

(b) A certificate of eligibility pursuant to paragraph (b) of subsection 2, the Department of Taxation shall forward a copy of the certificate to each affected local government.

4. *The partial abatement:*

(a) *Must be for a duration of not more than 10 years and in an annual amount that equals, for a building or other structure that meets the equivalent of:*

(1) *The silver level, 25 percent of the portion of the taxes imposed pursuant to chapter 361 of NRS, other than any taxes imposed for public education, that would otherwise be payable for the building or other structure, excluding the associated land;*

(2) *The gold level, 30 percent of the portion of the taxes imposed pursuant to chapter 361 of NRS, other than any taxes imposed for public education, that would otherwise be payable for the building or other structure, excluding the associated land; or*

(3) *The platinum level, 35 percent of the portion of the taxes imposed pursuant to chapter 361 of NRS, other than any taxes imposed for public education, that would otherwise be payable for the building or other structure, excluding the associated land.*

(b) *Does not apply during any period in which the owner of the building or other structure is receiving another abatement or exemption pursuant to*

this chapter or NRS 361.045 to 361.159, inclusive, from the taxes imposed pursuant to chapter 361 of NRS.

(c) Terminates upon any determination by the Director that the building or other structure has ceased to meet the equivalent of the silver level or higher. The Director shall provide notice and a reasonable opportunity to cure any noncompliance issues before making a determination that the building or other structure has ceased to meet that standard. The Director shall immediately provide notice of each determination of termination to the:

(1) Department of Taxation ~~and~~, who shall immediately notify each affected local government of the determination;

(2) County assessor;

(3) County treasurer; and

(4) Commission on Economic Development.

5. The Director shall adopt regulations:

(a) Establishing the qualifications and methods to determine eligibility for the abatement;

(b) Prescribing such forms as will ensure that all information and other documentation necessary to make an appropriate determination is filed with the Director; and

(c) Prescribing the criteria for determining when there is a significant change in the scope of a project for the purposes of subparagraph (1) of paragraph (b) of subsection 1,

➡ and the Department of Taxation shall adopt such additional regulations as it determines to be appropriate to carry out the provisions of this section.

6. As used in this section:

(a) "Building or other structure" does not include any building or other structure for which the principal use is as a residential dwelling for not more than four families.

(b) "Director" means the Director of the Office of Energy appointed pursuant to NRS 701.150.

(c) "Taxes imposed for public education" means:

(1) Any ad valorem tax authorized or required by chapter 387 of NRS;

(2) Any ad valorem tax authorized or required by chapter 350 of NRS for the obligations of a school district, including, without limitation, any ad valorem tax necessary to carry out the provisions of subsection 5 of NRS 350.020; and

(3) Any other ad valorem tax for which the proceeds thereof are dedicated to the public education ~~and~~ of pupils in kindergarten through grade 12.

Sec. 4. 1. Except as otherwise provided in this section, if a:

(a) Business that engages in the primary trade of preparing, fabricating, manufacturing or otherwise processing raw material or an intermediate product through a process in which at least 50 percent of the material or product is recycled on-site; or

(b) Business that includes as a primary component a facility for the generation of electricity from recycled material,

➡ *is found by the Commission on Economic Development to have as a primary purpose the conservation of energy or the substitution of other sources of energy for fossil sources of energy and obtains certification from the Commission on Economic Development pursuant to NRS 360.750, the Commission may, if the business additionally satisfies the requirements set forth in subsection 2 of NRS 361.0687, grant to the business a partial abatement from the taxes imposed on real property pursuant to chapter 361 of NRS.*

2. If a partial abatement from the taxes imposed on real property pursuant to chapter 361 of NRS is approved by the Commission on Economic Development pursuant to NRS 360.750 for a business described in subsection 1:

(a) The partial abatement must:

(1) Be for a duration of at least 1 year but not more than 10 years;

(2) Not exceed 50 percent of the taxes on real property payable by the business each year; and

(3) Be administered and carried out in the manner set forth in NRS 360.750.

(b) The Executive Director of the Commission on Economic Development shall notify the county assessor of the county in which the business is located of the approval of the partial abatement, including, without limitation, the duration and percentage of the partial abatement that the Commission granted. The Executive Director shall, on or before April 15 of each year, advise the county assessor of each county in which a business qualifies for a partial abatement during the current fiscal year as to whether the business is still eligible for the partial abatement in the next succeeding fiscal year.

3. The partial abatement provided in this section applies only to the business for which certification was granted pursuant to NRS 360.750 and the property used in connection with that business. The exemption does not apply to property in this State that is not related to the business for which the certification was granted pursuant to NRS 360.750 or to property in existence and subject to taxation before the certification was granted.

4. As used in this section, "facility for the generation of electricity from recycled material" means a facility for the generation of electricity that uses recycled material as its primary fuel, including material from:

(a) Industrial or domestic waste, other than hazardous waste, even though it includes a product made from oil, natural gas or coal, such as plastics, asphalt shingles or tires;

(b) Agricultural crops, whether terrestrial or aquatic, and agricultural waste, such as manure and residue from crops; and

(c) Municipal waste, such as sewage and sludge.

➡ *The term includes all the equipment in the facility used to process and convert into electricity the energy derived from a recycled material fuel.*

Sec. 5. 1. *If a partial abatement from the taxes imposed pursuant to chapter 361 of NRS is approved by the Commission on Economic Development pursuant to NRS 360.750 for a facility for the generation of electricity from renewable energy or a facility for the production of an energy storage device:*

(a) The partial abatement must be:

- (1) For a duration of 10 years;*
- (2) Equal to 50 percent of the taxes on real and personal property payable by the facility each year; and*
- (3) Administered and carried out in the manner set forth in NRS 360.750.*

(b) The Executive Director of the Commission on Economic Development shall:

- (1) Notify the county assessor of the county in which the facility is located of the approval of the partial abatement; and*
- (2) Advise the county assessor of the county in which the facility is located as to the dates on which the partial abatement will begin and end.*

2. *As used in this section:*

(a) "Biomass" means any organic matter that is available on a renewable basis, including, without limitation:

- (1) Agricultural crops and agricultural wastes and residues;*
- (2) Wood and wood wastes and residues;*
- (3) Animal wastes;*
- (4) Municipal wastes; and*
- (5) Aquatic plants.*

(b) "Energy storage device" means a device for use and storage of electrical energy that alleviates the consumption of fossil fuel and does not produce fossil fuel emissions.

(c) "Facility for the generation of electricity from renewable energy" means a facility for the generation of electricity that:

- (1) Uses renewable energy as its primary source of energy; and*
- (2) Has a generating capacity of at least 10 kilowatts.*

➔ *The term includes all the machinery and equipment that is used in the facility to collect and store the renewable energy and to convert the renewable energy into electricity. The term does not include a facility that is located on residential property.*

(d) "Renewable energy" means:

- (1) Biomass;*
- (2) Solar energy; or*
- (3) Wind.*

➔ *The term does not include coal, natural gas, oil, propane or any other fossil fuel, or nuclear energy.*

Sec. 6. 1. *For purposes of the assessment of property pursuant to chapter 361 of NRS:*

(a) Except as otherwise provided in paragraph (b), the value of a qualified system must not be included in the assessed value of a building.

(b) Any value added by a qualified system must be included in the assessed value of a commercial or industrial building during any period in which the business that owns the commercial or industrial building is receiving another abatement or exemption pursuant to this chapter or NRS 361.045 to 361.159, inclusive, from the taxes imposed pursuant to chapter 361 of NRS.

2. The Department of Taxation shall adopt such regulations as it determines to be necessary for the administration of this section.

3. As used in this section, "qualified system" means any system, method, construction, installation, machinery, equipment, device or appliance which is designed, constructed or installed in a residential, commercial or industrial building to heat or cool the building or water used in the building, or to provide electricity used in the building, by using:

(a) Energy from the wind or from solar devices not thermally insulated from the area where the energy is used;

(b) Geothermal resources;

(c) Energy derived from conversion of solid wastes; or

(d) Waterpower,

➔ which conforms to standards established by regulation of the Department of Taxation.

Sec. 7. If an application for an abatement from taxes pursuant to NRS 374.357 is approved pursuant to NRS 360.750 for a facility for the generation of electricity from renewable energy or a facility for the production of an energy storage device:

1. The taxpayer is eligible for the abatement for 2 years.

2. The abatement must be administered and carried out in the manner set forth in NRS 360.750.

3. For the purposes of this section and the abatement, unless the context otherwise requires:

(a) "Biomass" means any organic matter that is available on a renewable basis, including, without limitation:

(1) Agricultural crops and agricultural wastes and residues;

(2) Wood and wood wastes and residues;

(3) Animal wastes;

(4) Municipal wastes; and

(5) Aquatic plants.

(b) "Eligible machinery or equipment" means:

(1) If the business that qualifies for the abatement is a facility for the production of an energy storage device, machinery or equipment which is leased or purchased and for which a deduction is authorized pursuant to 26 U.S.C. § 179. The term does not include:

(I) Buildings or the structural components of buildings;

(II) Equipment used by a public utility;

- (III) *Equipment used for medical treatment;*
- (IV) *Machinery or equipment used in mining;*
- (V) *Machinery or equipment used in gaming; or*
- (VI) *Aircraft.*

(2) *If the business that qualifies for the abatement is a facility for the generation of electricity from renewable energy, all the machinery and equipment that is used in the facility to collect and store the renewable energy and to convert the renewable energy into electricity.*

(c) *"Energy storage device" means a device for use and storage of electrical energy that alleviates the consumption of fossil fuel and does not produce fossil fuel emissions.*

(d) *"Facility for the generation of electricity from renewable energy" means a facility for the generation of electricity that:*

- (1) *Uses renewable energy as its primary source of energy; and*
- (2) *Has a generating capacity of at least 10 kilowatts.*

➔ *The term includes all the machinery and equipment that is used in the facility to collect and store the renewable energy and to convert the renewable energy into electricity. The term does not include a facility that is located on residential property.*

(e) *"Fuel cell" means a device or contrivance which, through the chemical process of combining ions of hydrogen and oxygen, produces electricity and water.*

(f) *"Renewable energy" means a source of energy that occurs naturally or is regenerated naturally, including, without limitation:*

- (1) *Biomass;*
- (2) *Fuel cells;*
- (3) *Geothermal energy;*
- (4) *Solar energy;*
- (5) *Waterpower; and*
- (6) *Wind.*

➔ *The term does not include coal, natural gas, oil, propane or any other fossil fuel, or nuclear energy.*

Sec. 8. NRS 361.0687 is hereby amended to read as follows:

361.0687 1. A person who intends to locate or expand a business in this State may, pursuant to NRS 360.750, apply to the Commission on Economic Development for a partial abatement from the taxes imposed by this chapter.

2. For a business to qualify pursuant to NRS 360.750 for a partial abatement from the taxes imposed by this chapter, the Commission on Economic Development must determine that, in addition to meeting the other requirements set forth in subsection 2 of that section:

(a) If the business is a new business in a county whose population is 100,000 or more or a city whose population is 60,000 or more:

(1) The business will make a capital investment in the county of at least \$50,000,000 if the business is an industrial or manufacturing business or at

least \$2,000,000 if the business is not an industrial or manufacturing business; and

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

(b) If the business is a new business in a county whose population is less than 100,000 or a city whose population is less than 60,000:

(1) The business will make a capital investment in the county of at least \$500,000; and

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

3. Except as otherwise provided in ~~[NRS 361.0685 and subsection 4,]~~ *sections 4 and 5 of this act*, if a partial abatement from the taxes imposed by this chapter is approved by the Commission on Economic Development pursuant to NRS 360.750:

(a) The partial abatement must:

(1) Be for a duration of at least 1 year but not more than 10 years;

(2) Not exceed 50 percent of the taxes on personal property payable by a business each year pursuant to this chapter; and

(3) Be administered and carried out in the manner set forth in NRS 360.750.

(b) The Executive Director of the Commission on Economic Development shall notify the county assessor of the county in which the business is located of the approval of the partial abatement, including, without limitation, the duration and percentage of the partial abatement that the Commission granted. The Executive Director shall, on or before April 15 of each year, advise the county assessor of each county in which a business qualifies for a partial abatement during the current fiscal year as to whether the business is still eligible for the partial abatement in the next succeeding fiscal year.

4. ~~{If a partial abatement from the taxes imposed by this chapter is approved by the Commission on Economic Development pursuant to NRS 360.750 for a facility for the generation of electricity from renewable energy or a facility for the production of an energy storage device:~~

~~(a) The partial abatement must be:~~

~~(1) For a duration of 10 years;~~

~~(2) Equal to 50 percent of the taxes on real and personal property payable by the facility each year pursuant to this chapter; and~~

~~(3) Administered and carried out in the manner set forth in NRS 360.750.~~

~~(b) The Executive Director of the Commission on Economic Development shall:~~

~~(1) Notify the county assessor of the county in which the facility is located of the approval of the partial abatement; and~~

~~(2) Advise the county assessor of the county in which the facility is located as to the dates on which the partial abatement will begin and end.~~

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

~~(a) "Biomass" means any organic matter that is available on a renewable basis, including, without limitation:~~

~~(1) Agricultural crops and agricultural wastes and residues;~~

~~(2) Wood and wood wastes and residues;~~

~~(3) Animal wastes;~~

~~(4) Municipal wastes; and~~

~~(5) Aquatic plants.~~

~~(b) "Energy storage device" means a device for use and storage of electrical energy that alleviates the consumption of fossil fuel and does not produce fossil fuel emissions.~~

~~(c) "Facility for the generation of electricity from renewable energy" means a facility for the generation of electricity that:~~

~~(1) Uses renewable energy as its primary source of energy; and~~

~~(2) Has a generating capacity of at least 10 kilowatts.~~

~~➔ The term includes all the machinery and equipment that is used in the facility to collect and store the renewable energy and to convert the renewable energy into electricity. The term does not include a facility that is located on residential property.~~

~~(d) "Industrial", "industrial or manufacturing business" does not include a facility for the generation of electricity from renewable energy {:~~

~~(e) "Renewable energy" means:~~

~~(1) Biomass;~~

~~(2) Solar energy; or~~

~~(3) Wind.~~

~~➔ The term does not include coal, natural gas, oil, propane or any other fossil fuel, or nuclear energy, as that term is defined in section 5 of this act.~~

Sec. 9. NRS 361.0687 is hereby amended to read as follows:

361.0687 1. A person who intends to locate or expand a business in this State may, pursuant to NRS 360.750, apply to the Commission on Economic Development for a partial abatement from the taxes imposed by this chapter.

2. For a business to qualify pursuant to NRS 360.750 for a partial abatement from the taxes imposed by this chapter, the Commission on Economic Development must determine that, in addition to meeting the other requirements set forth in subsection 2 of that section:

(a) If the business is a new business in a county whose population is 100,000 or more or a city whose population is 60,000 or more:

(1) The business will make a capital investment in the county of at least \$50,000,000 if the business is an industrial or manufacturing business or at

least \$5,000,000 if the business is not an industrial or manufacturing business; and

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

(b) If the business is a new business in a county whose population is less than 100,000 or a city whose population is less than 60,000:

(1) The business will make a capital investment in the county of at least \$5,000,000 if the business is an industrial or manufacturing business or at least \$500,000 if the business is not an industrial or manufacturing business; and

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

3. Except as otherwise provided in ~~[NRS 361.0685]~~, *section 4 of this act*, if a partial abatement from the taxes imposed by this chapter is approved by the Commission on Economic Development pursuant to NRS 360.750:

(a) The partial abatement must:

(1) Be for a duration of at least 1 year but not more than 10 years;

(2) Not exceed 50 percent of the taxes on personal property payable by a business each year pursuant to this chapter; and

(3) Be administered and carried out in the manner set forth in NRS 360.750.

(b) The Executive Director of the Commission on Economic Development shall notify the county assessor of the county in which the business is located of the approval of the partial abatement, including, without limitation, the duration and percentage of the partial abatement that the Commission granted. The Executive Director shall, on or before April 15 of each year, advise the county assessor of each county in which a business qualifies for a partial abatement during the current fiscal year as to whether the business is still eligible for the partial abatement in the next succeeding fiscal year.

Sec. 10. NRS 361.777 is hereby amended to read as follows:

361.777 Any partial abatements and partial exemptions ~~[from taxation]~~ to which a person may be entitled *from the taxes imposed* pursuant to this chapter must be applied in the following order of priority:

1. Any partial abatement to which the person is entitled pursuant to NRS 361.4722, 361.4723 or 361.4724.

2. Any partial exemptions to which the person is entitled ~~[pursuant to this chapter]~~.

3. Any partial abatements to which the person is entitled ~~[pursuant to this chapter]~~ other than a partial abatement described in subsection 1.

Sec. 11. NRS 374.357 is hereby amended to read as follows:

374.357 1. A person who maintains a business or intends to locate a business in this State may, pursuant to NRS 360.750, apply to the Commission on Economic Development for an abatement from the taxes imposed by this chapter on the gross receipts from the sale, and the storage, use or other consumption, of eligible machinery or equipment for use by a business which has been approved for an abatement pursuant to NRS 360.750.

2. Except as otherwise provided in ~~[subsection 3,]~~ *section 7 of this act*, if an application for an abatement is approved pursuant to NRS 360.750:

(a) The taxpayer is eligible for an abatement from the tax imposed by this chapter for not more than 2 years for machinery or equipment which is leased or purchased. In the case of machinery or equipment that is leased, the lessee is the taxpayer who is eligible for an abatement.

(b) The abatement must be administered and carried out in the manner set forth in NRS 360.750.

3. ~~[If an application for an abatement is approved pursuant to NRS 360.750 for a facility for the generation of electricity from renewable energy or a facility for the production of an energy storage device:~~

~~(a) The taxpayer is eligible for an abatement from the tax imposed by this chapter for 2 years.~~

~~(b) The abatement must be administered and carried out in the manner set forth in NRS 360.750.~~

4. ~~As used in]~~ *For the purposes of this section, except as otherwise provided in section 7 of this act* or unless the context otherwise requires ~~[-~~

~~(a) "Biomass" means any organic matter that is available on a renewable basis, including, without limitation:~~

- ~~(1) Agricultural crops and agricultural wastes and residues;~~
- ~~(2) Wood and wood wastes and residues;~~
- ~~(3) Animal wastes;~~
- ~~(4) Municipal wastes; and~~
- ~~(5) Aquatic plants.~~

~~(b) "Eligible", "eligible machinery or equipment" means [-~~

~~(1) If the business that qualifies for the abatement is not a facility for the generation of electricity from renewable energy,]~~ machinery or equipment which is leased or purchased and for which a deduction is authorized pursuant to 26 U.S.C. § 179. The term does not include:

- ~~[(I)]~~ (a) Buildings or the structural components of buildings;
- ~~[(II)]~~ (b) Equipment used by a public utility;
- ~~[(III)]~~ (c) Equipment used for medical treatment;
- ~~[(IV)]~~ (d) Machinery or equipment used in mining;
- ~~[(V)]~~ (e) Machinery or equipment used in gaming; or
- ~~[(VI)]~~ (f) Aircraft.

~~[(2) If the business that qualifies for the abatement is a facility for the generation of electricity from renewable energy, all the machinery and~~

~~equipment that is used in the facility to collect and store the renewable energy and to convert the renewable energy into electricity.~~

~~(c) "Energy storage device" means a device for use and storage of electrical energy that alleviates the consumption of fossil fuel and does not produce fossil fuel emissions.~~

~~(d) "Facility for the generation of electricity from renewable energy" means a facility for the generation of electricity that:~~

~~(1) Uses renewable energy as its primary source of energy; and~~

~~(2) Has a generating capacity of at least 10 kilowatts.~~

~~➔ The term includes all the machinery and equipment that is used in the facility to collect and store the renewable energy and to convert the renewable energy into electricity. The term does not include a facility that is located on residential property.~~

~~(e) "Fuel cell" means a device or contrivance which, through the chemical process of combining ions of hydrogen and oxygen, produces electricity and water.~~

~~(f) "Renewable energy" means a source of energy that occurs naturally or is regenerated naturally, including, without limitation:~~

~~(1) Biomass;~~

~~(2) Fuel cells;~~

~~(3) Geothermal energy;~~

~~(4) Solar energy;~~

~~(5) Waterpower; and~~

~~(6) Wind.~~

~~➔ The term does not include coal, natural gas, oil, propane or any other fossil fuel, or nuclear energy.]~~

Sec. 12. Section 42 of chapter 2, Statutes of Nevada 2005, 22nd Special Session, at page 90, is hereby amended to read as follows:

Sec. 42. 1. This section and sections 14 to 37, inclusive, 39, 40 and 41 of this act become effective upon passage and approval.

2. Section 38 of this act becomes effective on June 1, 2005.

3. Sections 1, 2, 4, 6, 7, 8 and 9 to 13, inclusive, of this act become effective:

(a) Upon passage and approval for the purpose of adopting regulations and performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act; and

(b) On October 1, 2005, for all other purposes.

4. Section 5 of this act becomes effective on October 1, 2005, and applies to the construction or renovation of a public building, the designing of which begins on or after that date.

5. Sections 8.1 to 8.8, inclusive, of this act become effective:

(a) Upon passage and approval for the purpose of adopting regulations and performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act; and

(b) On July 1, 2006, for all other purposes.

6. ~~[Section 3 of this act becomes effective on July 1, 2007, and applies to the construction of a public building, the designing of which begins on or after that date.]~~

7.] Sections 8.55 and 8.6 of this act expire by limitation on the date on which the provisions of 42 U.S.C. § 666 requiring each state to establish procedures under which the state has authority to withhold or suspend, or to restrict the use of professional, occupational and recreational licenses of persons who:

(a) Have failed to comply with a subpoena or warrant relating to a proceeding to determine the paternity of a child or to establish or enforce an obligation for the support of a child; or

(b) Are in arrears in the payment for the support of one or more children,

↪ are repealed by the Congress of the United States.

Sec. 13. (Deleted by amendment.)

Sec. 14. 1. The Director of the Office of Energy shall, not later than September 1, 2007, adopt:

(a) The Green Building Rating System required by section 2 of this act;

and

(b) The regulations required by section 3 of this act. ~~[; and~~

~~(c) The Green Building Rating System required by section 13 of this act.]~~

2. The Department of Taxation shall, not later than September 1, 2007, adopt the regulations required by section 3 of this act.

3. The Director of the Office of Energy shall provide an expedited procedure to carry out the provisions of section 3 of this act which allows for the consideration as soon as practicable for that purpose of applications filed before the effective date of this section with the Commission on Economic Development for a partial abatement of taxes pursuant to NRS 361.0775.

Sec. 15. 1. The provisions of section 4 of this act shall be deemed to apply to any partial abatement of taxes granted pursuant to NRS 361.0685 before the effective date of this section.

2. The provisions of section 5 of this act shall be deemed to apply to any partial abatement of taxes to which subsection 4 of NRS 361.0687 applied before the effective date of this section.

3. The provisions of section 7 of this act shall be deemed to apply to any partial abatement of taxes to which subsection 3 of NRS 374.357 applied before the effective date of this section.

4. The Commission on Economic Development shall not grant any partial abatement of taxes pursuant to NRS 361.0775 on or after the effective date of this section. The provisions of this act do not affect the terms of any partial abatement of taxes granted by the Commission on Economic Development pursuant to NRS 361.0775 before the effective date of this section.

5. The tax exemption provided pursuant to paragraph (d) of subsection 1 of NRS 374.307, as amended by chapter 2, Statutes of Nevada 2005,

22nd Special Session, at page 71, shall be deemed to apply to products and materials purchased on or after October 1, 2005, and on or before December 31, 2010, that are used in the construction of a building which:

(a) Is constructed:

(1) Pursuant to a preconstruction or construction contract executed on or before December 31, 2005; and

(2) As part of a construction project registered with the Office of Energy for the purpose of obtaining that tax exemption; ~~and~~

(b) For which an opinion letter was issued by the Department of Taxation before February 1, 2007, stating that the project will qualify for a partial sales and use tax exemption under Assembly Bill No. 3 (Special Session 2005) if certain conditions are met.

(c) Is certified at or meets the equivalent of the silver level or higher by an independent contractor authorized to grant such certification in accordance with the Green Building Rating System adopted by the Director of the Office of Energy pursuant to the former provisions of NRS 701.217.

Sec. 15.5. 1. Except as otherwise provided in this section, the Director shall grant a partial abatement from the portion of the taxes imposed pursuant to chapter 361 of NRS, other than any taxes imposed for public education, on a building or other structure which:

(a) Is constructed:

(1) Pursuant to a preconstruction or construction contract executed on or before December 31, 2005; and

(2) As part of a construction project registered with the Office of Energy for the purpose of obtaining the partial abatement of taxes provided pursuant to the former provisions of NRS 361.0775; ~~and~~

(b) For which an opinion letter was issued by the Department of Taxation before February 1, 2007, stating that the project will qualify for a partial sales and use tax exemption under Assembly Bill No. 3 (Special Session 2005) if certain conditions are met.

(c) Is certified at or meets the equivalent of the silver level or higher by an independent contractor authorized to grant such certification in accordance with the Green Building Rating System adopted by the Director of the Office of Energy pursuant to the former provisions of NRS 701.217. ~~and~~

2. The Director shall not grant the partial abatement if any funding is provided by any governmental entity in this State for the acquisition, design or construction of the building or other structure or for the acquisition of any land therefor. For the purposes of this subsection:

(a) Private activity bonds must not be considered funding provided by a governmental entity.

(b) The term "private activity bond" has the meaning ascribed to it in 26 U.S.C. § 141.

3. To obtain the partial abatement, the owner of the property must:

(a) Submit an application for the partial abatement to the Director. If such an application is submitted for a project that has not been completed on the

date of that submission and there is a significant change in the scope of the project after that date, the application must be amended to include the change or changes.

(b) Except as otherwise provided in this paragraph, provide to the Director, within 48 months after applying for the partial abatement, proof that the building or other structure is certified at or meets the equivalent of the silver level or higher by an independent contractor authorized to grant such certification in accordance with the Green Building Rating System adopted by the Director pursuant to the former provisions of NRS 701.217. The Director may, for good cause shown, extend the period for providing such proof.

4. As soon as practicable after the Director receives:

(a) The application required by subsection 3, the Director shall forward a copy of that application to the:

- (1) Chief of the Budget Division of the Department of Administration;
- (2) Department of Taxation;
- (3) County assessor;
- (4) County treasurer; and
- (5) Commission on Economic Development.

(b) The application and proof required by subsection 3, the Director shall determine whether the building or other structure is eligible for the abatement and, if so, forward a certificate of eligibility for the abatement to the:

- (1) Department of Taxation;
- (2) County assessor;
- (3) County treasurer; and
- (4) Commission on Economic Development.

5. As soon as practicable after receiving a copy of ~~an~~ :

(a) An application pursuant to paragraph (a) of subsection 4 ~~is the~~ :

(1) The Chief of the Budget Division ~~and each affected local government~~ shall publish a fiscal note that indicates an estimate of the fiscal impact of the partial abatement on ~~that governmental entity,~~ the State; and

(2) The Department of Taxation shall publish a fiscal note that indicates an estimate of the fiscal impact of the partial abatement on each affected local government, and forward a copy of the fiscal note to each affected local government.

(b) A certificate of eligibility pursuant to paragraph (b) of subsection 4, the Department of Taxation shall forward a copy of the certificate to each affected local government.

6. The partial abatement:

(a) Must be for a duration of ~~not more than~~ 10 years, unless earlier terminated pursuant to paragraph (c), and in an annual amount that equals 35 percent of the portion of the taxes imposed pursuant to chapter 361 of NRS, other than any taxes imposed for public education, that would otherwise be payable for the building or other structure, excluding the associated land.

(b) Does not apply during any period in which the owner of the building or other structure is receiving another abatement or exemption from the taxes imposed pursuant to chapter 361 of NRS, other than any partial abatement to which the owner is entitled pursuant to NRS 361.471 to 361.4735, inclusive.

(c) Terminates upon any determination by the Director that the building or other structure has ceased to meet the equivalent of the silver level or higher. The Director shall provide notice and a reasonable opportunity to cure any noncompliance issues before making a determination that the building or other structure has ceased to meet that standard. The Director shall immediately provide notice of each determination of termination to the:

(1) Department of Taxation ~~and~~, who shall immediately notify each affected local government of the determination;

(2) County assessor;

(3) County treasurer; and

(4) Commission on Economic Development.

7. The Director shall:

(a) Adopt regulations:

(1) Establishing the qualifications and methods to determine eligibility for the abatement;

(2) Prescribing such forms as will ensure that all information and other documentation necessary to make an appropriate determination is filed with the Director; and

(3) Prescribing the criteria for determining when there is a significant change in the scope of a project for the purposes of paragraph (a) of subsection 3,

↪ and the Department of Taxation shall adopt such additional regulations as it determines to be appropriate to carry out the provisions of this section.

(b) Provide an expedited procedure to carry out the provisions of this section which allows for the consideration as soon as practicable for that purpose of applications filed before the effective date of this section with the Commission on Economic Development for a partial abatement of taxes pursuant to NRS 361.0775.

8. As used in this section:

(a) "Building or other structure" does not include any building or other structure for which the principal use is as a residential dwelling for not more than four families.

(b) "Director" means the Director of the Office of Energy appointed pursuant to NRS 701.150.

(c) "Taxes imposed for public education" means:

(1) Any ad valorem tax authorized or required by chapter 387 of NRS;

(2) Any ad valorem tax authorized or required by chapter 350 of NRS for the obligations of a school district, including, without limitation, any ad valorem tax necessary to carry out the provisions of subsection 5 of NRS 350.020; and

(3) Any other ad valorem tax for which the proceeds thereof are dedicated to the public education ~~of~~ of pupils in kindergarten through grade 12.

Sec. 16. 1. NRS 338.190, 361.0685, 361.0775, 361.079 and 701.217 are hereby repealed.

2. Section 3 of chapter 2, Statutes of Nevada 2005, 22nd Special Session, at page 69, is hereby repealed.

Sec. 17. 1. This section and sections 1, 4 to 8, inclusive, and 10 to 16, inclusive, of this act become effective upon passage and approval.

2. Sections 2 and 3 of this act become effective:

(a) Upon passage and approval for the purpose of adopting regulations and performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act; and

(b) On July 1, 2007, for all other purposes.

3. Sections 5, 7, 8 and 11 of this act expire by limitation on June 30, 2009.

4. Section 9 of this act becomes effective on July 1, 2009.

TEXT OF REPEALED SECTIONS

338.190 Analysis of certain public buildings before construction or renovation to estimate certain costs and to identify measures for conservation of energy and use of alternative types of energy; requirements for contracts for cost-saving measures.

1. Before it begins to construct or renovate any occupied public building which is larger than 20,000 square feet, each agency of the State or a political subdivision, district, authority, board or public corporation of the State shall obtain a detailed analysis of the cost of operating and maintaining the building for its expected useful life.

2. The analysis must:

(a) Estimate the cost to construct or renovate the occupied public building and the cost to operate and maintain the building; and

(b) Identify measures, including, without limitation, for the:

(1) Conservation of water;

(2) Conservation of energy and energy efficiency that will generate cost savings within 10 years that are equal to or greater than the cost of implementation; and

(3) Use of types of energy which are alternatives to fossil fuels, such as active and passive applications of solar energy, wind and geothermal energy, which can be included in the building in its construction or renovation.

3. The agency of government which proposes to construct or renovate the occupied public building must consider the results of the analysis required by this section in deciding upon the type of construction or renovation and the components and systems which will be included in the building. The agency of government shall consider the use of types of energy which are alternatives to fossil fuels and any other energy conservation

measures identified in the analysis into the design of the building if it is determined to be in the best interest of the State.

4. The agency of government may select, through the bidding process, a contractor to conduct the analysis required pursuant to this section. If a contractor is selected to conduct the analysis, any contract for the purchase, lease or rental of cost-saving measures must provide that all payments, other than any obligations that become due if the contract is terminated before the contract expires, be made from the cost savings.

5. As used in this section, "occupied public building" means a public building used primarily as an office space or work area for persons employed by an agency of the State or a political subdivision, district, authority, board or public corporation of the State. The term does not include a public building used primarily as a storage facility or warehouse or for similar purposes.

361.0685 Exemption of percentage of personal and real property of certain businesses certified by Commission on Economic Development.

1. Except as otherwise provided in this section, if a:

(a) Business that engages in the primary trade of preparing, fabricating, manufacturing or otherwise processing raw material or an intermediate product through a process in which at least 50 percent of the material or product is recycled on site; or

(b) Business that includes as a primary component a facility for the generation of electricity from recycled material,

↪ is found by the Commission on Economic Development to have as a primary purpose the conservation of energy or the substitution of other sources of energy for fossil sources of energy and obtains certification from the Commission on Economic Development pursuant to NRS 360.750, the Commission may, if the business additionally satisfies the requirements set forth in subsection 2 of NRS 361.0687, grant to the business a partial abatement from the taxes imposed on real property by this chapter.

2. If a partial abatement from the taxes imposed on real property by this chapter is approved by the Commission on Economic Development pursuant to NRS 360.750 for a business described in subsection 1:

(a) The partial abatement must:

(1) Be for a duration of at least 1 year but not more than 10 years;

(2) Not exceed 50 percent of the taxes on real property payable by the business each year pursuant to this chapter; and

(3) Be administered and carried out in the manner set forth in NRS 360.750.

(b) The Executive Director of the Commission on Economic Development shall notify the county assessor of the county in which the business is located of the approval of the partial abatement, including, without limitation, the duration and percentage of the partial abatement that the Commission granted. The Executive Director shall, on or before April 15 of each year, advise the county assessor of each county in which a business qualifies for a

partial abatement during the current fiscal year as to whether the business is still eligible for the partial abatement in the next succeeding fiscal year.

3. The partial abatement provided in this section applies only to the business for which certification was granted pursuant to NRS 360.750 and the property used in connection with that business. The exemption does not apply to property in this state that is not related to the business for which the certification was granted pursuant to NRS 360.750 or to property in existence and subject to taxation before the certification was granted.

4. As used in this section, a "facility for the generation of electricity from recycled material" is a facility which uses recycled material as its primary fuel including material from:

(a) Industrial or domestic waste, other than hazardous waste, even though it includes a product made from oil, natural gas or coal, such as plastics, asphalt shingles or tires;

(b) Agricultural crops, whether terrestrial or aquatic, and agricultural waste, such as manure and residue from crops; and

(c) Municipal waste, such as sewage and sludge.

➡ The term includes all the equipment in the facility used to process and convert into electricity the energy derived from a recycled material fuel.

361.0775 Partial abatement of taxes imposed on certain structures that use resources efficiently.

1. The Commission on Economic Development shall grant a partial abatement from the tax imposed on real property by this chapter for property which has a building or other structure that is certified at or meets the equivalent of the silver level or higher by a person authorized to grant such certification in accordance with the Leadership in Energy and Environmental Design Green Building Rating System or its equivalent, as adopted by the Director of the Office of Energy pursuant to NRS 701.217.

2. The partial abatement must be for a duration of not more than 10 years and must not exceed 50 percent of the taxes on real property payable each year pursuant to this chapter.

3. The Commission on Economic Development shall establish by regulation the qualifications and methods to determine eligibility for the abatement.

4. The Commission on Economic Development shall immediately forward a certificate of eligibility for the abatement to:

(a) The Department of Taxation;

(b) The Nevada Tax Commission;

(c) The county treasurer; and

(d) The county assessor.

361.079 Exemption of qualified systems for heating, cooling or provision of electricity.

1. Except as otherwise provided in subsection 2, for any assessment made on or after July 1, 1983, any value added by a qualified system must be

excluded from the assessed value of the building regardless of the date the system was installed.

2. Value added by a qualified system must not be excluded from the assessed value of a commercial or industrial building during any period in which the business that owns the commercial or industrial building is receiving another abatement or exemption from the taxes imposed by this chapter.

3. As used in this section, "qualified system" means any system, method, construction, installation, machinery, equipment, device or appliance which is designed, constructed or installed in a residential, commercial or industrial building to heat or cool the building or water used in the building, or to provide electricity used in the building, by using:

- (a) Energy from the wind or from solar devices not thermally insulated from the area where the energy is used;
- (b) Geothermal resources;
- (c) Energy derived from conversion of solid wastes; or
- (d) Waterpower,

↪ which conforms to standards established by regulation of the Department.

701.217 Adoption of Green Building Standards for certain public buildings; adoption of Green Building Rating System for certain purposes.

1. The Director, in consultation with the State Public Works Board and any other interested agency, shall:

(a) In cooperation with representatives of the building and development industry, adopt guidelines establishing Green Building Standards for all occupied public buildings whose construction will be sponsored or financed by this State or a local government.

(b) Adopt a Green Building Rating System, such as the Leadership in Energy and Environmental Design Green Building Rating System or its equivalent, pursuant to subsections 4 and 5. With regard to buildings or structures that are not public buildings or structures, the Green Building Rating System adopted by the Director is to be used only for the purposes of determining eligibility for tax abatements or tax exemptions that are authorized by law to use the Green Building Rating System.

2. Guidelines adopted pursuant to paragraph (a) of subsection 1 must include, without limitation, suggested:

- (a) Requirements for the use of resource-efficient materials for the construction and maintenance of the building;
- (b) Standards for indoor environmental quality;
- (c) Standards for the efficient use of water, including the efficient use of water for landscaping purposes;
- (d) Standards for the efficient use of energy; and
- (e) Requirements for the design and preparation of building lots.

3. If standards equivalent to the Leadership in Energy and Environmental Design Green Building Rating System are adopted, the standards adopted

must provide reasonable exceptions based on the size, location and use of the building.

4. Subject to the provisions of subsection 5, the Director shall establish a process for adopting a Green Building Rating System, such as the Leadership in Energy and Environmental Design Green Building Rating System or its equivalent. The process must include, without limitation:

- (a) The gathering and development of scientific data;
- (b) Comments from representatives of the building industry;
- (c) Consensus from representatives of the building industry;
- (d) A method by which the Director, the State Public Works Board and other interested agencies may cast ballots on the proposed standards;
- (e) A pilot program for the purpose of refining the standards; and
- (f) A process by which an aggrieved person may file an appeal of the standards adopted.

5. In adopting a Green Building Rating System pursuant to subsection 4, the Director is not required to adopt and is not limited to using the Leadership in Energy and Environmental Design Green Building Rating System but may adopt an equivalent rating system based on any other nationally recognized standards for green buildings, or any combination of those standards.

Section 3 of chapter 2, Statutes of Nevada 2005, 22nd Special Session:

Sec. 3. Chapter 338 of NRS is hereby amended by adding thereto a new section to read as follows:

1. *Except as otherwise provided in subsection 2, each occupied public building whose construction will be sponsored or financed by this State must, when completed, meet the requirements to be certified at or meet the equivalent of the base level or higher in accordance with the Leadership in Energy and Environmental Design Green Building Rating System, or an equivalent standard, as adopted by the Director of the Office of Energy pursuant to section 11 of this act.*

2. *During each biennium, at least two occupied public buildings whose construction will be sponsored or financed by this State must be designated as demonstration projects and must, when completed, meet the requirements to be certified at or meet the equivalent of the silver level or higher in accordance with the Leadership in Energy and Environmental Design Green Building Rating System, or an equivalent standard, as adopted by the Director of the Office of Energy pursuant to section 11 of this act if:*

(a) The Director of the Office of Energy, in consultation with the State Board of Examiners and the State Public Works Board, has determined that it is feasible for the buildings to meet such requirements and standards and that it is a cost-effective investment to do so; and

(b) The agency or agencies that will occupy the buildings have agreed to allow the buildings to be designated as demonstration projects pursuant to this subsection.

3. *Each occupied public building whose construction is sponsored or financed by a local government may meet the requirements to be certified at or meet the equivalent of the base level or higher in accordance with the Leadership in Energy and Environmental Design Green Building Rating System, or an equivalent standard, as adopted by the Director of the Office of Energy pursuant to section 11 of this act.*

4. *As used in this section, "occupied public building" means a public building used primarily as an office space or work area for persons employed by this State or a local government. The term does not include a public building used primarily as a storage facility or warehouse or for similar purposes.*

Senator Townsend moved the adoption of the amendment.

Remarks by Senators Townsend, Carlton, Titus.

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

SENATOR TOWNSEND:

Thank you, Mr. President pro Tempore. Amendment No. 1083 establishes standards for those who qualify under A.B. 3 of the Twenty-second Special Session.

Section 3, subsection 3, created certainty the Budget Division shall publish a fiscal note that indicates an estimate of the fiscal impact of the partial abatement on the State. The Department of Taxation shall publish a fiscal note that indicates an estimate of the fiscal impact on the partial abatement on each affected local government and forward a copy of the fiscal note to each affected local government. A copy of the certificate of eligibility issued by the Department of Taxation, pursuant to the above mentioned areas, shall be forwarded to each affected government.

The current bill establishes the percentage of real-property abatement for future projects.

The last part of section 3, subsection 63, contains a redefinition of public education of pupils in kindergarten through grade 12. That is the Distributive School Account (DSA). Under our Constitution, public education includes higher education. This protects the abatement from any money affecting public education for pupils in kindergarten through grade 12.

Section 15 and 15.5 of the bill are the heart of the amendment. This establishes the criteria for which someone may qualify under a standard that is now being set by the amendment for purposes of sales- and property-tax abatement.

Section 15 deals with the LLST, NRS 374, which is our sales tax portion of this statute. In order for a property to qualify, the sales-tax abatement "shall be deemed to apply to products and materials purchased on or after October 1, 2005 and on or before December 31, 2010, that are used in the construction of a building:

a) Which is constructed:

(1) Pursuant to a preconstruction or construction contract executed on or before December 31, 2005. and

(2) As part of the construction project, registered with the Office of Energy for the purpose of obtaining the tax exemption.

(3) For which an opinion letter was issued by the Department of Taxation before February 1, 2007, stating that the project will qualify for partial sales-and-use tax exemption under A.B. 3 of the Twenty-second Special Session if the conditions in the sales-tax portion are met."

Section 15.5 (NRS 361), is our property tax. There would have to be a preconstruction or construction contract executed before December 31, 2005. There is a requirement to be registered with the Office of Energy, and there would have to be an opinion letter issued by the Department of Taxation before February 1, 2007, stating the project will qualify for the partial sales-and-use tax exemption.

Even though the language sounds repetitive in the property-tax section, it means that if you qualify, you qualify for both.

In section 15.5, subsection 6, it speaks directly to a cap on those who are considered "grandfathered" if they qualify under that provision, so the duration of their property-tax abatement would be 10 years and it would be a maximum of 35 percent.

There are additions that have to do specifically with previously stated provisions about notification of local governments. There is clarification on public education of pupils in kindergarten through grade 12.

SENATOR CARLTON:

Thank you, Mr. President pro Tempore. On page 14, there is some language stating "for which an opinion letter was issued by the Department of Taxation before February 1, 2007."

I know much of the original discussions on this bill were about that small window of time. About these letters, a lot of the confusion has been that no one knows who has gotten what. There are too many pathways. It was very disjointed. Do we have any idea how many letters are out there? There still may be people showing up in the future to speak to the policy of the bill because they did not think they had to produce anything yet. They are going to finish their projects, and then, they are going to show up for their rebates. There is still a possibility of a hole. With this letter language, I am concerned about how many more people might be in this.

SENATOR TOWNSEND:

Thank you, Mr. President pro Tempore. This goes to the heart of the matter, and the reason this amendment is here.

In order to qualify for these abatements, you must meet three specific standards. The three components of the standard that have to be met are (1) a preconstruction contract or a construction contract executed on or before December 31, 2005. This is the threshold issue. (2) You must also have a construction project registered with the Office of Energy. If you have those, you also must have, (3) the opinion letter from the Department of Taxation before this specific date. To answer the question as to why that date was chosen, our Legal Counsel has advised us that based on the documents that have already been issued, the broadest, brightest line for purposes of protecting the State of Nevada from potential litigation is that date. There were individuals who applied for these and received them prior to that date, and then, there was an extensive period of time in which no other letters were issued up until the issuance of the Executive Order. That was why that date was chosen by our Legal Counsel to make it the widest and brightest cutoff and the most legally defensible one.

SENATOR TITUS:

Thank you, Mr. President pro Tempore. I must question the date of February 1, 2007, especially for the sales-tax break. It is clear in our law the sales-tax break applied to a three-month window. Why are you extending the sales-tax break to people who applied beyond that window? Maybe you can make a different argument for the property-tax break, but I do not understand the sales-tax break extension. Why does this date apply to the sales-tax break? That sales tax break was clearly limited to three months.

You have chosen February 1, 2007, as an arbitrary bright line. I think any date could be an arbitrary bright line, but if this is the date you have chosen, could you tell us how many companies qualify for the sales-and-property-tax breaks under this new provision and who those companies are?

SENATOR TOWNSEND:

To answer the first question, the reason the date was chosen was a simple one. The fact is, under A.B. 3 of the 22nd Special Session, it clearly states the Department of Taxation was to draft the regulation. We gave them the exact time from when the bill was signed in June until October 1, 2005, "For purposes of drafting regulations in preparing for the implementation of the law, October 1, 2005, through December 31, 2005", and yet, those regulations were never drafted. Once they were drafted, the individuals who wanted to get a sales-tax break could make their applications and subsequently receive a letter. That is why that is done in that matter.

The second component has to do with who were in and who was out. There are 8 qualified, in no particular order, but they are the ones two members of the Assembly and I put together to compile the LEED-building-tax exemptions we used with all of our documentation. This is a compilation of that effort.

Those individuals who qualified under the standard are: the MGM-Mirage Resorts, Fontainebleau, the Palazzo, Lido, Venetian, Sands projects, Echelon, the Malasky Project which is partly an effort of the SNWA, and Panorama, which is a high-rise condominium project on the west side of I-15.

Amendment adopted.

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

Senate in recess at 5:08 p.m.

SENATE IN SESSION

At 5:09 p.m.

President Krolicki presiding.

Quorum present.

The following amendment was proposed by Senator Care:

Amendment No. 1085.

"SUMMARY—Makes various changes in the provision of tax abatements and exemptions based upon the use of energy and repeals certain prospective energy requirements for public buildings. (BDR 58-1512)"

"AN ACT relating to energy; making various changes relating to the application procedures for and the provision of tax abatements and exemptions based upon the use of energy; repealing certain prospective energy requirements for public buildings; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Sections 2 and 3 of this bill require the Director of the Office of Energy to adopt a system for rating buildings based upon the Leadership in Energy and Environmental Design Green Building Rating System, and authorize the Director to grant, under certain conditions, a partial abatement of property taxes for certain buildings based upon the rating of the building.

Existing law authorizes the Commission on Economic Development to approve, under certain conditions, a partial abatement of certain taxes for a person who intends to locate or expand a business in this State. (NRS 360.750) Existing law prescribes the terms of such a partial abatement of property taxes for certain businesses that conserve energy or fossil sources of energy through recycling, for certain facilities that generate electrical energy from renewable energy and for facilities that produce certain devices for the storage of electrical energy. (NRS 361.0685, 361.0687) Sections 4, 5, 8 and 16 of this bill repeal those terms and prescribe substantially identical terms.

Existing law provides an exemption from property taxes for any value added to the assessed value of a building by certain qualified systems that

provide heating, cooling or electricity. (NRS 361.079) Sections 6 and 16 of this bill repeal that exemption and provide a substantially similar exemption.

Existing law prescribes the terms of a partial abatement of certain sales and use taxes, if approved by the Commission on Economic Development, for certain facilities that generate electricity from renewable energy or produce certain devices for the storage of electrical energy. (NRS 374.357) Sections 7 and 11 of this bill repeal those terms and prescribe substantially identical terms.

Sections 12 and 16 of this bill repeal certain energy requirements for public buildings which otherwise would have become effective on July 1, 2007. ~~[Section 13 of this bill prescribes similar requirements for certain public buildings for which construction has not yet been completed on that date.]~~

Existing law requires the Director of the Office of Energy to adopt a system for rating buildings for the purposes of certain tax exemptions and the construction of certain public buildings. (NRS 701.217) Section 16 of this bill repeals those requirements.

Existing law authorizes the Commission on Economic Development to grant a partial abatement of property taxes for certain structures that use resources efficiently. (NRS 361.0775) Section 16 of this bill repeals that authority.

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

Section 1. Title 58 of NRS is hereby amended by adding thereto a new chapter to consist of the provisions set forth as sections 2 to 7, inclusive, of this act.

Sec. 2. 1. *The Director of the Office of Energy shall adopt a Green Building Rating System for the purposes of determining the eligibility of a building or other structure for a tax abatement pursuant to section 3 of this act.*

2. *The Green Building Rating System must include standards and ratings equivalent to the standards and ratings provided pursuant to the Leadership in Energy and Environmental Design Green Building Rating System, except that the standards adopted by the Director:*

(a) *Except as otherwise provided in paragraphs (b) and (c), must not include:*

(1) *Any standard that has not been included in the Leadership in Energy and Environmental Design Green Building Rating System for at least 2 years; or*

(2) *Standards for homes;*

(b) *Must provide reasonable exceptions based on the size of the area occupied by the building or other structure; and*

(c) *Must require a building or other structure to obtain:*

(1) *At least 3 points of credit for energy conservation to meet the equivalent of the silver level;*

(2) *At least 5 points of credit for energy conservation to meet the equivalent of the gold level; and*

(3) *At least 8 points of credit for energy conservation to meet the equivalent of the platinum level.*

3. *As used in this section, "home" means a building or other structure for which the principal use is as a residential dwelling for not more than four families.*

Sec. 3. 1. *Except as otherwise provided in this section, the Director shall grant a partial abatement from the portion of the taxes imposed pursuant to chapter 361 of NRS, other than any taxes imposed for public education, on a building or other structure that is determined to meet the equivalent of the silver level or higher by an independent contractor authorized to make that determination in accordance with the Green Building Rating System adopted by the Director pursuant to section 2 of this act, if:*

(a) *No funding is provided by any governmental entity in this State for the acquisition, design or construction of the building or other structure or for the acquisition of any land therefor. For the purposes of this paragraph:*

(1) *Private activity bonds must not be considered funding provided by a governmental entity.*

(2) *The term "private activity bond" has the meaning ascribed to it in 26 U.S.C. § 141.*

(b) *The owner of the property:*

(1) *Submits an application for the partial abatement to the Director. If such an application is submitted for a project that has not been completed on the date of that submission and there is a significant change in the scope of the project after that date, the application must be amended to include the change or changes.*

(2) *Except as otherwise provided in this subparagraph, provides to the Director, within 48 months after applying for the partial abatement, proof that the building or other structure meets the equivalent of the silver level or higher, as determined by an independent contractor authorized to make that determination in accordance with the Green Building Rating System adopted by the Director pursuant to section 2 of this act. The Director may, for good cause shown, extend the period for providing such proof.*

2. *As soon as practicable after the Director receives:*

(a) *The application required by subsection 1, the Director shall forward a copy of that application to the:*

(1) *Chief of the Budget Division of the Department of Administration;*

(2) *Department of Taxation;*

(3) *County assessor;*

(4) *County treasurer; and*

(5) *Commission on Economic Development.*

(b) *The application and proof required by subsection 1, the Director shall determine whether the building or other structure is eligible for the*

abatement and, if so, forward a certificate of eligibility for the abatement to the:

- (1) Department of Taxation;*
- (2) County assessor;*
- (3) County treasurer; and*
- (4) Commission on Economic Development.*

3. As soon as practicable after receiving a copy of a an application pursuant to paragraph (a) of subsection 2, the Chief of the Budget Division and each affected local government shall publish a fiscal note that indicates an estimate of the fiscal impact of the partial abatement on that governmental entity.

4. The partial abatement:

(a) Must be for a duration of not more than 10 years and in an annual amount that equals, for a building or other structure that meets the equivalent of:

(1) The silver level, 25 percent of the portion of the taxes imposed pursuant to chapter 361 of NRS, other than any taxes imposed for public education, that would otherwise be payable for the building or other structure, excluding the associated land;

(2) The gold level, 30 percent of the portion of the taxes imposed pursuant to chapter 361 of NRS, other than any taxes imposed for public education, that would otherwise be payable for the building or other structure, excluding the associated land; or

(3) The platinum level, 35 percent of the portion of the taxes imposed pursuant to chapter 361 of NRS, other than any taxes imposed for public education, that would otherwise be payable for the building or other structure, excluding the associated land.

(b) Does not apply during any period in which the owner of the building or other structure is receiving another abatement or exemption pursuant to this chapter or NRS 361.045 to 361.159, inclusive, from the taxes imposed pursuant to chapter 361 of NRS.

(c) Terminates upon any determination by the Director that the building or other structure has ceased to meet the equivalent of the silver level or higher. The Director shall provide notice and a reasonable opportunity to cure any noncompliance issues before making a determination that the building or other structure has ceased to meet that standard. The Director shall immediately provide notice of each determination of termination to the:

- (1) Department of Taxation;*
- (2) County assessor;*
- (3) County treasurer; and*
- (4) Commission on Economic Development.*

5. The Director shall adopt regulations:

(a) Establishing the qualifications and methods to determine eligibility for the abatement;

(b) Prescribing such forms as will ensure that all information and other documentation necessary to make an appropriate determination is filed with the Director; and

(c) Prescribing the criteria for determining when there is a significant change in the scope of a project for the purposes of subparagraph (1) of paragraph (b) of subsection 1,

➡ and the Department of Taxation shall adopt such additional regulations as it determines to be appropriate to carry out the provisions of this section.

6. As used in this section:

(a) "Building or other structure" does not include any building or other structure for which the principal use is as a residential dwelling for not more than four families.

(b) "Director" means the Director of the Office of Energy appointed pursuant to NRS 701.150.

(c) "Taxes imposed for public education" means:

(1) Any ad valorem tax authorized or required by chapter 387 of NRS;

(2) Any ad valorem tax authorized or required by chapter 350 of NRS for the obligations of a school district, including, without limitation, any ad valorem tax necessary to carry out the provisions of subsection 5 of NRS 350.020; and

(3) Any other ad valorem tax for which the proceeds thereof are dedicated to public education.

Sec. 4. 1. Except as otherwise provided in this section, if a:

(a) Business that engages in the primary trade of preparing, fabricating, manufacturing or otherwise processing raw material or an intermediate product through a process in which at least 50 percent of the material or product is recycled on-site; or

(b) Business that includes as a primary component a facility for the generation of electricity from recycled material,

➡ is found by the Commission on Economic Development to have as a primary purpose the conservation of energy or the substitution of other sources of energy for fossil sources of energy and obtains certification from the Commission on Economic Development pursuant to NRS 360.750, the Commission may, if the business additionally satisfies the requirements set forth in subsection 2 of NRS 361.0687, grant to the business a partial abatement from the taxes imposed on real property pursuant to chapter 361 of NRS.

2. If a partial abatement from the taxes imposed on real property pursuant to chapter 361 of NRS is approved by the Commission on Economic Development pursuant to NRS 360.750 for a business described in subsection 1:

(a) The partial abatement must:

(1) Be for a duration of at least 1 year but not more than 10 years;

(2) Not exceed 50 percent of the taxes on real property payable by the business each year; and

(3) Be administered and carried out in the manner set forth in NRS 360.750.

(b) The Executive Director of the Commission on Economic Development shall notify the county assessor of the county in which the business is located of the approval of the partial abatement, including, without limitation, the duration and percentage of the partial abatement that the Commission granted. The Executive Director shall, on or before April 15 of each year, advise the county assessor of each county in which a business qualifies for a partial abatement during the current fiscal year as to whether the business is still eligible for the partial abatement in the next succeeding fiscal year.

3. The partial abatement provided in this section applies only to the business for which certification was granted pursuant to NRS 360.750 and the property used in connection with that business. The exemption does not apply to property in this State that is not related to the business for which the certification was granted pursuant to NRS 360.750 or to property in existence and subject to taxation before the certification was granted.

4. As used in this section, "facility for the generation of electricity from recycled material" means a facility for the generation of electricity that uses recycled material as its primary fuel, including material from:

(a) Industrial or domestic waste, other than hazardous waste, even though it includes a product made from oil, natural gas or coal, such as plastics, asphalt shingles or tires;

(b) Agricultural crops, whether terrestrial or aquatic, and agricultural waste, such as manure and residue from crops; and

(c) Municipal waste, such as sewage and sludge.

➤ The term includes all the equipment in the facility used to process and convert into electricity the energy derived from a recycled material fuel.

Sec. 5. 1. If a partial abatement from the taxes imposed pursuant to chapter 361 of NRS is approved by the Commission on Economic Development pursuant to NRS 360.750 for a facility for the generation of electricity from renewable energy or a facility for the production of an energy storage device:

(a) The partial abatement must be:

(1) For a duration of 10 years;

(2) Equal to 50 percent of the taxes on real and personal property payable by the facility each year; and

(3) Administered and carried out in the manner set forth in NRS 360.750.

(b) The Executive Director of the Commission on Economic Development shall:

(1) Notify the county assessor of the county in which the facility is located of the approval of the partial abatement; and

(2) Advise the county assessor of the county in which the facility is located as to the dates on which the partial abatement will begin and end.

2. As used in this section:

(a) *"Biomass" means any organic matter that is available on a renewable basis, including, without limitation:*

- (1) Agricultural crops and agricultural wastes and residues;*
- (2) Wood and wood wastes and residues;*
- (3) Animal wastes;*
- (4) Municipal wastes; and*
- (5) Aquatic plants.*

(b) *"Energy storage device" means a device for use and storage of electrical energy that alleviates the consumption of fossil fuel and does not produce fossil fuel emissions.*

(c) *"Facility for the generation of electricity from renewable energy" means a facility for the generation of electricity that:*

- (1) Uses renewable energy as its primary source of energy; and*
- (2) Has a generating capacity of at least 10 kilowatts.*

➔ *The term includes all the machinery and equipment that is used in the facility to collect and store the renewable energy and to convert the renewable energy into electricity. The term does not include a facility that is located on residential property.*

(d) *"Renewable energy" means:*

- (1) Biomass;*
- (2) Solar energy; or*
- (3) Wind.*

➔ *The term does not include coal, natural gas, oil, propane or any other fossil fuel, or nuclear energy.*

Sec. 6. 1. *For purposes of the assessment of property pursuant to chapter 361 of NRS:*

(a) *Except as otherwise provided in paragraph (b), the value of a qualified system must not be included in the assessed value of a building.*

(b) *Any value added by a qualified system must be included in the assessed value of a commercial or industrial building during any period in which the business that owns the commercial or industrial building is receiving another abatement or exemption pursuant to this chapter or NRS 361.045 to 361.159, inclusive, from the taxes imposed pursuant to chapter 361 of NRS.*

2. *The Department of Taxation shall adopt such regulations as it determines to be necessary for the administration of this section.*

3. *As used in this section, "qualified system" means any system, method, construction, installation, machinery, equipment, device or appliance which is designed, constructed or installed in a residential, commercial or industrial building to heat or cool the building or water used in the building, or to provide electricity used in the building, by using:*

(a) *Energy from the wind or from solar devices not thermally insulated from the area where the energy is used;*

(b) *Geothermal resources;*

(c) *Energy derived from conversion of solid wastes; or*

(d) *Waterpower*,

↪ *which conforms to standards established by regulation of the Department of Taxation.*

Sec. 7. *If an application for an abatement from taxes pursuant to NRS 374.357 is approved pursuant to NRS 360.750 for a facility for the generation of electricity from renewable energy or a facility for the production of an energy storage device:*

1. *The taxpayer is eligible for the abatement for 2 years.*
2. *The abatement must be administered and carried out in the manner set forth in NRS 360.750.*
3. *For the purposes of this section and the abatement, unless the context otherwise requires:*

(a) *"Biomass" means any organic matter that is available on a renewable basis, including, without limitation:*

- (1) *Agricultural crops and agricultural wastes and residues;*
- (2) *Wood and wood wastes and residues;*
- (3) *Animal wastes;*
- (4) *Municipal wastes; and*
- (5) *Aquatic plants.*

(b) *"Eligible machinery or equipment" means:*

(1) *If the business that qualifies for the abatement is a facility for the production of an energy storage device, machinery or equipment which is leased or purchased and for which a deduction is authorized pursuant to 26 U.S.C. § 179. The term does not include:*

- (I) *Buildings or the structural components of buildings;*
- (II) *Equipment used by a public utility;*
- (III) *Equipment used for medical treatment;*
- (IV) *Machinery or equipment used in mining;*
- (V) *Machinery or equipment used in gaming; or*
- (VI) *Aircraft.*

(2) *If the business that qualifies for the abatement is a facility for the generation of electricity from renewable energy, all the machinery and equipment that is used in the facility to collect and store the renewable energy and to convert the renewable energy into electricity.*

(c) *"Energy storage device" means a device for use and storage of electrical energy that alleviates the consumption of fossil fuel and does not produce fossil fuel emissions.*

(d) *"Facility for the generation of electricity from renewable energy" means a facility for the generation of electricity that:*

- (1) *Uses renewable energy as its primary source of energy; and*
- (2) *Has a generating capacity of at least 10 kilowatts.*

↪ *The term includes all the machinery and equipment that is used in the facility to collect and store the renewable energy and to convert the renewable energy into electricity. The term does not include a facility that is located on residential property.*

(e) *"Fuel cell" means a device or contrivance which, through the chemical process of combining ions of hydrogen and oxygen, produces electricity and water.*

(f) *"Renewable energy" means a source of energy that occurs naturally or is regenerated naturally, including, without limitation:*

- (1) *Biomass;*
- (2) *Fuel cells;*
- (3) *Geothermal energy;*
- (4) *Solar energy;*
- (5) *Waterpower; and*
- (6) *Wind.*

➡ *The term does not include coal, natural gas, oil, propane or any other fossil fuel, or nuclear energy.*

Sec. 8. NRS 361.0687 is hereby amended to read as follows:

361.0687 1. A person who intends to locate or expand a business in this State may, pursuant to NRS 360.750, apply to the Commission on Economic Development for a partial abatement from the taxes imposed by this chapter.

2. For a business to qualify pursuant to NRS 360.750 for a partial abatement from the taxes imposed by this chapter, the Commission on Economic Development must determine that, in addition to meeting the other requirements set forth in subsection 2 of that section:

(a) If the business is a new business in a county whose population is 100,000 or more or a city whose population is 60,000 or more:

(1) The business will make a capital investment in the county of at least \$50,000,000 if the business is an industrial or manufacturing business or at least \$2,000,000 if the business is not an industrial or manufacturing business; and

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

(b) If the business is a new business in a county whose population is less than 100,000 or a city whose population is less than 60,000:

(1) The business will make a capital investment in the county of at least \$500,000; and

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

3. Except as otherwise provided in ~~[NRS 361.0685 and subsection 4,]~~ sections 4 and 5 of this act, if a partial abatement from the taxes imposed by this chapter is approved by the Commission on Economic Development pursuant to NRS 360.750:

(a) The partial abatement must:

- (1) Be for a duration of at least 1 year but not more than 10 years;
- (2) Not exceed 50 percent of the taxes on personal property payable by a business each year pursuant to this chapter; and
- (3) Be administered and carried out in the manner set forth in NRS 360.750.

(b) The Executive Director of the Commission on Economic Development shall notify the county assessor of the county in which the business is located of the approval of the partial abatement, including, without limitation, the duration and percentage of the partial abatement that the Commission granted. The Executive Director shall, on or before April 15 of each year, advise the county assessor of each county in which a business qualifies for a partial abatement during the current fiscal year as to whether the business is still eligible for the partial abatement in the next succeeding fiscal year.

~~4. [If a partial abatement from the taxes imposed by this chapter is approved by the Commission on Economic Development pursuant to NRS 360.750 for a facility for the generation of electricity from renewable energy or a facility for the production of an energy storage device:~~

~~(a) The partial abatement must be:~~

- ~~(1) For a duration of 10 years;~~
- ~~(2) Equal to 50 percent of the taxes on real and personal property payable by the facility each year pursuant to this chapter; and~~
- ~~(3) Administered and carried out in the manner set forth in NRS 360.750.~~

~~(b) The Executive Director of the Commission on Economic Development shall:~~

- ~~(1) Notify the county assessor of the county in which the facility is located of the approval of the partial abatement; and~~
- ~~(2) Advise the county assessor of the county in which the facility is located as to the dates on which the partial abatement will begin and end.~~

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

~~(a) "Biomass" means any organic matter that is available on a renewable basis, including, without limitation:~~

- ~~(1) Agricultural crops and agricultural wastes and residues;~~
- ~~(2) Wood and wood wastes and residues;~~
- ~~(3) Animal wastes;~~
- ~~(4) Municipal wastes; and~~
- ~~(5) Aquatic plants.~~

~~(b) "Energy storage device" means a device for use and storage of electrical energy that alleviates the consumption of fossil fuel and does not produce fossil fuel emissions.~~

~~(c) "Facility for the generation of electricity from renewable energy" means a facility for the generation of electricity that:~~

- ~~(1) Uses renewable energy as its primary source of energy; and~~
- ~~(2) Has a generating capacity of at least 10 kilowatts.~~

~~➔ The term includes all the machinery and equipment that is used in the facility to collect and store the renewable energy and to convert the renewable energy into electricity. The term does not include a facility that is located on residential property.~~

~~(d) "Industrial", "industrial or manufacturing business" does not include a facility for the generation of electricity from renewable energy [~~

~~(e) "Renewable energy" means:~~

~~(1) Biomass;~~

~~(2) Solar energy; or~~

~~(3) Wind.~~

~~➔ The term does not include coal, natural gas, oil, propane or any other fossil fuel, or nuclear energy, as that term is defined in section 5 of this act.~~

Sec. 9. NRS 361.0687 is hereby amended to read as follows:

361.0687 1. A person who intends to locate or expand a business in this State may, pursuant to NRS 360.750, apply to the Commission on Economic Development for a partial abatement from the taxes imposed by this chapter.

2. For a business to qualify pursuant to NRS 360.750 for a partial abatement from the taxes imposed by this chapter, the Commission on Economic Development must determine that, in addition to meeting the other requirements set forth in subsection 2 of that section:

(a) If the business is a new business in a county whose population is 100,000 or more or a city whose population is 60,000 or more:

(1) The business will make a capital investment in the county of at least \$50,000,000 if the business is an industrial or manufacturing business or at least \$5,000,000 if the business is not an industrial or manufacturing business; and

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

(b) If the business is a new business in a county whose population is less than 100,000 or a city whose population is less than 60,000:

(1) The business will make a capital investment in the county of at least \$5,000,000 if the business is an industrial or manufacturing business or at least \$500,000 if the business is not an industrial or manufacturing business; and

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

3. Except as otherwise provided in ~~NRS 361.0685,~~ *section 4 of this act*, if a partial abatement from the taxes imposed by this chapter is approved by the Commission on Economic Development pursuant to NRS 360.750:

(a) The partial abatement must:

- (1) Be for a duration of at least 1 year but not more than 10 years;
- (2) Not exceed 50 percent of the taxes on personal property payable by a business each year pursuant to this chapter; and
- (3) Be administered and carried out in the manner set forth in NRS 360.750.

(b) The Executive Director of the Commission on Economic Development shall notify the county assessor of the county in which the business is located of the approval of the partial abatement, including, without limitation, the duration and percentage of the partial abatement that the Commission granted. The Executive Director shall, on or before April 15 of each year, advise the county assessor of each county in which a business qualifies for a partial abatement during the current fiscal year as to whether the business is still eligible for the partial abatement in the next succeeding fiscal year.

Sec. 10. NRS 361.777 is hereby amended to read as follows:

361.777 Any partial abatements and partial exemptions ~~from taxation~~ to which a person may be entitled *from the taxes imposed* pursuant to this chapter must be applied in the following order of priority:

1. Any partial abatement to which the person is entitled pursuant to NRS 361.4722, 361.4723 or 361.4724.
2. Any partial exemptions to which the person is entitled ~~. [pursuant to this chapter.]~~
3. Any partial abatements to which the person is entitled ~~[pursuant to this chapter]~~ other than a partial abatement described in subsection 1.

Sec. 11. NRS 374.357 is hereby amended to read as follows:

374.357 1. A person who maintains a business or intends to locate a business in this State may, pursuant to NRS 360.750, apply to the Commission on Economic Development for an abatement from the taxes imposed by this chapter on the gross receipts from the sale, and the storage, use or other consumption, of eligible machinery or equipment for use by a business which has been approved for an abatement pursuant to NRS 360.750.

2. Except as otherwise provided in ~~[subsection 3,]~~ *section 7 of this act*, if an application for an abatement is approved pursuant to NRS 360.750:

(a) The taxpayer is eligible for an abatement from the tax imposed by this chapter for not more than 2 years for machinery or equipment which is leased or purchased. In the case of machinery or equipment that is leased, the lessee is the taxpayer who is eligible for an abatement.

(b) The abatement must be administered and carried out in the manner set forth in NRS 360.750.

3. ~~[If an application for an abatement is approved pursuant to NRS 360.750 for a facility for the generation of electricity from renewable energy or a facility for the production of an energy storage device:~~

~~(a) The taxpayer is eligible for an abatement from the tax imposed by this chapter for 2 years.~~

~~(b) The abatement must be administered and carried out in the manner set forth in NRS 360.750.~~

~~4. As used in~~ *For the purposes of this section, except as otherwise provided in section 7 of this act or unless the context otherwise requires* ~~:~~

~~(a) "Biomass" means any organic matter that is available on a renewable basis, including, without limitation:~~

- ~~(1) Agricultural crops and agricultural wastes and residues;~~
- ~~(2) Wood and wood wastes and residues;~~
- ~~(3) Animal wastes;~~
- ~~(4) Municipal wastes; and~~
- ~~(5) Aquatic plants.~~

~~(b) "Eligible", "eligible machinery or equipment" means~~ ~~:~~

~~(1) If the business that qualifies for the abatement is not a facility for the generation of electricity from renewable energy,~~ machinery or equipment which is leased or purchased and for which a deduction is authorized pursuant to 26 U.S.C. § 179. The term does not include:

- ~~{(I)} (a) Buildings or the structural components of buildings;~~
- ~~{(II)} (b) Equipment used by a public utility;~~
- ~~{(III)} (c) Equipment used for medical treatment;~~
- ~~{(IV)} (d) Machinery or equipment used in mining;~~
- ~~{(V)} (e) Machinery or equipment used in gaming; or~~
- ~~{(VI)} (f) Aircraft.~~

~~{(2) If the business that qualifies for the abatement is a facility for the generation of electricity from renewable energy, all the machinery and equipment that is used in the facility to collect and store the renewable energy and to convert the renewable energy into electricity.~~

~~(c) "Energy storage device" means a device for use and storage of electrical energy that alleviates the consumption of fossil fuel and does not produce fossil fuel emissions.~~

~~(d) "Facility for the generation of electricity from renewable energy" means a facility for the generation of electricity that:~~

- ~~(1) Uses renewable energy as its primary source of energy; and~~
- ~~(2) Has a generating capacity of at least 10 kilowatts.~~

~~➔ The term includes all the machinery and equipment that is used in the facility to collect and store the renewable energy and to convert the renewable energy into electricity. The term does not include a facility that is located on residential property.~~

~~(e) "Fuel cell" means a device or contrivance which, through the chemical process of combining ions of hydrogen and oxygen, produces electricity and water.~~

~~(f) "Renewable energy" means a source of energy that occurs naturally or is regenerated naturally, including, without limitation:~~

- ~~(1) Biomass;~~
- ~~(2) Fuel cells;~~
- ~~(3) Geothermal energy;~~

- ~~(4) Solar energy;~~
- ~~(5) Waterpower; and~~
- ~~(6) Wind.~~

~~→ The term does not include coal, natural gas, oil, propane or any other fossil fuel, or nuclear energy.]~~

Sec. 12. Section 42 of chapter 2, Statutes of Nevada 2005, 22nd Special Session, at page 90, is hereby amended to read as follows:

Sec. 42. 1. This section and sections 14 to 37, inclusive, 39, 40 and 41 of this act become effective upon passage and approval.

2. Section 38 of this act becomes effective on June 1, 2005.

3. Sections 1, 2, 4, 6, 7, 8 and 9 to 13, inclusive, of this act become effective:

(a) Upon passage and approval for the purpose of adopting regulations and performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act; and

(b) On October 1, 2005, for all other purposes.

4. Section 5 of this act becomes effective on October 1, 2005, and applies to the construction or renovation of a public building, the designing of which begins on or after that date.

5. Sections 8.1 to 8.8, inclusive, of this act become effective:

(a) Upon passage and approval for the purpose of adopting regulations and performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act; and

(b) On July 1, 2006, for all other purposes.

6. ~~[Section 3 of this act becomes effective on July 1, 2007, and applies to the construction of a public building, the designing of which begins on or after that date.~~

~~7.]~~ Sections 8.55 and 8.6 of this act expire by limitation on the date on which the provisions of 42 U.S.C. § 666 requiring each state to establish procedures under which the state has authority to withhold or suspend, or to restrict the use of professional, occupational and recreational licenses of persons who:

(a) Have failed to comply with a subpoena or warrant relating to a proceeding to determine the paternity of a child or to establish or enforce an obligation for the support of a child; or

(b) Are in arrears in the payment for the support of one or more children,

→ are repealed by the Congress of the United States.

Sec. 13. (Deleted by amendment.)

Sec. 14. 1. The Director of the Office of Energy shall, not later than September 1, 2007, adopt:

(a) The Green Building Rating System required by section 2 of this act;

and

(b) The regulations required by section 3 of this act. ~~[; and~~

~~(c) The Green Building Rating System required by section 13 of this act.]~~

2. The Department of Taxation shall, not later than September 1, 2007, adopt the regulations required by section 3 of this act.

3. The Director of the Office of Energy shall provide an expedited procedure to carry out the provisions of section 3 of this act which allows for the consideration as soon as practicable for that purpose of applications filed before the effective date of this section with the Commission on Economic Development for a partial abatement of taxes pursuant to NRS 361.0775.

Sec. 15. 1. The provisions of section 4 of this act shall be deemed to apply to any partial abatement of taxes granted pursuant to NRS 361.0685 before the effective date of this section.

2. The provisions of section 5 of this act shall be deemed to apply to any partial abatement of taxes to which subsection 4 of NRS 361.0687 applied before the effective date of this section.

3. The provisions of section 7 of this act shall be deemed to apply to any partial abatement of taxes to which subsection 3 of NRS 374.357 applied before the effective date of this section.

4. The Commission on Economic Development shall not grant any partial abatement of taxes pursuant to NRS 361.0775 on or after the effective date of this section. ~~[The provisions of this act do not affect the terms of any]~~ Any partial abatement of taxes granted by the Commission on Economic Development pursuant to NRS 361.0775 before the effective date of this section ~~[.] expires on June 30, 2007.~~

5. ~~[The]~~ Any deferral of the payment of taxes authorized by the Department of Taxation for the purpose of claiming the tax exemption provided pursuant to paragraph (d) of subsection 1 of NRS 374.307, as amended by chapter 2, Statutes of Nevada 2005, 22nd Special Session, at page 71, ~~[shall be deemed to apply to products and materials purchased on or after October 1, 2005, and on or before December 31, 2010, that are used in the construction of a building which:~~

~~(a) Is constructed;~~

~~(1) Pursuant to a preconstruction or construction contract executed on or before December 31, 2005; and~~

~~(2) As part of a construction project registered with the Office of Energy for the purpose of obtaining that tax exemption; and~~

~~(b) Is certified at or meets the equivalent of the silver level or higher by an independent contractor authorized to grant such certification in accordance with the Green Building Rating System adopted by the Director of the Office of Energy pursuant to the former provisions of NRS 701.217.] applies only to products and materials:~~

~~(a) Purchased before the effective date of this section; and~~

~~(b) Delivered to the purchaser or his agent or designee before the effective date of this section.~~

Sec. 15.5. ~~[1. Except as otherwise provided in this section, the Director shall grant a partial abatement from the portion of the taxes imposed~~

~~pursuant to chapter 361 of NRS, other than any taxes imposed for public education, on a building or other structure which:~~

~~(a) Is constructed:~~

~~(1) Pursuant to a preconstruction or construction contract executed on or before December 31, 2005; and~~

~~(2) As part of a construction project registered with the Office of Energy for the purpose of obtaining the partial abatement of taxes provided pursuant to the former provisions of NRS 361.0775; and~~

~~(b) Is certified at or meets the equivalent of the silver level or higher by an independent contractor authorized to grant such certification in accordance with the Green Building Rating System adopted by the Director of the Office of Energy pursuant to the former provisions of NRS 701.217.~~

~~2. The Director shall not grant the partial abatement if any funding is provided by any governmental entity in this State for the acquisition, design or construction of the building or other structure or for the acquisition of any land therefor. For the purposes of this subsection:~~

~~(a) Private activity bonds must not be considered funding provided by a governmental entity.~~

~~(b) The term "private activity bond" has the meaning ascribed to it in 26 U.S.C. § 141.~~

~~3. To obtain the partial abatement, the owner of the property must:~~

~~(a) Submit an application for the partial abatement to the Director. If such an application is submitted for a project that has not been completed on the date of that submission and there is a significant change in the scope of the project after that date, the application must be amended to include the change or changes.~~

~~(b) Except as otherwise provided in this paragraph, provide to the Director, within 48 months after applying for the partial abatement, proof that the building or other structure is certified at or meets the equivalent of the silver level or higher by an independent contractor authorized to grant such certification in accordance with the Green Building Rating System adopted by the Director pursuant to the former provisions of NRS 701.217. The Director may, for good cause shown, extend the period for providing such proof.~~

~~4. As soon as practicable after the Director receives:~~

~~(a) The application required by subsection 3, the Director shall forward a copy of that application to the:~~

~~(1) Chief of the Budget Division of the Department of Administration;~~

~~(2) Department of Taxation;~~

~~(3) County assessor;~~

~~(4) County treasurer; and~~

~~(5) Commission on Economic Development.~~

~~(b) The application and proof required by subsection 3, the Director shall determine whether the building or other structure is eligible for the abatement and, if so, forward a certificate of eligibility for the abatement to the:~~

- ~~(1) Department of Taxation;~~
- ~~(2) County assessor;~~
- ~~(3) County treasurer; and~~
- ~~(4) Commission on Economic Development.~~

~~5. As soon as practicable after receiving a copy of an application pursuant to paragraph (a) of subsection 4, the Chief of the Budget Division and each affected local government shall publish a fiscal note that indicates an estimate of the fiscal impact of the partial abatement on that governmental entity.~~

~~6. The partial abatement:~~

~~(a) Must be for a duration of not more than 10 years and in an annual amount that equals 35 percent of the portion of the taxes imposed pursuant to chapter 361 of NRS, other than any taxes imposed for public education, that would otherwise be payable for the building or other structure, excluding the associated land.~~

~~(b) Does not apply during any period in which the owner of the building or other structure is receiving another abatement or exemption from the taxes imposed pursuant to chapter 361 of NRS, other than any partial abatement to which the owner is entitled pursuant to NRS 361.471 to 361.4735, inclusive.~~

~~(c) Terminates upon any determination by the Director that the building or other structure has ceased to meet the equivalent of the silver level or higher. The Director shall provide notice and a reasonable opportunity to cure any noncompliance issues before making a determination that the building or other structure has ceased to meet that standard. The Director shall immediately provide notice of each determination of termination to the:~~

- ~~(1) Department of Taxation;~~
- ~~(2) County assessor;~~
- ~~(3) County treasurer; and~~
- ~~(4) Commission on Economic Development.~~

~~7. The Director shall:~~

~~(a) Adopt regulations:~~

~~(1) Establishing the qualifications and methods to determine eligibility for the abatement;~~

~~(2) Prescribing such forms as will ensure that all information and other documentation necessary to make an appropriate determination is filed with the Director; and~~

~~(3) Prescribing the criteria for determining when there is a significant change in the scope of a project for the purposes of paragraph (a) of subsection 3;~~

~~→ and the Department of Taxation shall adopt such additional regulations as it determines to be appropriate to carry out the provisions of this section.~~

~~(b) Provide an expedited procedure to carry out the provisions of this section which allows for the consideration as soon as practicable for that purpose of applications filed before the effective date of this section with the~~

~~Commission on Economic Development for a partial abatement of taxes pursuant to NRS 361.0775.~~

~~8. As used in this section:~~

~~(a) "Building or other structure" does not include any building or other structure for which the principal use is as a residential dwelling for not more than four families.~~

~~(b) "Director" means the Director of the Office of Energy appointed pursuant to NRS 701.150.~~

~~(c) "Taxes imposed for public education" means:~~

~~(1) Any ad valorem tax authorized or required by chapter 387 of NRS;~~

~~(2) Any ad valorem tax authorized or required by chapter 350 of NRS for the obligations of a school district, including, without limitation, any ad valorem tax necessary to carry out the provisions of subsection 5 of NRS 350.020; and~~

~~(3) Any other ad valorem tax for which the proceeds thereof are dedicated to public education.] (Deleted by amendment.)~~

Sec. 16. 1. NRS 361.0685, 361.0775, 361.079 and 701.217 are hereby repealed.

2. Section 3 of chapter 2, Statutes of Nevada 2005, 22nd Special Session, at page 69, is hereby repealed.

Sec. 17. 1. This section and sections 1, 4 to 8, inclusive, and 10 to 16, inclusive, of this act become effective upon passage and approval.

2. Sections 2 and 3 of this act become effective:

(a) Upon passage and approval for the purpose of adopting regulations and performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act; and

(b) On July 1, 2007, for all other purposes.

3. Sections 5, 7, 8 and 11 of this act expire by limitation on June 30, 2009.

4. Section 9 of this act becomes effective on July 1, 2009.

TEXT OF REPEALED SECTIONS

361.0685 Exemption of percentage of personal and real property of certain businesses certified by Commission on Economic Development.

1. Except as otherwise provided in this section, if a:

(a) Business that engages in the primary trade of preparing, fabricating, manufacturing or otherwise processing raw material or an intermediate product through a process in which at least 50 percent of the material or product is recycled on site; or

(b) Business that includes as a primary component a facility for the generation of electricity from recycled material,

➔ is found by the Commission on Economic Development to have as a primary purpose the conservation of energy or the substitution of other sources of energy for fossil sources of energy and obtains certification from the Commission on Economic Development pursuant to NRS 360.750, the Commission may, if the business additionally satisfies the requirements set

forth in subsection 2 of NRS 361.0687, grant to the business a partial abatement from the taxes imposed on real property by this chapter.

2. If a partial abatement from the taxes imposed on real property by this chapter is approved by the Commission on Economic Development pursuant to NRS 360.750 for a business described in subsection 1:

(a) The partial abatement must:

(1) Be for a duration of at least 1 year but not more than 10 years;

(2) Not exceed 50 percent of the taxes on real property payable by the business each year pursuant to this chapter; and

(3) Be administered and carried out in the manner set forth in NRS 360.750.

(b) The Executive Director of the Commission on Economic Development shall notify the county assessor of the county in which the business is located of the approval of the partial abatement, including, without limitation, the duration and percentage of the partial abatement that the Commission granted. The Executive Director shall, on or before April 15 of each year, advise the county assessor of each county in which a business qualifies for a partial abatement during the current fiscal year as to whether the business is still eligible for the partial abatement in the next succeeding fiscal year.

3. The partial abatement provided in this section applies only to the business for which certification was granted pursuant to NRS 360.750 and the property used in connection with that business. The exemption does not apply to property in this state that is not related to the business for which the certification was granted pursuant to NRS 360.750 or to property in existence and subject to taxation before the certification was granted.

4. As used in this section, a "facility for the generation of electricity from recycled material" is a facility which uses recycled material as its primary fuel including material from:

(a) Industrial or domestic waste, other than hazardous waste, even though it includes a product made from oil, natural gas or coal, such as plastics, asphalt shingles or tires;

(b) Agricultural crops, whether terrestrial or aquatic, and agricultural waste, such as manure and residue from crops; and

(c) Municipal waste, such as sewage and sludge.

➡ The term includes all the equipment in the facility used to process and convert into electricity the energy derived from a recycled material fuel.

361.0775 Partial abatement of taxes imposed on certain structures that use resources efficiently.

1. The Commission on Economic Development shall grant a partial abatement from the tax imposed on real property by this chapter for property which has a building or other structure that is certified at or meets the equivalent of the silver level or higher by a person authorized to grant such certification in accordance with the Leadership in Energy and Environmental Design Green Building Rating System or its equivalent, as adopted by the Director of the Office of Energy pursuant to NRS 701.217.

2. The partial abatement must be for a duration of not more than 10 years and must not exceed 50 percent of the taxes on real property payable each year pursuant to this chapter.

3. The Commission on Economic Development shall establish by regulation the qualifications and methods to determine eligibility for the abatement.

4. The Commission on Economic Development shall immediately forward a certificate of eligibility for the abatement to:

- (a) The Department of Taxation;
- (b) The Nevada Tax Commission;
- (c) The county treasurer; and
- (d) The county assessor.

361.079 Exemption of qualified systems for heating, cooling or provision of electricity.

1. Except as otherwise provided in subsection 2, for any assessment made on or after July 1, 1983, any value added by a qualified system must be excluded from the assessed value of the building regardless of the date the system was installed.

2. Value added by a qualified system must not be excluded from the assessed value of a commercial or industrial building during any period in which the business that owns the commercial or industrial building is receiving another abatement or exemption from the taxes imposed by this chapter.

3. As used in this section, “qualified system” means any system, method, construction, installation, machinery, equipment, device or appliance which is designed, constructed or installed in a residential, commercial or industrial building to heat or cool the building or water used in the building, or to provide electricity used in the building, by using:

- (a) Energy from the wind or from solar devices not thermally insulated from the area where the energy is used;
- (b) Geothermal resources;
- (c) Energy derived from conversion of solid wastes; or
- (d) Waterpower,

↪ which conforms to standards established by regulation of the Department.

701.217 Adoption of Green Building Standards for certain public buildings; adoption of Green Building Rating System for certain purposes.

1. The Director, in consultation with the State Public Works Board and any other interested agency, shall:

(a) In cooperation with representatives of the building and development industry, adopt guidelines establishing Green Building Standards for all occupied public buildings whose construction will be sponsored or financed by this State or a local government.

(b) Adopt a Green Building Rating System, such as the Leadership in Energy and Environmental Design Green Building Rating System or its equivalent, pursuant to subsections 4 and 5. With regard to buildings or

structures that are not public buildings or structures, the Green Building Rating System adopted by the Director is to be used only for the purposes of determining eligibility for tax abatements or tax exemptions that are authorized by law to use the Green Building Rating System.

2. Guidelines adopted pursuant to paragraph (a) of subsection 1 must include, without limitation, suggested:

- (a) Requirements for the use of resource-efficient materials for the construction and maintenance of the building;
- (b) Standards for indoor environmental quality;
- (c) Standards for the efficient use of water, including the efficient use of water for landscaping purposes;
- (d) Standards for the efficient use of energy; and
- (e) Requirements for the design and preparation of building lots.

3. If standards equivalent to the Leadership in Energy and Environmental Design Green Building Rating System are adopted, the standards adopted must provide reasonable exceptions based on the size, location and use of the building.

4. Subject to the provisions of subsection 5, the Director shall establish a process for adopting a Green Building Rating System, such as the Leadership in Energy and Environmental Design Green Building Rating System or its equivalent. The process must include, without limitation:

- (a) The gathering and development of scientific data;
- (b) Comments from representatives of the building industry;
- (c) Consensus from representatives of the building industry;
- (d) A method by which the Director, the State Public Works Board and other interested agencies may cast ballots on the proposed standards;
- (e) A pilot program for the purpose of refining the standards; and
- (f) A process by which an aggrieved person may file an appeal of the standards adopted.

5. In adopting a Green Building Rating System pursuant to subsection 4, the Director is not required to adopt and is not limited to using the Leadership in Energy and Environmental Design Green Building Rating System but may adopt an equivalent rating system based on any other nationally recognized standards for green buildings, or any combination of those standards.

Section 3 of chapter 2, Statutes of Nevada 2005, 22nd Special Session:

Sec. 3. Chapter 338 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Except as otherwise provided in subsection 2, each occupied public building whose construction will be sponsored or financed by this State must, when completed, meet the requirements to be certified at or meet the equivalent of the base level or higher in accordance with the Leadership in Energy and Environmental Design Green Building Rating System, or an equivalent standard, as adopted by the Director of the Office of Energy pursuant to section 11 of this act.

2. *During each biennium, at least two occupied public buildings whose construction will be sponsored or financed by this State must be designated as demonstration projects and must, when completed, meet the requirements to be certified at or meet the equivalent of the silver level or higher in accordance with the Leadership in Energy and Environmental Design Green Building Rating System, or an equivalent standard, as adopted by the Director of the Office of Energy pursuant to section 11 of this act if:*

(a) The Director of the Office of Energy, in consultation with the State Board of Examiners and the State Public Works Board, has determined that it is feasible for the buildings to meet such requirements and standards and that it is a cost-effective investment to do so; and

(b) The agency or agencies that will occupy the buildings have agreed to allow the buildings to be designated as demonstration projects pursuant to this subsection.

3. *Each occupied public building whose construction is sponsored or financed by a local government may meet the requirements to be certified at or meet the equivalent of the base level or higher in accordance with the Leadership in Energy and Environmental Design Green Building Rating System, or an equivalent standard, as adopted by the Director of the Office of Energy pursuant to section 11 of this act.*

4. *As used in this section, "occupied public building" means a public building used primarily as an office space or work area for persons employed by this State or a local government. The term does not include a public building used primarily as a storage facility or warehouse or for similar purposes.*

Senator Care moved the adoption of the amendment.

Remarks by Senators Care, Townsend, Titus, Amodei, Schneider, Coffin and Raggio.

Senator Coffin disclosed that he has a client with an interest in the proposed changes in the provision of the current tax abatements.

Senator Care requested that the following remarks be entered in the Journal and the copy of the legal opinion be entered in the Journal.

SENATOR CARE:

Thank you, Mr. President. I want to commend the committee and the chair for all of the work they have done on a difficult issue. It was not that long ago the Senate passed Senate Bill No. 567. This is the bill the Governor vetoed this Session.

I was one of two Senators who voted against that measure. I did that not on its merits or lack of merits. I understood the circumstances, but I could not come into the Chamber, hear about something for the first time and then, in 45 minutes, vote for a bill that complex. Since that time, I have had the opportunity to become educated on the issue. I must confess I still do not fully understand the depth of all of it, but I understand it much better than I did a few weeks ago.

We did not grant any entity a charter. We did not enter into a contract with any entity. What we did do was enact tax policy. That is all we did. We did it in haste and with good intentions. We had heard the figure of a fiscal note of \$250,000. Actually, there was not a fiscal note on A.B. 3 of the 22nd Special Session, but apparently the expectation was the fiscal hit would be

about \$250,000. The intent was if you go "green," we want to reward you and encourage you to do that by granting you these sales- and property-tax abatements.

Assembly Bill No. 621, in its current form is a well-intentioned effort to continue to encourage entities to go "green" but not to get abatements that are as generous as what happened in the 22nd Special Session in 2005. It reduces to three or four the number of entities that would enjoy abatements under A.B. 3 of the 22nd Special Session. It would add a cost, from the documents I have seen, over the next three to four years of perhaps as much as \$150 million in lost revenue of sales and property tax. That is well above the estimated \$250,000.

This is the purpose for this amendment.

I have a legal opinion from the Legislative Counsel Bureau (LCB). I asked the LCB a few questions. I will quote from the memo. I asked, "Do the existing tax abatements and exemptions, enacted by sections 6 and 7 of A.B. 3 of the 22nd Special Session, create any contractual or vested rights with respect to persons who have applied for the tax abatements or exemptions or have been approved to receive the tax abatements or exemptions?" I will read from the final paragraph as to that first question. "In conclusion, based on long standing precedent from the United States Supreme Court, it is the opinion of this office the existing tax abatements and exemptions enacted by sections 6 and 7 of A.B. 3 of the 22nd Special Session do not create any contractual or vested rights with respect to persons who have applied for the tax abatements or exemptions or who have been approved to receive the tax abatements or exemptions. Therefore, it is the opinion of this office that the existing tax abatements and exemptions enacted by sections 6 and 7 of A.B. 3 of the 22nd Special Session may be amended or repealed by the Legislature at any time without violating the contract clause regardless of whether any person has incurred expense to comply with the requirements with existing tax abatements or exemptions."

The second question was similar. "If the Legislature were to amend or repeal the existing tax abatements and exemptions enacted by sections 6 and 7 of A.B. 3 of the 22nd Special Session, could persons who have applied for the tax abatements or exemptions or who have been approved to receive the tax abatements or exemptions successfully assert the doctrine of estoppel against the State due to their reliance on the existing tax abatements or exemptions?"

They replied, "It is the opinion of this office that the existing tax abatements and exemptions enacted by sections 6 and 7 of A.B. 3 of the 22nd Special Session may be amended or repealed by the Legislature at any time without violating the contract clause regardless of whether any person has incurred expense to comply with the requirements of the existing tax abatements or exemptions. Furthermore, because the application of the doctrine of estoppel is always subordinate to the sovereign power of the Legislature to amend or repeal laws to protect the public interest, it is also the opinion of this office that if the Legislature were to amend or repeal the existing tax abatements and exemptions enacted by sections 6 and 7 of A.B. 3 of the 22nd Special Session, persons who have applied for existing tax abatements or exemptions who have been approved to receive the existing tax abatements or exemptions could not successfully assert the doctrine of estoppel against the State due to their reliance on the existing tax abatements or exemptions."

That begs the question that if, from a legal point of view, that it is not fair, not right, that we relied on you, how can we ever depend on the Legislature? But, as a matter of law, if we do not have to grant these abatements, if we do not have to see a loss of \$150 million at a minimum over the next three or four years in sales tax and property tax, why would we do it? I know it would offend many people. We have to ask ourselves, where are we going to get money for transportation? Where are we going to get money for education? Why would we do this?

I would like to point out that I am not going after anyone. I think this is a fair question. I would not care if it were a 7-11 franchise, an American Legion Hall, a church or casino, whatever it might be. This is a fair question, and one easily debatable in the realm of public policy.

The purpose of the amendment which you will find in the deletions in sections 14, 15 and 15.5, would be to go forward with what is contemplated in Assembly Bill No. 621 with the new standards and the new scheme for years and the percentages. But, in the mean time, the abatements granted are not there anymore. I will clarify that the LCB says this language is necessary as to the sales tax, "any deferral of the payment of taxes authorized by the Department of Taxation for the purpose of claiming the tax exemption provided pursuant to paragraph (d) of

subsection 1 of NRS 374.307, as amended." This is in subsection 5: "applies only to products and materials purchased before the effective date of this section and delivered to the purchaser or his agent or designee before the effective date of this section."

I do not know how much money we are talking about. No one really does, but obviously, it is of a far-less degree. That is the purpose for the amendment. I cannot see doing this if we are on legally sound, firm ground in not doing it.

I encourage the body to adopt the amendment. I know it is awkward, but we did everything in haste two years ago. That is what happens with a citizen legislature that is confined to a 120-day Session. We have all seen it happen several times. We wish we could give bills more deliberation than we do, but in this case, I think the price tag for letting this go is excessive. I encourage the adoption of the amendment.

SENATOR TOWNSEND:

Thank you, Mr. President. The points made are excellent particularly about the May 22-dated legal opinion from the LCB. Two points need to be made about this.

There was mention in the previous statements about funding certain things. One of the reasons Amendment No. 1083 was just adopted was to protect the Distributive School Account, which it does. There was a reference to other projects with regard to this in terms of sales tax. One could argue at great length in regard to the money necessary to operate this State or local government. They would be legitimate, fair questions and arguments that we have had many times here.

The reason I rise in opposition to this amendment is a broader picture. Out of the seven projects that potentially could qualify under the previous amendment, four of them are publicly traded. Why is that important? It is important in two contexts.

The first context is the overall credibility of this State with the financial market. If one does not believe that the Internet connection to this microphone is not being listened to by every member of Wall Street, every person who sits at the top of an institutional fund, every managing partner of a private equity fund, then, they do not understand how money markets work. Those individuals are listening to every single word we say, reading every single thing printed in the paper. That includes our primary banking relationships.

To walk away from what we have crafted in the previous amendment and try to adopt something new is to start to pull at the fabric of the credibility this State has had for purposes of large investments.

I respect the previous speaker. I respect him intellectually. I respect him personally. I think his points are well taken. However, on further review by our Counsel, the previous amendment is the one she feels is the most defensible. When I say that, I go to my second point. When you are a publicly-traded company, your management has a fiduciary obligation to their shareholders. If somehow, the integrity of this State, relative to financing, starts to erode and they are challenged, management has no option; they will have to litigate. We do not want to get into that. That would tie all of this up for years to come to the benefit of no one in the State, whether it be some of these projects that need funding, some of these things each of you are concerned about.

I will rise in opposition to this amendment.

SENATOR TITUS:

Thank you, Mr. President. I have two questions. My first one is to the Chair of the Committee on Commerce and Labor. Though I appreciate his excellent presentation of this, I believe he is now saying there are seven companies that might qualify. Before, he said there were six. Which is it?

My other question is to my colleague from District 7. As I understand this, the amendment would wipe the slate clean of all the mess inadvertently caused by A.B. 3 of the Twenty-second Special Session and keep in place the structure everyone has worked so hard on for the future. These six or seven or maybe eight or ten companies mentioned by the Chair would not get the previous rebate but could all apply under a new system that is well thought out, well understood and would apply equally to everyone. Is this correct?

SENATOR CARE:

Thank you, Mr. President. To the extent that the remarks were directed to me, yes. That is another way to say it. It would wipe the slate clean, and everyone could go forward following enactment of Assembly Bill No. 621. It would wipe the slate clean with the exception I cited in section 15, subsection 5, as to the sales-tax exemption, to some degree.

SENATOR AMODEI:

To my colleague, the Chair of the Committee on Commerce and Labor, with the respect to the publicly-traded company comments, was there any testimony or evidence provided to the Committee? Am I to understand the amendment we just adopted treated all public companies this way, or were there public companies that were not caught up in this? What was the testimony regarding talk about credibility and money markets for the differentiation, I understand the publicly-traded dynamic, but what was the rationale for credibility with privately-traded companies or non-publicly-traded companies?

SENATOR TOWNSEND:

Thank you, Mr. President. I will answer the question by the Minority Leader. I misspoke. There are six projects. The reason I brought up the publicly-traded issue is that it is only on the basis of their fiduciary responsibility, not that anyone was testifying that they were a publicly-traded company and that they were going to sue. That is the nature of it.

The private-equity people are individuals who have just entered gaming ownership as well as some of our none gaming businesses, by investing billions in this State. It is because they believe it is a sound place to do business. The reason I wanted to refer to that is not because there was testimony on that, but because in my private sector life, our firm does private-equity investments. We do not have any investments in any of these projects. I have been getting calls from them, from banks, private-equity people and fund managers, about what is going on based on what they have heard on the Internet as well as what they have seen in the paper. We are not operating in a vacuum. The State of Nevada is no longer an isolated little gaming state where Nevada investors have control of it. They do not. Moreover, there are only two states left without gaming.

There is a huge amount of cash available in the private-equity markets for various reasons. They are putting a great deal of that into the State of Nevada. If we do not honor our commitments, or at least work within the confines of what our Legal Counsel has advised us, based on this bill, I believe we are at risk for future investment in this State.

SENATOR SCHNEIDER:

Thank you, Mr. President. I am aware Wall Street is watching. They are saying, "Can you depend on Nevada?" We rushed in here last Session about this same time. We pushed through a bill.

We are all "green" here. Northern Nevada is more "green" than southern Nevada because of Lake Tahoe. In southern Nevada, all we are often worried about is our air-conditioning bill. However, we all acted in good faith and thought this would be something that could help kick-start our renewable energy in Nevada. We never thought this would approach a billion-dollar giveaway.

If one of those publicly-traded companies made a mistake like that, they would go back to the boardroom and they would make an adjustment. That is what we have to look at here. We go to Wall Street and get bonds too. We need to have credibility also. We have made a mistake. We have to go back and do an adjustment of some sort. It is embarrassing. This is a billion-dollar mistake.

We are doing this for the publicly-traded companies. We are not doing this for homeowners. We do not have pilot projects for a homeowner or for a small builder who puts up 50 or 100 houses. I think it is important to do a pilot project for that, but we have not discussed that. We were told that we do not want to discuss that. These big companies can cut their own deals with Nevada Power and get out of the system and buy power on their own over the grid or generate their own power. Homeowners cannot do that. They are captive in the system.

I think it is time to step back and take a breath. We are in the eleventh hour, and we are rushing again. That is a problem we have with 120-day session with artificial deadlines. This is

something that is going to require a lot of us working on it and thinking about it. Let us step back and take a breath. If we have to come back for a special session, I would rather do that than risk another billion-dollar folly.

SENATOR COFFIN:

Thank you, Mr. President. I have a client who is involved in this, and I wish to inform the body that this client has an interest. I did not know that at the time we argued Senate Bill No. 567. I argued against it for many of the same reasons the good Senator stated this afternoon. It sends the wrong message. It sends bad news to people who rely upon the actions of the Legislature. At that time, I did not know that my client, the Boyd Company, was involved and had an interest in this.

I think we have to limit the benefits that were accrued by A.B. 3 of the 22nd Special Session. If we had gone further, we would be looking at bankruptcy. We would have had to limit it. I voted for it in 2005. I did not know there was a conflict at the time. I did not know that Boyd was involved so I voted for it then. Now, I do know, and I am going to vote. I am going to vote to limit the benefit they get, which is the point of this bill and the amendments to this bill. They are going to have to limit their gain. Some people might think it is still a gift of some kind to these companies, but I believe they all relied, to some extent, if not a great extent, on our word. We should keep our word to the extent that we can afford to. I believe we can afford to do this. This is not a situation now. With the limits placed through the new bill, the State can afford this cost. It does not like to pay it. I do not like to see this money disappear, but I believe it is a situation where all parties are going to have to suffer a little bit. For that reason, I will be voting.

SENATOR AMODEI:

Thank you, Mr. President. Was there testimony about who was not going to get this? We have talked about the publicly-traded aspect versus privately. We have defined there are six or seven entities that could go forward with what we have just adopted. Was there testimony as to either the potential amount that will not be going forward as a result as opposed to a public, private or the number of entities that will not be eligible to have this retroactive treatment, if that is the right word? I would like to understand who is going forward and who is not either as to a percentage of money or number of entities.

SENATOR TOWNSEND:

I am more than glad to answer that question, but the question before us is on an amendment, and it is not my amendment. I am planning on voting against it. I do know how you want me to proceed. I am not certain the question is relevant to the amendment. I will be glad to answer if the body so chooses.

SENATOR AMODEI:

Mr. President, It is relevant because the amendment before us says we are going to give "none" versus "some" so I think it is entirely relevant to the amendment.

SENATOR TOWNSEND:

My colleague from Clark District 11 spoke specifically as to rushing things. Let us slow this down and put this into context so that I may answer this correctly. I did not want to go outside the parameters of what we are trying to accomplish.

First, Senate Bill No. 621; as amended, removes for purposes of the property-tax abatement, the land. That is no longer considered part of the abatement. That provision has been struck.

Second, is the protection of the DSA.

Third, the bill cuts the abatement on top of that which was promised.

Many numbers are being discussed. I do not want to give inappropriate financial advise, but when you take the land out, carve out the DSA, then reduce the original abatement which could be up to 50 percent, everyone of these projects, as you will see in section 5, and subsection 15.5, subsection 6, are capped at 35 percent after that. You are not talking about a giveaway. Originally, in A.B. 3 of the 22nd Special Session, you could apply and get an abatement of up to 50 percent for 10 years. We have now taken out the land. We have now protected the DSA. We have capped ad-valorem abatement at 35 percent. We have gone over the 50-percent mark with regard to cutting back.

Concerning the question previously posed, this was never an issue of who was in and who was out. This was an issue with regard to our Legal Counsel of what is defensible and where can the line be most brightly drawn. Whoever fell in, fell in, and whoever fell out, fell out.

That is how and why it was drawn that way. We should stand by our Counsel. She is our Legal Counsel, not just mine. She believes this is the most defensible line to be drawn after all of these protections: land, DSA and reduction in abatement.

SENATOR RAGGIO:

Thank you, Mr. President. I am one who has not been involved in these discussions as to what changes, if any, should be made with respect to this measure.

Last session, at the end of the session, the measure went through the appropriate committees finally ending up with the Energy Bill that was processed through arduous efforts by both Assembly and Senate committees. Agreement was reached way before the end of the session, not on the last night of the session. However, it was one of those bills held hostage for a few other bills. It was not hastily worked on or decided upon on the last night of the session. I want that to be clear.

I was not involved in that process. Some of those speaking today were ardent supporters of doing something that would encourage energy savings. It was well thought out. Obviously, no one knew how many would take advantage of the tax benefits it provided.

I chaired the Committee on Finance. No one came to us and said there would be a specific dollar impact. One of the previous speakers mentioned there was some comment that there might be a \$250,000 impact. We did not hear that in the Senate Finance Committee. I do not think anyone needs to take the blame. No one understood that impact.

We found out this Session, after the Economic Forum met in May and issued its final report, that we had a big loss in sales tax. Not all of it was due to this, but there was a substantial amount of loss as a result. There was the expectation that sales tax would come in at a higher level. I am listening to all of this discussion today.

Someone mentioned funding education. We would all like to find some money that would help raise teachers' salaries. That is the impact of the two amendments we are considering, this one and the next. We would all like to stand up and say that; however, I am trying to understand how we stand as a practical matter. If we do nothing, as I understand it, A.B. 3 of the Twenty-second Special Session will continue to be the law. Everyone is trying to make an adjustment that addresses this issue and to do so as efficiently as possible, but not at the expense of losing in any potential litigation. I respect my colleague from Senate District 7. As I understand it, A.B. 3 of the Twenty-second Special Session will continue to be the law if we do nothing.

We passed Senate Bill No. 567, which went to the Governor. It was a good-faith attempt to try to suspend any action by the appropriate entities of state government to grant any further extensions to suspend that. That was vetoed. An Executive Order was issued to try to accomplish the same thing. Regardless of whether we try to override the veto or not, it is my understanding the A.B. 3 of the Twenty-second Special Session will continue. As I understand, by what is being said today, our Legislative Counsel has advised the people who put together the amendment we just passed that was her opinion the date that was established, in there, for people to qualify as the most legally defensible position.

I am aware of the legal opinion that she also issued that it was not considered contractual but was a matter of policy, and therefore, we could change it. That is probably, if we were sued, the position our Legal Counsel would take. We should take that one if there is litigation. It is only a legal opinion, and there is no guarantee that in a court of law it would be sustained. What she is telling us is, yes, if there is litigation, that is the argument we would make; that it is not a contractual issue, but it is a policy matter. However, who sues us could take another position.

I am going to vote against this amendment because I believe in following, as best I can, the advice our Legislative Counsel. As a client, we should follow the advice of Legislative Counsel. The Legislative Counsel should not be asked anything that pulls her one way or the other, whether for policy, partisan or other reasons. We should ask her for her best legal opinion. That was the action contained in the previous amendment. I understand this would be the argument

that would be made. To do anything further would be inappropriate and, certainly, something we should not do.

SENATOR TITUS:

Mr. President. I agree with the Majority Leader that we have to pass some kind of law this Session so that A.B. 3 of the 22nd Special Session does not continue in effect. We tried to nullify A.B. 3 of the 22nd Special Session, but the Governor vetoed our action and then issued a temporary stay via executive order. Now A.B. 3 of the 22nd Special Session will go back into effect in a few days if we do not act, and that will be disastrous. We have to pass some kind of new LEED legislation.

I also have the greatest respect for our Legal Counsel. I do not think there is a better lawyer in the State of Nevada than Brenda Erdoes. I trust her judgment. It is just that her judgment has changed within a week from "we do not need to do this; wiping the slate clean is totally defensible," to "now, to be defensible, we have to draw a bright line, and the best bright line is February, 2007."

What is causing me concern is that we say in a court of law that February 2007 is our most defensible position, but we do not have any way of knowing what companies, other than these seven whom we have "grandfathered" in with this arbitrary bright line, will now sue us because the line was not drawn at a different time making them potentially eligible for the tax break. I do not think we can assume whatever line we draw, we will not be sued.

I would like someone to explain to me why this is the most defensible position. Why February 2007, as opposed to January 2006, as opposed to July 2006, or whatever? I keep hearing this is our most defensible position, but no one has explained to me why that is the case other than to say that it is the date by which these six big companies had gotten their paper work in.

SENATOR TOWNSEND:

Thank you, Mr. President. The date was chosen based on establishing a third standard on the following basis. There were many applications to the State of Nevada through the Office of Energy registering with LEED because there were no standards established by regulation. The reason it was chosen is that those companies, as previously mentioned, had received for purposes of sales tax a deferral letter or a sales-and-use tax exemption letter from the Department of Taxation who speaks for the State. We have stamped the State's approval on that exemption.

Why was that date chosen and not another one? Because, there was a substantial time-frame break between February 1, before the Session started, and when the Governor issued his Executive Order to stop these things. That is why it was done.

Motion failed.

The following amendment was proposed by Senator Titus:

Amendment No. 1084.

"SUMMARY—Makes various changes in the provision of tax abatements and exemptions based upon the use of energy and repeals certain prospective energy requirements for public buildings. (BDR 58-1512)"

"AN ACT relating to energy; making various changes relating to the application procedures for and the provision of tax abatements and exemptions based upon the use of energy; repealing certain prospective energy requirements for public buildings; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Sections 2 and 3 of this bill require the Director of the Office of Energy to adopt a system for rating buildings based upon the Leadership in Energy and Environmental Design Green Building Rating System, and authorize the

Director to grant, under certain conditions, a partial abatement of property taxes for certain buildings based upon the rating of the building.

Existing law authorizes the Commission on Economic Development to approve, under certain conditions, a partial abatement of certain taxes for a person who intends to locate or expand a business in this State. (NRS 360.750) Existing law prescribes the terms of such a partial abatement of property taxes for certain businesses that conserve energy or fossil sources of energy through recycling, for certain facilities that generate electrical energy from renewable energy and for facilities that produce certain devices for the storage of electrical energy. (NRS 361.0685, 361.0687) Sections 4, 5, 8 and 16 of this bill repeal those terms and prescribe substantially identical terms.

Existing law provides an exemption from property taxes for any value added to the assessed value of a building by certain qualified systems that provide heating, cooling or electricity. (NRS 361.079) Sections 6 and 16 of this bill repeal that exemption and provide a substantially similar exemption.

Existing law prescribes the terms of a partial abatement of certain sales and use taxes, if approved by the Commission on Economic Development, for certain facilities that generate electricity from renewable energy or produce certain devices for the storage of electrical energy. (NRS 374.357) Sections 7 and 11 of this bill repeal those terms and prescribe substantially identical terms.

Sections 12 and 16 of this bill repeal certain energy requirements for public buildings which otherwise would have become effective on July 1, 2007. ~~[Section 13 of this bill prescribes similar requirements for certain public buildings for which construction has not yet been completed on that date.]~~

Existing law requires the Director of the Office of Energy to adopt a system for rating buildings for the purposes of certain tax exemptions and the construction of certain public buildings. (NRS 701.217) Section 16 of this bill repeals those requirements.

Existing law authorizes the Commission on Economic Development to grant a partial abatement of property taxes for certain structures that use resources efficiently. (NRS 361.0775) Section 16 of this bill repeals that authority.

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

Section 1. Title 58 of NRS is hereby amended by adding thereto a new chapter to consist of the provisions set forth as sections 2 to 7, inclusive, of this act.

Sec. 2. 1. *The Director of the Office of Energy shall adopt a Green Building Rating System for the purposes of determining the eligibility of a building or other structure for a tax abatement pursuant to section 3 of this act.*

2. *The Green Building Rating System must include standards and ratings equivalent to the standards and ratings provided pursuant to the Leadership in Energy and Environmental Design Green Building Rating System, except that the standards adopted by the Director:*

(a) Except as otherwise provided in paragraphs (b) and (c), must not include:

(1) Any standard that has not been included in the Leadership in Energy and Environmental Design Green Building Rating System for at least 2 years; or

(2) Standards for homes;

(b) Must provide reasonable exceptions based on the size of the area occupied by the building or other structure; and

(c) Must require a building or other structure to obtain:

(1) At least 3 points of credit for energy conservation to meet the equivalent of the silver level;

(2) At least 5 points of credit for energy conservation to meet the equivalent of the gold level; and

(3) At least 8 points of credit for energy conservation to meet the equivalent of the platinum level.

3. *As used in this section, "home" means a building or other structure for which the principal use is as a residential dwelling for not more than four families.*

Sec. 3. 1. *Except as otherwise provided in this section, the Director shall grant a partial abatement from the portion of the taxes imposed pursuant to chapter 361 of NRS, other than any taxes imposed for public education, on a building or other structure that is determined to meet the equivalent of the silver level or higher by an independent contractor authorized to make that determination in accordance with the Green Building Rating System adopted by the Director pursuant to section 2 of this act, if:*

(a) No funding is provided by any governmental entity in this State for the acquisition, design or construction of the building or other structure or for the acquisition of any land therefor. For the purposes of this paragraph:

(1) Private activity bonds must not be considered funding provided by a governmental entity.

(2) The term "private activity bond" has the meaning ascribed to it in 26 U.S.C. § 141.

(b) The owner of the property:

(1) Submits an application for the partial abatement to the Director. If such an application is submitted for a project that has not been completed on the date of that submission and there is a significant change in the scope of the project after that date, the application must be amended to include the change or changes.

(2) Except as otherwise provided in this subparagraph, provides to the Director, within 48 months after applying for the partial abatement, proof

that the building or other structure meets the equivalent of the silver level or higher, as determined by an independent contractor authorized to make that determination in accordance with the Green Building Rating System adopted by the Director pursuant to section 2 of this act. The Director may, for good cause shown, extend the period for providing such proof.

2. As soon as practicable after the Director receives:

(a) The application required by subsection 1, the Director shall forward a copy of that application to the:

- (1) Chief of the Budget Division of the Department of Administration;*
- (2) Department of Taxation;*
- (3) County assessor;*
- (4) County treasurer; and*
- (5) Commission on Economic Development.*

(b) The application and proof required by subsection 1, the Director shall determine whether the building or other structure is eligible for the abatement and, if so, forward a certificate of eligibility for the abatement to the:

- (1) Department of Taxation;*
- (2) County assessor;*
- (3) County treasurer; and*
- (4) Commission on Economic Development.*

3. As soon as practicable after receiving a copy of a an application pursuant to paragraph (a) of subsection 2, the Chief of the Budget Division and each affected local government shall publish a fiscal note that indicates an estimate of the fiscal impact of the partial abatement on that governmental entity.

4. The partial abatement:

(a) Must be for a duration of not more than ~~10~~ 5 years and in an annual amount that equals, for a building or other structure that meets the equivalent of:

(1) The silver level, ~~25~~ 10 percent of the portion of the taxes imposed pursuant to chapter 361 of NRS, other than any taxes imposed for public education, that would otherwise be payable for the building or other structure, excluding the associated land;

(2) The gold level, ~~30~~ 15 percent of the portion of the taxes imposed pursuant to chapter 361 of NRS, other than any taxes imposed for public education, that would otherwise be payable for the building or other structure, excluding the associated land; or

(3) The platinum level, ~~35~~ 20 percent of the portion of the taxes imposed pursuant to chapter 361 of NRS, other than any taxes imposed for public education, that would otherwise be payable for the building or other structure, excluding the associated land.

(b) Does not apply during any period in which the owner of the building or other structure is receiving another abatement or exemption pursuant to

this chapter or NRS 361.045 to 361.159, inclusive, from the taxes imposed pursuant to chapter 361 of NRS.

(c) Terminates upon any determination by the Director that the building or other structure has ceased to meet the equivalent of the silver level or higher. The Director shall provide notice and a reasonable opportunity to cure any noncompliance issues before making a determination that the building or other structure has ceased to meet that standard. The Director shall immediately provide notice of each determination of termination to the:

- (1) Department of Taxation;*
- (2) County assessor;*
- (3) County treasurer; and*
- (4) Commission on Economic Development.*

5. The Director shall adopt regulations:

(a) Establishing the qualifications and methods to determine eligibility for the abatement;

(b) Prescribing such forms as will ensure that all information and other documentation necessary to make an appropriate determination is filed with the Director; and

(c) Prescribing the criteria for determining when there is a significant change in the scope of a project for the purposes of subparagraph (1) of paragraph (b) of subsection 1,

➡ and the Department of Taxation shall adopt such additional regulations as it determines to be appropriate to carry out the provisions of this section.

6. As used in this section:

(a) "Building or other structure" does not include any building or other structure for which the principal use is as a residential dwelling for not more than four families.

(b) "Director" means the Director of the Office of Energy appointed pursuant to NRS 701.150.

(c) "Taxes imposed for public education" means:

- (1) Any ad valorem tax authorized or required by chapter 387 of NRS;*
- (2) Any ad valorem tax authorized or required by chapter 350 of NRS for the obligations of a school district, including, without limitation, any ad valorem tax necessary to carry out the provisions of subsection 5 of NRS 350.020; and*

(3) Any other ad valorem tax for which the proceeds thereof are dedicated to public education.

Sec. 4. 1. Except as otherwise provided in this section, if a:

(a) Business that engages in the primary trade of preparing, fabricating, manufacturing or otherwise processing raw material or an intermediate product through a process in which at least 50 percent of the material or product is recycled on-site; or

(b) Business that includes as a primary component a facility for the generation of electricity from recycled material,

↪ is found by the Commission on Economic Development to have as a primary purpose the conservation of energy or the substitution of other sources of energy for fossil sources of energy and obtains certification from the Commission on Economic Development pursuant to NRS 360.750, the Commission may, if the business additionally satisfies the requirements set forth in subsection 2 of NRS 361.0687, grant to the business a partial abatement from the taxes imposed on real property pursuant to chapter 361 of NRS.

2. If a partial abatement from the taxes imposed on real property pursuant to chapter 361 of NRS is approved by the Commission on Economic Development pursuant to NRS 360.750 for a business described in subsection 1:

(a) The partial abatement must:

(1) Be for a duration of at least 1 year but not more than 10 years;

(2) Not exceed 50 percent of the taxes on real property payable by the business each year; and

(3) Be administered and carried out in the manner set forth in NRS 360.750.

(b) The Executive Director of the Commission on Economic Development shall notify the county assessor of the county in which the business is located of the approval of the partial abatement, including, without limitation, the duration and percentage of the partial abatement that the Commission granted. The Executive Director shall, on or before April 15 of each year, advise the county assessor of each county in which a business qualifies for a partial abatement during the current fiscal year as to whether the business is still eligible for the partial abatement in the next succeeding fiscal year.

3. The partial abatement provided in this section applies only to the business for which certification was granted pursuant to NRS 360.750 and the property used in connection with that business. The exemption does not apply to property in this State that is not related to the business for which the certification was granted pursuant to NRS 360.750 or to property in existence and subject to taxation before the certification was granted.

4. As used in this section, "facility for the generation of electricity from recycled material" means a facility for the generation of electricity that uses recycled material as its primary fuel, including material from:

(a) Industrial or domestic waste, other than hazardous waste, even though it includes a product made from oil, natural gas or coal, such as plastics, asphalt shingles or tires;

(b) Agricultural crops, whether terrestrial or aquatic, and agricultural waste, such as manure and residue from crops; and

(c) Municipal waste, such as sewage and sludge.

↪ The term includes all the equipment in the facility used to process and convert into electricity the energy derived from a recycled material fuel.

Sec. 5. 1. If a partial abatement from the taxes imposed pursuant to chapter 361 of NRS is approved by the Commission on Economic

Development pursuant to NRS 360.750 for a facility for the generation of electricity from renewable energy or a facility for the production of an energy storage device:

(a) The partial abatement must be:

- (1) For a duration of 10 years;*
- (2) Equal to 50 percent of the taxes on real and personal property payable by the facility each year; and*
- (3) Administered and carried out in the manner set forth in NRS 360.750.*

(b) The Executive Director of the Commission on Economic Development shall:

- (1) Notify the county assessor of the county in which the facility is located of the approval of the partial abatement; and*
- (2) Advise the county assessor of the county in which the facility is located as to the dates on which the partial abatement will begin and end.*

2. As used in this section:

(a) "Biomass" means any organic matter that is available on a renewable basis, including, without limitation:

- (1) Agricultural crops and agricultural wastes and residues;*
- (2) Wood and wood wastes and residues;*
- (3) Animal wastes;*
- (4) Municipal wastes; and*
- (5) Aquatic plants.*

(b) "Energy storage device" means a device for use and storage of electrical energy that alleviates the consumption of fossil fuel and does not produce fossil fuel emissions.

(c) "Facility for the generation of electricity from renewable energy" means a facility for the generation of electricity that:

- (1) Uses renewable energy as its primary source of energy; and*
- (2) Has a generating capacity of at least 10 kilowatts.*

➡ *The term includes all the machinery and equipment that is used in the facility to collect and store the renewable energy and to convert the renewable energy into electricity. The term does not include a facility that is located on residential property.*

(d) "Renewable energy" means:

- (1) Biomass;*
- (2) Solar energy; or*
- (3) Wind.*

➡ *The term does not include coal, natural gas, oil, propane or any other fossil fuel, or nuclear energy.*

Sec. 6. 1. For purposes of the assessment of property pursuant to chapter 361 of NRS:

(a) Except as otherwise provided in paragraph (b), the value of a qualified system must not be included in the assessed value of a building.

(b) Any value added by a qualified system must be included in the assessed value of a commercial or industrial building during any period in which the business that owns the commercial or industrial building is receiving another abatement or exemption pursuant to this chapter or NRS 361.045 to 361.159, inclusive, from the taxes imposed pursuant to chapter 361 of NRS.

2. The Department of Taxation shall adopt such regulations as it determines to be necessary for the administration of this section.

3. As used in this section, "qualified system" means any system, method, construction, installation, machinery, equipment, device or appliance which is designed, constructed or installed in a residential, commercial or industrial building to heat or cool the building or water used in the building, or to provide electricity used in the building, by using:

(a) Energy from the wind or from solar devices not thermally insulated from the area where the energy is used;

(b) Geothermal resources;

(c) Energy derived from conversion of solid wastes; or

(d) Waterpower,

↪ which conforms to standards established by regulation of the Department of Taxation.

Sec. 7. If an application for an abatement from taxes pursuant to NRS 374.357 is approved pursuant to NRS 360.750 for a facility for the generation of electricity from renewable energy or a facility for the production of an energy storage device:

1. The taxpayer is eligible for the abatement for 2 years.

2. The abatement must be administered and carried out in the manner set forth in NRS 360.750.

3. For the purposes of this section and the abatement, unless the context otherwise requires:

(a) "Biomass" means any organic matter that is available on a renewable basis, including, without limitation:

(1) Agricultural crops and agricultural wastes and residues;

(2) Wood and wood wastes and residues;

(3) Animal wastes;

(4) Municipal wastes; and

(5) Aquatic plants.

(b) "Eligible machinery or equipment" means:

(1) If the business that qualifies for the abatement is a facility for the production of an energy storage device, machinery or equipment which is leased or purchased and for which a deduction is authorized pursuant to 26 U.S.C. § 179. The term does not include:

(I) Buildings or the structural components of buildings;

(II) Equipment used by a public utility;

(III) Equipment used for medical treatment;

(IV) Machinery or equipment used in mining;

(V) Machinery or equipment used in gaming; or

(VI) Aircraft.

(2) If the business that qualifies for the abatement is a facility for the generation of electricity from renewable energy, all the machinery and equipment that is used in the facility to collect and store the renewable energy and to convert the renewable energy into electricity.

(c) "Energy storage device" means a device for use and storage of electrical energy that alleviates the consumption of fossil fuel and does not produce fossil fuel emissions.

(d) "Facility for the generation of electricity from renewable energy" means a facility for the generation of electricity that:

(1) Uses renewable energy as its primary source of energy; and

(2) Has a generating capacity of at least 10 kilowatts.

➔ The term includes all the machinery and equipment that is used in the facility to collect and store the renewable energy and to convert the renewable energy into electricity. The term does not include a facility that is located on residential property.

(e) "Fuel cell" means a device or contrivance which, through the chemical process of combining ions of hydrogen and oxygen, produces electricity and water.

(f) "Renewable energy" means a source of energy that occurs naturally or is regenerated naturally, including, without limitation:

(1) Biomass;

(2) Fuel cells;

(3) Geothermal energy;

(4) Solar energy;

(5) Waterpower; and

(6) Wind.

➔ The term does not include coal, natural gas, oil, propane or any other fossil fuel, or nuclear energy.

Sec. 8. NRS 361.0687 is hereby amended to read as follows:

361.0687 1. A person who intends to locate or expand a business in this State may, pursuant to NRS 360.750, apply to the Commission on Economic Development for a partial abatement from the taxes imposed by this chapter.

2. For a business to qualify pursuant to NRS 360.750 for a partial abatement from the taxes imposed by this chapter, the Commission on Economic Development must determine that, in addition to meeting the other requirements set forth in subsection 2 of that section:

(a) If the business is a new business in a county whose population is 100,000 or more or a city whose population is 60,000 or more:

(1) The business will make a capital investment in the county of at least \$50,000,000 if the business is an industrial or manufacturing business or at least \$2,000,000 if the business is not an industrial or manufacturing business; and

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

(b) If the business is a new business in a county whose population is less than 100,000 or a city whose population is less than 60,000:

(1) The business will make a capital investment in the county of at least \$500,000; and

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

3. Except as otherwise provided in ~~[NRS 361.0685 and subsection 4,]~~ *sections 4 and 5 of this act*, if a partial abatement from the taxes imposed by this chapter is approved by the Commission on Economic Development pursuant to NRS 360.750:

(a) The partial abatement must:

(1) Be for a duration of at least 1 year but not more than 10 years;

(2) Not exceed 50 percent of the taxes on personal property payable by a business each year pursuant to this chapter; and

(3) Be administered and carried out in the manner set forth in NRS 360.750.

(b) The Executive Director of the Commission on Economic Development shall notify the county assessor of the county in which the business is located of the approval of the partial abatement, including, without limitation, the duration and percentage of the partial abatement that the Commission granted. The Executive Director shall, on or before April 15 of each year, advise the county assessor of each county in which a business qualifies for a partial abatement during the current fiscal year as to whether the business is still eligible for the partial abatement in the next succeeding fiscal year.

4. ~~If a partial abatement from the taxes imposed by this chapter is approved by the Commission on Economic Development pursuant to NRS 360.750 for a facility for the generation of electricity from renewable energy or a facility for the production of an energy storage device:~~

~~(a) The partial abatement must be:~~

~~(1) For a duration of 10 years;~~

~~(2) Equal to 50 percent of the taxes on real and personal property payable by the facility each year pursuant to this chapter; and~~

~~(3) Administered and carried out in the manner set forth in NRS 360.750.~~

~~(b) The Executive Director of the Commission on Economic Development shall:~~

~~(1) Notify the county assessor of the county in which the facility is located of the approval of the partial abatement; and~~

~~(2) Advise the county assessor of the county in which the facility is located as to the dates on which the partial abatement will begin and end.~~

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

~~(a) "Biomass" means any organic matter that is available on a renewable basis, including, without limitation:~~

- ~~(1) Agricultural crops and agricultural wastes and residues;~~
- ~~(2) Wood and wood wastes and residues;~~
- ~~(3) Animal wastes;~~
- ~~(4) Municipal wastes; and~~
- ~~(5) Aquatic plants.~~

~~(b) "Energy storage device" means a device for use and storage of electrical energy that alleviates the consumption of fossil fuel and does not produce fossil fuel emissions.~~

~~(c) "Facility for the generation of electricity from renewable energy" means a facility for the generation of electricity that:~~

- ~~(1) Uses renewable energy as its primary source of energy; and~~
- ~~(2) Has a generating capacity of at least 10 kilowatts.~~

~~→ The term includes all the machinery and equipment that is used in the facility to collect and store the renewable energy and to convert the renewable energy into electricity. The term does not include a facility that is located on residential property.~~

~~(d) "Industrial", "industrial or manufacturing business" does not include a facility for the generation of electricity from renewable energy {:~~

~~(e) "Renewable energy" means:~~

- ~~(1) Biomass;~~
- ~~(2) Solar energy; or~~
- ~~(3) Wind.~~

~~→ The term does not include coal, natural gas, oil, propane or any other fossil fuel, or nuclear energy.}, as that term is defined in section 5 of this act.~~

Sec. 9. NRS 361.0687 is hereby amended to read as follows:

361.0687 1. A person who intends to locate or expand a business in this State may, pursuant to NRS 360.750, apply to the Commission on Economic Development for a partial abatement from the taxes imposed by this chapter.

2. For a business to qualify pursuant to NRS 360.750 for a partial abatement from the taxes imposed by this chapter, the Commission on Economic Development must determine that, in addition to meeting the other requirements set forth in subsection 2 of that section:

(a) If the business is a new business in a county whose population is 100,000 or more or a city whose population is 60,000 or more:

(1) The business will make a capital investment in the county of at least \$50,000,000 if the business is an industrial or manufacturing business or at least \$5,000,000 if the business is not an industrial or manufacturing business; and

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

(b) If the business is a new business in a county whose population is less than 100,000 or a city whose population is less than 60,000:

(1) The business will make a capital investment in the county of at least \$5,000,000 if the business is an industrial or manufacturing business or at least \$500,000 if the business is not an industrial or manufacturing business; and

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

3. Except as otherwise provided in ~~NRS 361.0685~~, *section 4 of this act*, if a partial abatement from the taxes imposed by this chapter is approved by the Commission on Economic Development pursuant to NRS 360.750:

(a) The partial abatement must:

(1) Be for a duration of at least 1 year but not more than 10 years;

(2) Not exceed 50 percent of the taxes on personal property payable by a business each year pursuant to this chapter; and

(3) Be administered and carried out in the manner set forth in NRS 360.750.

(b) The Executive Director of the Commission on Economic Development shall notify the county assessor of the county in which the business is located of the approval of the partial abatement, including, without limitation, the duration and percentage of the partial abatement that the Commission granted. The Executive Director shall, on or before April 15 of each year, advise the county assessor of each county in which a business qualifies for a partial abatement during the current fiscal year as to whether the business is still eligible for the partial abatement in the next succeeding fiscal year.

Sec. 10. NRS 361.777 is hereby amended to read as follows:

361.777 Any partial abatements and partial exemptions ~~from taxation~~ to which a person may be entitled *from the taxes imposed* pursuant to this chapter must be applied in the following order of priority:

1. Any partial abatement to which the person is entitled pursuant to NRS 361.4722, 361.4723 or 361.4724.

2. Any partial exemptions to which the person is entitled ~~pursuant to this chapter~~.

3. Any partial abatements to which the person is entitled ~~pursuant to this chapter~~ other than a partial abatement described in subsection 1.

Sec. 11. NRS 374.357 is hereby amended to read as follows:

374.357 1. A person who maintains a business or intends to locate a business in this State may, pursuant to NRS 360.750, apply to the

Commission on Economic Development for an abatement from the taxes imposed by this chapter on the gross receipts from the sale, and the storage, use or other consumption, of eligible machinery or equipment for use by a business which has been approved for an abatement pursuant to NRS 360.750.

2. Except as otherwise provided in ~~[subsection 3,]~~ *section 7 of this act*, if an application for an abatement is approved pursuant to NRS 360.750:

(a) The taxpayer is eligible for an abatement from the tax imposed by this chapter for not more than 2 years for machinery or equipment which is leased or purchased. In the case of machinery or equipment that is leased, the lessee is the taxpayer who is eligible for an abatement.

(b) The abatement must be administered and carried out in the manner set forth in NRS 360.750.

3. ~~[If an application for an abatement is approved pursuant to NRS 360.750 for a facility for the generation of electricity from renewable energy or a facility for the production of an energy storage device:~~

~~(a) The taxpayer is eligible for an abatement from the tax imposed by this chapter for 2 years.~~

~~(b) The abatement must be administered and carried out in the manner set forth in NRS 360.750.~~

4. ~~As used in]~~ *For the purposes of this section, except as otherwise provided in section 7 of this act or unless the context otherwise requires [:*

~~(a) "Biomass" means any organic matter that is available on a renewable basis, including, without limitation:~~

~~(1) Agricultural crops and agricultural wastes and residues;~~

~~(2) Wood and wood wastes and residues;~~

~~(3) Animal wastes;~~

~~(4) Municipal wastes; and~~

~~(5) Aquatic plants.~~

~~(b) "Eligible", "eligible machinery or equipment" means [:~~

~~(1) If the business that qualifies for the abatement is not a facility for the generation of electricity from renewable energy,]~~ machinery or equipment which is leased or purchased and for which a deduction is authorized pursuant to 26 U.S.C. § 179. The term does not include:

~~[(I)] (a) Buildings or the structural components of buildings;~~

~~[(II)] (b) Equipment used by a public utility;~~

~~[(III)] (c) Equipment used for medical treatment;~~

~~[(IV)] (d) Machinery or equipment used in mining;~~

~~[(V)] (e) Machinery or equipment used in gaming; or~~

~~[(VI)] (f) Aircraft.~~

~~[(2) If the business that qualifies for the abatement is a facility for the generation of electricity from renewable energy, all the machinery and equipment that is used in the facility to collect and store the renewable energy and to convert the renewable energy into electricity.~~

~~(c) "Energy storage device" means a device for use and storage of electrical energy that alleviates the consumption of fossil fuel and does not produce fossil fuel emissions.~~

~~(d) "Facility for the generation of electricity from renewable energy" means a facility for the generation of electricity that:~~

~~(1) Uses renewable energy as its primary source of energy; and~~

~~(2) Has a generating capacity of at least 10 kilowatts.~~

~~➔ The term includes all the machinery and equipment that is used in the facility to collect and store the renewable energy and to convert the renewable energy into electricity. The term does not include a facility that is located on residential property.~~

~~(e) "Fuel cell" means a device or contrivance which, through the chemical process of combining ions of hydrogen and oxygen, produces electricity and water.~~

~~(f) "Renewable energy" means a source of energy that occurs naturally or is regenerated naturally, including, without limitation:~~

~~(1) Biomass;~~

~~(2) Fuel cells;~~

~~(3) Geothermal energy;~~

~~(4) Solar energy;~~

~~(5) Waterpower; and~~

~~(6) Wind.~~

~~➔ The term does not include coal, natural gas, oil, propane or any other fossil fuel, or nuclear energy.]~~

Sec. 12. Section 42 of chapter 2, Statutes of Nevada 2005, 22nd Special Session, at page 90, is hereby amended to read as follows:

Sec. 42. 1. This section and sections 14 to 37, inclusive, 39, 40 and 41 of this act become effective upon passage and approval.

2. Section 38 of this act becomes effective on June 1, 2005.

3. Sections 1, 2, 4, 6, 7, 8 and 9 to 13, inclusive, of this act become effective:

(a) Upon passage and approval for the purpose of adopting regulations and performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act; and

(b) On October 1, 2005, for all other purposes.

4. Section 5 of this act becomes effective on October 1, 2005, and applies to the construction or renovation of a public building, the designing of which begins on or after that date.

5. Sections 8.1 to 8.8, inclusive, of this act become effective:

(a) Upon passage and approval for the purpose of adopting regulations and performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act; and

(b) On July 1, 2006, for all other purposes.

6. ~~[Section 3 of this act becomes effective on July 1, 2007, and applies to the construction of a public building, the designing of which begins on or after that date.]~~

~~7.]~~ Sections 8.55 and 8.6 of this act expire by limitation on the date on which the provisions of 42 U.S.C. § 666 requiring each state to establish procedures under which the state has authority to withhold or suspend, or to restrict the use of professional, occupational and recreational licenses of persons who:

(a) Have failed to comply with a subpoena or warrant relating to a proceeding to determine the paternity of a child or to establish or enforce an obligation for the support of a child; or

(b) Are in arrears in the payment for the support of one or more children,

↪ are repealed by the Congress of the United States.

Sec. 13. (Deleted by amendment.)

Sec. 14. 1. The Director of the Office of Energy shall, not later than September 1, 2007, adopt:

(a) The Green Building Rating System required by section 2 of this act;

and

(b) The regulations required by section 3 of this act. ~~[; and~~

~~(c) The Green Building Rating System required by section 13 of this act.]~~

2. The Department of Taxation shall, not later than September 1, 2007, adopt the regulations required by section 3 of this act.

3. The Director of the Office of Energy shall provide an expedited procedure to carry out the provisions of section 3 of this act which allows for the consideration as soon as practicable for that purpose of applications filed before the effective date of this section with the Commission on Economic Development for a partial abatement of taxes pursuant to NRS 361.0775.

Sec. 15. 1. The provisions of section 4 of this act shall be deemed to apply to any partial abatement of taxes granted pursuant to NRS 361.0685 before the effective date of this section.

2. The provisions of section 5 of this act shall be deemed to apply to any partial abatement of taxes to which subsection 4 of NRS 361.0687 applied before the effective date of this section.

3. The provisions of section 7 of this act shall be deemed to apply to any partial abatement of taxes to which subsection 3 of NRS 374.357 applied before the effective date of this section.

4. The Commission on Economic Development shall not grant any partial abatement of taxes pursuant to NRS 361.0775 on or after the effective date of this section. The provisions of this act do not affect the terms of any partial abatement of taxes granted by the Commission on Economic Development pursuant to NRS 361.0775 before the effective date of this section.

5. The tax exemption provided pursuant to paragraph (d) of subsection 1 of NRS 374.307, as amended by chapter 2, Statutes of Nevada 2005,

22nd Special Session, at page 71, shall be deemed to apply to products and materials purchased on or after October 1, 2005, and on or before December 31, 2010, that are used in the construction of a building which:

(a) Is constructed:

(1) Pursuant to a preconstruction or construction contract executed on or before December 31, 2005; and

(2) As part of a construction project registered with the Office of Energy for the purpose of obtaining that tax exemption; and

(b) Is certified at or meets the equivalent of the silver level or higher by an independent contractor authorized to grant such certification in accordance with the Green Building Rating System adopted by the Director of the Office of Energy pursuant to the former provisions of NRS 701.217.

Sec. 15.5. 1. Except as otherwise provided in this section, the Director shall grant a partial abatement from the portion of the taxes imposed pursuant to chapter 361 of NRS, other than any taxes imposed for public education, on a building or other structure which:

(a) Is constructed:

(1) Pursuant to a preconstruction or construction contract executed on or before December 31, 2005; and

(2) As part of a construction project registered with the Office of Energy for the purpose of obtaining the partial abatement of taxes provided pursuant to the former provisions of NRS 361.0775; and

(b) Is certified at or meets the equivalent of the silver level or higher by an independent contractor authorized to grant such certification in accordance with the Green Building Rating System adopted by the Director of the Office of Energy pursuant to the former provisions of NRS 701.217.

2. The Director shall not grant the partial abatement if any funding is provided by any governmental entity in this State for the acquisition, design or construction of the building or other structure or for the acquisition of any land therefor. For the purposes of this subsection:

(a) Private activity bonds must not be considered funding provided by a governmental entity.

(b) The term "private activity bond" has the meaning ascribed to it in 26 U.S.C. § 141.

3. To obtain the partial abatement, the owner of the property must:

(a) Submit an application for the partial abatement to the Director. If such an application is submitted for a project that has not been completed on the date of that submission and there is a significant change in the scope of the project after that date, the application must be amended to include the change or changes.

(b) Except as otherwise provided in this paragraph, provide to the Director, within 48 months after applying for the partial abatement, proof that the building or other structure is certified at or meets the equivalent of the silver level or higher by an independent contractor authorized to grant such certification in accordance with the Green Building Rating System

adopted by the Director pursuant to the former provisions of NRS 701.217. The Director may, for good cause shown, extend the period for providing such proof.

4. As soon as practicable after the Director receives:

(a) The application required by subsection 3, the Director shall forward a copy of that application to the:

- (1) Chief of the Budget Division of the Department of Administration;
- (2) Department of Taxation;
- (3) County assessor;
- (4) County treasurer; and
- (5) Commission on Economic Development.

(b) The application and proof required by subsection 3, the Director shall determine whether the building or other structure is eligible for the abatement and, if so, forward a certificate of eligibility for the abatement to the:

- (1) Department of Taxation;
- (2) County assessor;
- (3) County treasurer; and
- (4) Commission on Economic Development.

5. As soon as practicable after receiving a copy of an application pursuant to paragraph (a) of subsection 4, the Chief of the Budget Division and each affected local government shall publish a fiscal note that indicates an estimate of the fiscal impact of the partial abatement on that governmental entity.

6. The partial abatement:

(a) Must be for a duration of not more than ~~10~~ 5 years and in an annual amount that equals ~~25~~ 25 percent of the portion of the taxes imposed pursuant to chapter 361 of NRS, other than any taxes imposed for public education, that would otherwise be payable for the building or other structure, excluding the associated land.

(b) Does not apply during any period in which the owner of the building or other structure is receiving another abatement or exemption from the taxes imposed pursuant to chapter 361 of NRS, other than any partial abatement to which the owner is entitled pursuant to NRS 361.471 to 361.4735, inclusive.

(c) Terminates upon any determination by the Director that the building or other structure has ceased to meet the equivalent of the silver level or higher. The Director shall provide notice and a reasonable opportunity to cure any noncompliance issues before making a determination that the building or other structure has ceased to meet that standard. The Director shall immediately provide notice of each determination of termination to the:

- (1) Department of Taxation;
- (2) County assessor;
- (3) County treasurer; and
- (4) Commission on Economic Development.

7. The Director shall:

(a) Adopt regulations:

(1) Establishing the qualifications and methods to determine eligibility for the abatement;

(2) Prescribing such forms as will ensure that all information and other documentation necessary to make an appropriate determination is filed with the Director; and

(3) Prescribing the criteria for determining when there is a significant change in the scope of a project for the purposes of paragraph (a) of subsection 3,

➡ and the Department of Taxation shall adopt such additional regulations as it determines to be appropriate to carry out the provisions of this section.

(b) Provide an expedited procedure to carry out the provisions of this section which allows for the consideration as soon as practicable for that purpose of applications filed before the effective date of this section with the Commission on Economic Development for a partial abatement of taxes pursuant to NRS 361.0775.

8. As used in this section:

(a) "Building or other structure" does not include any building or other structure for which the principal use is as a residential dwelling for not more than four families.

(b) "Director" means the Director of the Office of Energy appointed pursuant to NRS 701.150.

(c) "Taxes imposed for public education" means:

(1) Any ad valorem tax authorized or required by chapter 387 of NRS;

(2) Any ad valorem tax authorized or required by chapter 350 of NRS for the obligations of a school district, including, without limitation, any ad valorem tax necessary to carry out the provisions of subsection 5 of NRS 350.020; and

(3) Any other ad valorem tax for which the proceeds thereof are dedicated to public education.

Sec. 16. 1. NRS 361.0685, 361.0775, 361.079 and 701.217 are hereby repealed.

2. Section 3 of chapter 2, Statutes of Nevada 2005, 22nd Special Session, at page 69, is hereby repealed.

Sec. 17. 1. This section and sections 1, 4 to 8, inclusive, and 10 to 16, inclusive, of this act become effective upon passage and approval.

2. Sections 2 and 3 of this act become effective:

(a) Upon passage and approval for the purpose of adopting regulations and performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act; and

(b) On July 1, 2007, for all other purposes.

3. Sections 5, 7, 8 and 11 of this act expire by limitation on June 30, 2009.

4. Section 9 of this act becomes effective on July 1, 2009.

TEXT OF REPEALED SECTIONS

361.0685 Exemption of percentage of personal and real property of certain businesses certified by Commission on Economic Development.

1. Except as otherwise provided in this section, if a:

(a) Business that engages in the primary trade of preparing, fabricating, manufacturing or otherwise processing raw material or an intermediate product through a process in which at least 50 percent of the material or product is recycled on site; or

(b) Business that includes as a primary component a facility for the generation of electricity from recycled material,

↪ is found by the Commission on Economic Development to have as a primary purpose the conservation of energy or the substitution of other sources of energy for fossil sources of energy and obtains certification from the Commission on Economic Development pursuant to NRS 360.750, the Commission may, if the business additionally satisfies the requirements set forth in subsection 2 of NRS 361.0687, grant to the business a partial abatement from the taxes imposed on real property by this chapter.

2. If a partial abatement from the taxes imposed on real property by this chapter is approved by the Commission on Economic Development pursuant to NRS 360.750 for a business described in subsection 1:

(a) The partial abatement must:

(1) Be for a duration of at least 1 year but not more than 10 years;

(2) Not exceed 50 percent of the taxes on real property payable by the business each year pursuant to this chapter; and

(3) Be administered and carried out in the manner set forth in NRS 360.750.

(b) The Executive Director of the Commission on Economic Development shall notify the county assessor of the county in which the business is located of the approval of the partial abatement, including, without limitation, the duration and percentage of the partial abatement that the Commission granted. The Executive Director shall, on or before April 15 of each year, advise the county assessor of each county in which a business qualifies for a partial abatement during the current fiscal year as to whether the business is still eligible for the partial abatement in the next succeeding fiscal year.

3. The partial abatement provided in this section applies only to the business for which certification was granted pursuant to NRS 360.750 and the property used in connection with that business. The exemption does not apply to property in this state that is not related to the business for which the certification was granted pursuant to NRS 360.750 or to property in existence and subject to taxation before the certification was granted.

4. As used in this section, a "facility for the generation of electricity from recycled material" is a facility which uses recycled material as its primary fuel including material from:

(a) Industrial or domestic waste, other than hazardous waste, even though it includes a product made from oil, natural gas or coal, such as plastics, asphalt shingles or tires;

(b) Agricultural crops, whether terrestrial or aquatic, and agricultural waste, such as manure and residue from crops; and

(c) Municipal waste, such as sewage and sludge.

↪ The term includes all the equipment in the facility used to process and convert into electricity the energy derived from a recycled material fuel.

361.0775 Partial abatement of taxes imposed on certain structures that use resources efficiently.

1. The Commission on Economic Development shall grant a partial abatement from the tax imposed on real property by this chapter for property which has a building or other structure that is certified at or meets the equivalent of the silver level or higher by a person authorized to grant such certification in accordance with the Leadership in Energy and Environmental Design Green Building Rating System or its equivalent, as adopted by the Director of the Office of Energy pursuant to NRS 701.217.

2. The partial abatement must be for a duration of not more than 10 years and must not exceed 50 percent of the taxes on real property payable each year pursuant to this chapter.

3. The Commission on Economic Development shall establish by regulation the qualifications and methods to determine eligibility for the abatement.

4. The Commission on Economic Development shall immediately forward a certificate of eligibility for the abatement to:

- (a) The Department of Taxation;
- (b) The Nevada Tax Commission;
- (c) The county treasurer; and
- (d) The county assessor.

361.079 Exemption of qualified systems for heating, cooling or provision of electricity.

1. Except as otherwise provided in subsection 2, for any assessment made on or after July 1, 1983, any value added by a qualified system must be excluded from the assessed value of the building regardless of the date the system was installed.

2. Value added by a qualified system must not be excluded from the assessed value of a commercial or industrial building during any period in which the business that owns the commercial or industrial building is receiving another abatement or exemption from the taxes imposed by this chapter.

3. As used in this section, "qualified system" means any system, method, construction, installation, machinery, equipment, device or appliance which is designed, constructed or installed in a residential, commercial or industrial building to heat or cool the building or water used in the building, or to provide electricity used in the building, by using:

- (a) Energy from the wind or from solar devices not thermally insulated from the area where the energy is used;
- (b) Geothermal resources;

(c) Energy derived from conversion of solid wastes; or

(d) Waterpower,

↳ which conforms to standards established by regulation of the Department.

701.217 Adoption of Green Building Standards for certain public buildings; adoption of Green Building Rating System for certain purposes.

1. The Director, in consultation with the State Public Works Board and any other interested agency, shall:

(a) In cooperation with representatives of the building and development industry, adopt guidelines establishing Green Building Standards for all occupied public buildings whose construction will be sponsored or financed by this State or a local government.

(b) Adopt a Green Building Rating System, such as the Leadership in Energy and Environmental Design Green Building Rating System or its equivalent, pursuant to subsections 4 and 5. With regard to buildings or structures that are not public buildings or structures, the Green Building Rating System adopted by the Director is to be used only for the purposes of determining eligibility for tax abatements or tax exemptions that are authorized by law to use the Green Building Rating System.

2. Guidelines adopted pursuant to paragraph (a) of subsection 1 must include, without limitation, suggested:

(a) Requirements for the use of resource-efficient materials for the construction and maintenance of the building;

(b) Standards for indoor environmental quality;

(c) Standards for the efficient use of water, including the efficient use of water for landscaping purposes;

(d) Standards for the efficient use of energy; and

(e) Requirements for the design and preparation of building lots.

3. If standards equivalent to the Leadership in Energy and Environmental Design Green Building Rating System are adopted, the standards adopted must provide reasonable exceptions based on the size, location and use of the building.

4. Subject to the provisions of subsection 5, the Director shall establish a process for adopting a Green Building Rating System, such as the Leadership in Energy and Environmental Design Green Building Rating System or its equivalent. The process must include, without limitation:

(a) The gathering and development of scientific data;

(b) Comments from representatives of the building industry;

(c) Consensus from representatives of the building industry;

(d) A method by which the Director, the State Public Works Board and other interested agencies may cast ballots on the proposed standards;

(e) A pilot program for the purpose of refining the standards; and

(f) A process by which an aggrieved person may file an appeal of the standards adopted.

5. In adopting a Green Building Rating System pursuant to subsection 4, the Director is not required to adopt and is not limited to using the

Leadership in Energy and Environmental Design Green Building Rating System but may adopt an equivalent rating system based on any other nationally recognized standards for green buildings, or any combination of those standards.

Section 3 of chapter 2, Statutes of Nevada 2005, 22nd Special Session:

Sec. 3. Chapter 338 of NRS is hereby amended by adding thereto a new section to read as follows:

1. *Except as otherwise provided in subsection 2, each occupied public building whose construction will be sponsored or financed by this State must, when completed, meet the requirements to be certified at or meet the equivalent of the base level or higher in accordance with the Leadership in Energy and Environmental Design Green Building Rating System, or an equivalent standard, as adopted by the Director of the Office of Energy pursuant to section 11 of this act.*

2. *During each biennium, at least two occupied public buildings whose construction will be sponsored or financed by this State must be designated as demonstration projects and must, when completed, meet the requirements to be certified at or meet the equivalent of the silver level or higher in accordance with the Leadership in Energy and Environmental Design Green Building Rating System, or an equivalent standard, as adopted by the Director of the Office of Energy pursuant to section 11 of this act if:*

(a) The Director of the Office of Energy, in consultation with the State Board of Examiners and the State Public Works Board, has determined that it is feasible for the buildings to meet such requirements and standards and that it is a cost-effective investment to do so; and

(b) The agency or agencies that will occupy the buildings have agreed to allow the buildings to be designated as demonstration projects pursuant to this subsection.

3. *Each occupied public building whose construction is sponsored or financed by a local government may meet the requirements to be certified at or meet the equivalent of the base level or higher in accordance with the Leadership in Energy and Environmental Design Green Building Rating System, or an equivalent standard, as adopted by the Director of the Office of Energy pursuant to section 11 of this act.*

4. *As used in this section, "occupied public building" means a public building used primarily as an office space or work area for persons employed by this State or a local government. The term does not include a public building used primarily as a storage facility or warehouse or for similar purposes.*

Senator Titus moved the adoption of the amendment.

Remarks by Senators Titus, Townsend, Carlton and Cegavske.

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

SENATOR TITUS:

This amendment will alter the section of the bill that establishes the procedure for going forward with LEED tax-break applications. It amends what we are going to put in place so companies can, in the future, apply for and get LEED tax breaks.

This amendment reduces the amount of the tax break you can get and the amount of time for which you are eligible to receive it. This information is on page 4 of the amendment. Instead of getting a 25-percent property-tax break for silver, a 30 percent for gold, and a 35 percent for platinum, this amendment would reduce that to 10 percent, 15 percent and 20 percent. I can assure you that with those reduced percentages, we remain, by far, the most generous state in the Country when it comes to giving breaks for LEED standards. Most states just give a pass to get in line first so plans can be reviewed quickly. Ten-percent, 15-percent and 20-percent property-tax breaks are extremely generous.

The amendment also shortens the amount of time for the entitlement from 10 years to 5 years so that a company is entitled to the annual property-tax break, not for a 10-year period but for a 5-year period. This is more reasonable as we go forward with applications for LEED because it will not cost the State as much money. Yet, it will reward the companies that do the right thing by being more energy efficient and more sustainable, and it will keep us number one in the Country in terms of incentives for companies meeting LEED standards.

SENATOR TOWNSEND:

I rise in respectful opposition to the amendment as proposed by the distinguished Minority Leader, for all of the reasons previously stated. I want to assure the body regarding the following issues. I believe the statement was made about the effects on the State. The bill, as amended, prior to adopting this proposed amendment or any other amendment, protects the State. The Distributive School Account (DSA) is protected, which is the State's responsibility. The effect of this bill is on local government, but the State is protected. We have carved out (1) land, (2) protected the DSA, and (3) reduced the tax abatements. I believe it is as far as we can go without substantial damage to us legally.

SENATOR CARLTON:

Thank you, Mr. President. I rise in support of the amendment. It addresses many of the issues I had in the committee hearing when we discussed this bill. Two of the things I brought up was that yes, it does fence off the DSA and yes, the State is protected.

My district lies within Clark County. Clark County is going to bear the biggest burden of this decision. I know we are going to build some "green" things up in the northern part of the State but not nearly at the level, scope or breadth that we are going to build them in Clark County. In Clark County, we will impact their general operating budget. We will impact police, fire, medical assistance to indigent persons, the library system and the family-court system. This is my tax bill. Clark County is close to the people and has to provide so many essential services that we do not. Without this amendment, we will be digging a ten-year hole for Clark County. They will not be able to get out unless we come back in a few years to change it. After this debate this evening, I am not certain if anyone is going to want to touch this one for a while. I will not blame you if you do not want to bring this up again.

In the original bill, it said up to ten years. That gave me a level of comfort. Two years from now, we may come back, look at it, and decide we want to give them another five years. They would have gotten seven years out of ten years. That was changed. Now it is ten years. We will be impacting all of the services in Clark County for ten years unless it is so draconian that they come back here and have to undo our fix in order to bring Clark County back to where we would like them to be to be able to provide the services to our constituents.

I want to thank the Minority Leader for bringing this amendment forward. It makes me happy to see the five years. I think the next few years will be a learning curve. I am hoping that not too many of those letters are out there. I whole-heartedly support this amendment on behalf of Clark County.

SENATOR CEGAVSKE:

Thank you, Mr. President. I do not sit on the committee that heard this issue. This is a complex issue. I hope that we do not rush in and do something that will cost us again.

My questions are for the Minority Leader. I looked at the percentages listed on page 4 and have tried to find in the bill when they would become effective. If all of the six companies listed by the Chair of the Committee on Commerce and Labor are under the present guidelines and the numbers you are talking about, do the percentages become effective when this bill becomes effective? Is that what the bill date on the original bill of June 21 is?

SENATOR TITUS:

This is an amendment to the bill that would include the previous amendment brought by the Chair of the Committee on Commerce and Labor. The only things being changed are the percentages.

SENATOR CEGAVSKE:

If this amendment was put in, what is the effective date of those numbers?

SENATOR TOWNSEND:

The amendment before you deals with those individuals who would apply after the effective date that is in the bill as amended. Which means, anyone who would meet the three criteria which is to have a preconstruction contract, who would file with the Office of Energy and would have an abatement letter from the Department of Taxation after February 1, 2007. They would get no sales tax exemption under the current bill. This does not change that. What it does, is that those who get a letter of tax abatement would have their ad-valorem abatement reduced from 10 to 5 years, 25 percent for silver to 10 percent, 30 percent for gold would be reduced to 15 percent and platinum from 35 percent to 20 percent. That would be all of those who would apply after February 1, 2007.

SENATOR CEGAVSKE:

Thank you, Mr. President. Then, if these dates would not impact the six companies that have already followed the guidelines, followed everything and are all right, this would only affect any company afterwards. Would we still be in a state where we could be sued because of changing these dates? Would we still be liable for anything after that date?

SENATOR TOWNSEND:

The six previously affected properties, discussed on other amendments, will not be impacted by these changes. Anyone applying for an ad-valorem abatement going forward, starting February 1, 2007, would be held to these standards if they received LEED certification.

Senators Titus, Carlton and Care requested a roll call vote on Senator Titus's motion.

Roll call on Senator Titus's motion:

YEAS—9.

NAYS—Amodei, Beers, Cegavske, Coffin, Hardy, Heck, McGinness, Nolan, Raggio, Rhoads, Townsend, Washington—12.

The motion having failed to receive a majority, Mr. President declared it lost.

Bill ordered reprinted, reengrossed and to third reading.

Senator Townsend moved that Assembly Bill No. 621 be placed on the General File on the next legislative day when returned from reprint.

Remarks by Senator Townsend.

Motion carried.

GENERAL FILE AND THIRD READING

Senate Bill No. 189.

Bill read third time.

Roll call on Senate Bill No. 189:

YEAS—21.

NAYS—None.

Senate Bill No. 189 having received a constitutional majority,
Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Amodei moved that Senate Bill No. 380 be taken from the General
File and placed on the General File for the next legislative day.

Remarks by Senator Amodei.

Motion carried.

Senator Beers moved that Assembly Bill No. 594 be taken from the
General File and placed on the Secretary's desk.

Remarks by Senator Beers.

Motion carried.

GENERAL FILE AND THIRD READING

Senate Bill No. 544.

Bill read third time.

Roll call on Senate Bill No. 544:

YEAS—21.

NAYS—None.

Senate Bill No. 544 having received a constitutional majority,
Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 573.

Bill read third time.

Remarks by Senator Cegavske.

Roll call on Senate Bill No. 573:

YEAS—21.

NAYS—None.

Senate Bill No. 573 having received a constitutional majority,
Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 182.

Bill read third time.

Roll call on Assembly Bill No. 182:

YEAS—21.

NAYS—None.

Assembly Bill No. 182 having received a constitutional majority,
Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 440.

Bill read third time.

Roll call on Assembly Bill No. 440:

YEAS—21.

NAYS—None.

Assembly Bill No. 440 having received a constitutional majority,
Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 624.

Bill read third time.

Remarks by Senators Care and Heck.

Roll call on Assembly Bill No. 624:

YEAS—20.

NAYS—Carlton.

Assembly Bill No. 624 having received a constitutional majority,
Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

UNFINISHED BUSINESS
CONSIDERATION OF ASSEMBLY AMENDMENTS

Senate Bill No. 196.

The following Assembly amendment was read:

Amendment No. 927.

"SUMMARY—Revises provisions relating to ~~the Department of Cultural Affairs;~~ *organizations for the promotion of culture.* (BDR 18-548)"

"AN ACT relating to ~~the Department of Cultural Affairs;~~ *organizations for the promotion of culture;* limiting the total face amount of bonds that the Commission for Cultural Affairs may issue annually to provide financial assistance for the preservation and promotion of cultural resources; exempting artifacts donated to the Department *of Cultural Affairs* from the procedures otherwise applicable to state agencies for the acceptance of gifts or grants of property or services; *exempting certain property from taxation;* changing the name of the Nevada State Museum and Historical Society; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law authorizes the Commission for Cultural Affairs to provide financial assistance, in an amount not to exceed \$3,000,000 per year from the proceeds of bonds, to governmental entities and nonprofit corporations formed for educational and charitable purposes. (NRS 233C.220, 233C.225) Section 1 of this bill eliminates the \$3,000,000 annual cap on financial assistance that may be granted from the proceeds of bonds and provides instead that the face amount of the bonds issued annually to provide such financial assistance may not exceed \$3,000,000, thereby allowing additional bond sale proceeds or premiums to be used to provide financial assistance.

Section 3 of this bill exempts artifacts donated to the Department of Cultural Affairs from the procedures otherwise applicable to state agencies for the acceptance of gifts or grants of property or services. (NRS 353.335)

Section 4 *of this bill provides an exemption from taxation for the Boulder City Museum and Historical Association.*

Section 5 of this bill changes the name of the "Nevada State Museum and Historical Society" to the "Nevada State Museum Las Vegas." (NRS 120A.360, 381.004, 381.207)

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

Section 1. NRS 233C.225 is hereby amended to read as follows:

233C.225 1. The Commission shall determine annually the total amount of financial assistance it will grant from the proceeds of bonds issued pursuant to this section in that calendar year pursuant to NRS 233C.200 to 233C.230, inclusive. The Commission shall notify the State Board of Examiners and the State Board of Finance of that amount. ~~[In no case may the amount to be granted from the proceeds of such bonds exceed \$3,000,000 per year.]~~

2. After receiving the notice given pursuant to subsection 1, the State Board of Finance shall issue general obligation bonds of the State of Nevada in the amount necessary to generate the amount to be granted by the Commission from the proceeds of bonds issued pursuant to this section and to pay the expenses related to the issuance of the bonds. The expenses related to the issuance of bonds pursuant to this section must be paid from the proceeds of the bonds, and must not exceed 2 percent of the face amount of the bonds sold. *In no case may the total face amount of the bonds issued pursuant to this section exceed \$3,000,000 per year.* No public debt is created, within the meaning of Section 3 of Article 9 of the Constitution of the State of Nevada, until the issuance of the bonds.

3. The proceeds from the sale of the bonds authorized by this section, after deducting the expenses relating to the issuance of the bonds, must be deposited with the State Treasurer and credited to the Fund for the Preservation and Promotion of Cultural Resources.

4. The provisions of the State Securities Law, contained in chapter 349 of NRS, apply to the issuance of bonds pursuant to this section.

~~{5.—The amount of financial assistance granted from the proceeds of bonds issued pursuant to this section must not exceed \$30,000,000 in any 10-year period. The total face amount of the bonds issued pursuant to this section must not exceed the sum of:~~

~~(a) The amount of financial assistance granted pursuant to this section; and~~

~~(b) The amount necessary to pay the expenses related to the issuance of the bonds, which must not exceed 2 percent of the face amount of the bonds sold.]~~

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

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

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

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

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

(a) The Nevada *State Museum* ~~[and Historical Society,]~~ *Las Vegas*, 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 *State Museum* ~~[and Historical Society,]~~ *Las Vegas*, 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 *State Museum* ~~[and Historical Society,]~~ *Las Vegas*, 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 listed on an established stock exchange must be sold at the prevailing price for that security on the exchange at the time of sale. Other securities not listed on an established stock exchange may be sold:

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

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

6. The Administrator shall hold property that was removed from a safe-deposit box or other safekeeping repository for 1 year after the date of the delivery of the property to the Administrator, unless that property is a will or a codicil to a will, in which case the Administrator shall hold the property for 10 years after the date of the delivery of the property to the

Administrator. If no claims are filed for the property within that period, it may be destroyed.

Sec. 3. NRS 353.335 is hereby amended to read as follows:

353.335 1. Except as otherwise provided in subsections 5 and 6, a state agency may accept any gift or grant of property or services from any source only if it is included in an act of the Legislature authorizing expenditures of nonappropriated money or, when it is not so included, if it is approved as provided in subsection 2.

2. If:

(a) Any proposed gift or grant is necessary because of an emergency as defined in NRS 353.263 or for the protection or preservation of life or property, the Governor shall take reasonable and proper action to accept it and shall report the action and his reasons for determining that immediate action was necessary to the Interim Finance Committee at its first meeting after the action is taken. Action by the Governor pursuant to this paragraph constitutes acceptance of the gift or grant, and other provisions of this chapter requiring approval before acceptance do not apply.

(b) The Governor determines that any proposed gift or grant would be forfeited if the State failed to accept it before the expiration of the period prescribed in paragraph (c), he may declare that the proposed acceptance requires expeditious action by the Interim Finance Committee. Whenever the Governor so declares, the Interim Finance Committee has 15 days after the proposal is submitted to its Secretary within which to approve or deny the acceptance. Any proposed acceptance which is not considered within the 15-day period shall be deemed approved.

(c) The proposed acceptance of any gift or grant does not qualify pursuant to paragraph (a) or (b), it must be submitted to the Interim Finance Committee. The Interim Finance Committee has 45 days after the proposal is submitted to its Secretary within which to consider acceptance. Any proposed acceptance which is not considered within the 45-day period shall be deemed approved.

3. The Secretary shall place each request submitted to him pursuant to paragraph (b) or (c) of subsection 2 on the agenda of the next meeting of the Interim Finance Committee.

4. In acting upon a proposed gift or grant, the Interim Finance Committee shall consider, among other things:

- (a) The need for the facility or service to be provided or improved;
- (b) Any present or future commitment required of the State;
- (c) The extent of the program proposed; and
- (d) The condition of the national economy, and any related fiscal or monetary policies.

5. A state agency may accept:

- (a) Gifts, including grants from nongovernmental sources, not exceeding \$10,000 each in value; and
- (b) Governmental grants not exceeding \$100,000 each in value,

↪ if the gifts or grants are used for purposes which do not involve the hiring of new employees and if the agency has the specific approval of the Governor or, if the Governor delegates this power of approval to the Chief of the Budget Division of the Department of Administration, the specific approval of the Chief.

6. This section does not apply to:

- (a) The Nevada System of Higher Education; ~~for~~
- (b) The Department of Health and Human Services while acting as the state health planning and development agency pursuant to paragraph (d) of subsection 2 of NRS 439A.081 or for donations, gifts or grants to be disbursed pursuant to NRS 433.395 ~~for~~; or
- (c) *Artifacts donated to the Department of Cultural Affairs.*

Sec. 4. NRS 361.110 is hereby amended to read as follows:

361.110 1. Except as otherwise provided in subsection 2, the buildings, with their furniture and equipment, and the lots of ground on which they stand, used therewith and necessary thereto, of the Nevada Museum of Art, Inc., *the Boulder City Museum and Historical Association*, the Young Men's Christian Association, the Young Women's Christian Association, the American National Red Cross or any of its chapters in the State of Nevada, the Salvation Army Corps, the Girl Scouts of America, the Camp Fire Girls, Inc., the Boy Scouts of America and the Sierra Arts Foundation are exempt from taxation.

2. If any property exempt from taxation pursuant to subsection 1 is used for purposes other than those of the organizations described in subsection 1, respectively, and a rent or other valuable consideration is received for its use, the property must be taxed, unless the rent or other valuable consideration is paid or given by an organization that qualifies as a tax-exempt organization pursuant to 26 U.S.C. § 501(c)(3).

~~{Sec. 4.}~~ *Sec. 5. NRS 381.004 is hereby amended to read as follows:*

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

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

- (a) The Nevada State Museum;
- (b) The Lost City Museum;
- (c) The Nevada *State* Museum ~~{and Historical Society;}~~ *Las Vegas;*
- (d) The Nevada Historical Society;
- (e) The East Ely Depot Museum;
- (f) The Nevada State Railroad Museum in Carson City; and
- (g) The Nevada State Railroad Museum in Boulder City.

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

~~{Sec. 5.}~~ *Sec. 6. NRS 381.207 is hereby amended to read as follows:*

381.207 1. The holder of a permit, except as otherwise provided in subsections 2 and 3, who does work upon aboriginal mounds and earthworks, ancient burial grounds, prehistoric sites, deposits of fossil bones or other archeological and vertebrate paleontological features within the State shall give to the State 50 percent of all articles, implements and materials found or discovered, to be deposited with the Nevada State Museum, for exhibition or other use within the State as determined by the Museum Director. The Museum Director may accept less than 50 percent of such items. Upon receipt of items pursuant to this subsection, the Museum Director shall notify the Office of Historic Preservation.

2. The holder of a permit who does any such work within the State under the authority and direction of the Nevada Historical Society, the Nevada *State* Museum ~~[and Historical Society,]~~ *Las Vegas*, or an institution or political subdivision of the State shall give 50 percent of all articles, implements and materials found or discovered to the Society, institution or political subdivision. The holder of the permit may retain the other 50 percent.

3. If the Nevada Historical Society, the Nevada *State* Museum ~~[and Historical Society,]~~ *Las Vegas*, or an institution or political subdivision of the State is the holder of the permit, it may retain all articles, implements and materials found or discovered.

4. Whenever the Office of Historic Preservation acquires articles, implements and materials under the provisions of this section, they must be transferred to the Museum Director for exhibition or other use within the State as determined by the Museum Director.

~~[Sec. 6.]~~ Sec. 7. 1. Any administrative regulations adopted by an officer, agency or other entity whose name has been changed or whose responsibilities have been transferred pursuant to the provisions of this act to another officer, agency or other entity remain in force until amended by the officer, agency or other entity to which the responsibility for the adoption of the regulations has been transferred.

2. Any contracts or other agreements entered into by an officer, agency or other entity whose name has been changed or whose responsibilities have been transferred pursuant to the provisions of this act to another officer, agency or other entity are binding upon the officer, agency or other entity to which the responsibility for the administration of the provisions of the contract or other agreement has been transferred. Such contracts and other agreements may be enforced by the officer, agency or other entity to which the responsibility for the enforcement of the provisions of the contract or other agreement has been transferred.

3. Any action taken by an officer, agency or other entity whose name has been changed or whose responsibilities have been transferred pursuant to the provisions of this act to another officer, agency or other entity remains in effect as if taken by the officer, agency or other entity to which the responsibility for the enforcement of such actions has been transferred.

~~[Sec. 7.]~~ *Sec. 8.* The Legislative Counsel shall:

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

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

~~[Sec. 8.]~~ *Sec. 9.* This act becomes effective upon passage and approval.

Senator Hardy moved that the Senate concur in the Assembly amendment to Senate Bill No. 196.

Remarks by Senator Hardy.

Motion carried by a constitutional majority.

Bill ordered enrolled.

Senate Bill No. 222.

The following Assembly amendment was read:

Amendment No. 852.

"SUMMARY—Creates the Nye County Water District. (BDR S-317)"

"AN ACT relating to water; creating the Nye County Water District; providing for the acquisition, storage, sale and distribution of water by the District; conferring other powers on the District; providing for the membership of the Governing Board of the District; setting forth the duties of the Board; authorizing the Board to levy and collect certain taxes; exempting the District from regulation by the Public Utilities Commission of Nevada; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

The Nevada State Legislature has enacted several laws that create water districts. For example, in 1947, the Legislature created the Las Vegas Valley Water District by a special act. (Chapter 164, Statutes of Nevada 1947, p. 534) In 2003, the Legislature created the Lincoln County Water District by a special act. (Chapter 474, Statutes of Nevada 2003, p. 2985) A water district is generally created to provide for the storage, conservation, distribution and sale of water within or outside of the district. (Chapter 100, Statutes of Nevada 1993, p. 159)

Sections 1-12 of this bill create the Nye County Water District by a special act similar to that which created the Lincoln County Water District.

Section 6 of this bill specifies that the jurisdiction and service area of the District consists of all the land within the boundaries of Nye County, Nevada.

Section 7 of this bill states that the powers, duties and privileges of the District must be exercised by the Governing Board of the District, and that

the membership of the Board must consist of seven members appointed by the Board of County Commissioners of Nye County.

Section 8 of this bill sets forth an extensive list of powers conferred upon the District, including, without limitation: (1) the power to incur indebtedness and issue bonds; (2) the power to acquire land and water rights to carry out the purposes of the District; (3) the power to construct any work for the development, importation or distribution of the water of the District; and (4) the power to levy and collect taxes to assist in the operational expenses of the District.

Section 9 of this bill sets forth the duties of the Board, including, without limitation: (1) the duty to choose a Chairman and prescribe the powers and duties of the Chairman; (2) the duty to fix the principal place of business of the District; (3) the duty to appoint a General Manager; and (4) the duty to prescribe the powers, duties, compensation and benefits of all officers and employees of the District. Section 9 further states that, except as to the exercise of the power of eminent domain, the disposal of water rights, applications to the State Engineer for certain permits and the adoption and amendment of bylaws for which a supermajority vote of the Board is required, a simple majority of the members of the Board constitutes a quorum and a quorum may exercise all the powers and duties of the Board.

Section 10 of this bill authorizes the Board to levy and collect taxes on all taxable property within the District to make payment of principal and interest on its general obligations.

Section 11 of this bill exempts the District from regulation by the Public Utilities Commission of Nevada.

Section 13 of this bill requires the ~~[Commission]~~ Board of County Commissioners to stagger the initial terms of the members of the Governing Board of the District.

WHEREAS, Adequate and efficient water service is vital to the economic development and well-being of the residents of Nye County; and

WHEREAS, The well-being of the residents of Nye County, the long-term economic development of Nye County and the protection of the environment of Nye County could best be served by the creation of a single governmental entity, the purpose of which is to secure and develop sustainable sources of water; and

WHEREAS, The provisions of this act do not express any preference for whether water service is provided to the residents of Nye County by a governmental entity or by a private utility regulated by the Public Utilities Commission of Nevada; now, therefore,

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

Section 1. As used in sections 1 to 12, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 2 to 5, inclusive, of this act have the meanings ascribed to them in those sections.

Sec. 2. (Deleted by amendment.)

Sec. 3. "Board" mean"" means the Board of County Commissioners of Nye County.

Sec. 4.5. "District" means the Nye County Water District created pursuant to section 6 of this act.

Sec. 5. "Service area" means the service area of the District described in section 6 of this act.

Sec. 6. There is hereby created a political subdivision of this State to be known as the Nye County Water District. The jurisdiction and service area of the District are all that real property within the boundaries of Nye County, Nevada, as described in NRS 243.275 to 243.315, inclusive.

Sec. 7. 1. All powers, duties and privileges of the District must be exercised and performed by the Board.

2. The Board must be composed of the following seven members as appointed by the Commission:

- (a) One member who is a resident of Beatty or the Amargosa area;
- (b) One member who is a resident of the Tonopah area;
- (c) Three members who are residents of the Pahrump Valley;
- (d) One member who is a resident of the area in Nye County known as Currant Creek or the area known as Smoky Valley; and
- (e) In addition to the members appointed pursuant to paragraphs (a), (b) and (d), one member who is a resident of an area in Nye County other than the Pahrump Valley.

3. A member of the Board or any person related to a member of the Board within the ~~first~~ third degree of consanguinity or affinity must not be affiliated with a private utility that is regulated by the Public Utilities Commission of Nevada.

4. Except as otherwise provided in subsection 5, after the initial terms, each member of the Board serves for a term of 2 years. A vacancy on the Board must be filled in the same manner as the original appointment. A member may be reappointed.

5. Members of the Board serve at the pleasure of the Commission and may be recalled by a simple majority vote of all the members of the Commission.

Sec. 8. 1. The District has the following powers:

- (a) To have perpetual succession.
- (b) To sue and be sued in the name of the District in all courts or tribunals of competent jurisdiction.
- (c) To adopt a seal and alter it at the pleasure of the District.
- (d) To enter into contracts, and employ and fix the compensation of staff and professional advisers.
- (e) To incur indebtedness pursuant to chapters 271 and 318 of NRS and to issue bonds and provide for medium-term obligations pursuant to chapter 350 of NRS, to pay, in whole or in part, the costs of acquiring, constructing and operating any lands, easements, water rights, water, waterworks or projects, conduits, pipelines, wells, reservoirs, structures, machinery and other

property or equipment useful or necessary to store, convey, supply or otherwise deal with water, and otherwise to carry out the powers set forth in this section. For the purposes of NRS 350.572, sections 1 to 12, inclusive, of this act do not expressly or impliedly require an election before the issuance of a security or indebtedness pursuant to NRS 350.500 to 350.720, inclusive, if the obligation is payable solely from pledged revenues, but an election must be held before incurring a general obligation.

(f) To acquire, by purchase, grant, gift, devise, lease, construction, contract or otherwise, lands, rights-of-way, easements, privileges, water and water rights, and property of every kind, whether real or personal, to construct, maintain and operate, within or without the District, all works and improvements necessary or proper to carry out any of the objects or purposes of sections 1 to 12, inclusive, of this act, and to complete, extend, add to, repair or otherwise improve any works, improvements or property acquired by the District as authorized by sections 1 to 12, inclusive, of this act.

(g) To sell, lease, encumber, hypothecate or otherwise dispose of property, whether real or personal, including, without limitation, water and water rights, as is necessary or convenient to the full exercise of the powers of the District. Any sale, lease, encumbrance, hypothecation or other disposal of water rights pursuant to this paragraph must be first approved by a supermajority vote of the Board and a simple majority vote of all the members of the Commission.

(h) To develop and adopt, subject to approval by the Commission, ordinances, rules, regulations and bylaws necessary for the exercise of the powers and conduct of the affairs of the Board and District. All bylaws adopted or amended must also be approved by a supermajority vote of the members of the Board.

(i) Except as otherwise provided in this paragraph, to exercise the power of eminent domain in the manner prescribed by law, if the action is first approved by a supermajority vote of the Board and a simple majority vote of all the members of the Commission. The District may exercise the power of eminent domain within or without the service area, to take any property, including, without limitation, the property specified in paragraph (f) and any water or water right specified in paragraph (o), necessary for the exercise of the powers of the District or for the provision of adequate water service to the service area. The District shall not exercise the power of eminent domain to acquire any portion of water rights or waterworks facilities owned or used by a public utility that has been issued a certificate of public convenience and necessity pursuant to NRS 704.330 to provide water in a service area unless it also acquires all the real property, water rights, waterworks facilities, equipment and any other private property owned or used by the public utility in connection with providing a service regulated by the Public Utilities Commission of Nevada in a service territory located within or adjacent to the District.

(j) To enter upon any land, to make surveys and locate any necessary improvements, including, without limitation, lines for channels, conduits, canals, pipelines, roadways and other rights-of-way, to acquire property necessary or convenient for the construction, use, supply, maintenance, repair and improvement of such improvements, including, without limitation, works constructed and being constructed by private owners, lands for reservoirs for the storage of necessary water, and all necessary appurtenances, and, where necessary and for the purposes and uses set forth in this section, to acquire and hold the stock of corporations, domestic or foreign, owning water or water rights, canals, waterworks, franchises, concessions or other rights.

(k) To enter into and do any acts necessary or proper for the performance of any agreement with the United States, or any state, county or district of any kind, public or private corporation, association, firm or natural person, or any number of them, for the joint acquisition, construction, leasing, ownership, disposition, use, management, maintenance, repair or operation of any rights, works or other property of a kind which may be lawfully acquired or owned by the District.

(l) To acquire the right to store water in any reservoirs, or to carry water through any canal, ditch or conduit not owned or controlled by the District, and to grant to any owner or lessee the right to the use of any water or right to store such water in any reservoir of the District, or to carry such water through any tunnel, canal, ditch or conduit of the District.

(m) To enter into and do any acts necessary or proper for the performance of any agreement with any district of any kind, public or private corporation, association, firm or natural person, or any number of them, for the transfer or delivery to any district, corporation, association, firm or natural person of any water right or water pumped, stored, appropriated or otherwise acquired or secured for the use of the District, or for the purpose of exchanging the water or water right for any other water, water right or water supply to be delivered to the District by the other party to the agreement.

(n) To cooperate and act in conjunction with the State of Nevada or any of its engineers, officers, boards, commissions, departments or agencies, with the Government of the United States or any of its engineers, officers, boards, commissions, departments or agencies, or with any public or private corporation, to construct any work for the development, importation or distribution of water of the District, for the protection of life or property therein, or for the conservation of its water for beneficial use within the District, or to carry out any other works, acts or purposes provided for in sections 1 to 12, inclusive, of this act, and to adopt and carry out any definite plan or system of work for any of the purposes described in sections 1 to 12, inclusive, of this act.

(o) To store water in surface or underground reservoirs within or without the District for the common benefit of the District, to conserve and reclaim water for present and future use within the District, to appropriate and acquire water and water rights and import water into the District for any

useful purpose to the District, and to commence, maintain, intervene in and compromise in the name of the District, or otherwise, and assume the costs and expenses of any action or proceeding involving or affecting:

(1) The ownership or use of water or water rights within or without the District used or useful for any purpose of the District or of common benefit to any land situated therein. A supermajority vote of the Board and a simple majority vote of all the members of the Commission is required before the District may apply to the State Engineer for a permit to:

(I) Appropriate water where the point of diversion is within a hydrographic basin located in Nye County and the place of use is a location outside of the same hydrographic basin; or

(II) Change the place of use of water already appropriated from any point within a hydrographic basin located in Nye County to a location outside the same hydrographic basin.

(2) The wasteful use of water within the District.

(3) The interference with or diminution of water or water rights within the District.

(4) The contamination or pollution of the surface or subsurface water used in the District or any other act that otherwise renders such water unfit for beneficial use.

(5) The interference with this water that may endanger or damage the residents, lands or use of water in the District.

(p) To sell and distribute water under the control of the District, without preference, to any natural person, firm, corporation, association, district, agency or inhabitant, public or private, for use within the service area, to fix, establish and adjust rates, classes of rates, terms and conditions for the sale and use of such water, and to sell water for use outside the service area upon a finding by the Board that there is a surplus of water above that amount required to serve customers within the service area.

(q) To cause taxes to be levied and collected for the purposes prescribed in sections 1 to 12, inclusive, of this act, including, without limitation, the payment of any obligation of the District during its organizational state and thereafter, and necessary engineering costs, and to assist in the operational expenses of the District, until such taxes are no longer required.

(r) To supplement the surface and groundwater resources of Nye County by the importation and use of water from other sources for industrial, irrigation, municipal and domestic uses.

(s) To restrict the use of water of the District during any emergency caused by drought or other threatened or existing water shortage, and to prohibit the waste of water of the District at any time through the adoption of ordinances, rules or regulations and the imposition of fines for violations of those ordinances, rules and regulations.

(t) To supply water under a contract or agreement, or in any other manner, to the United States or any department or agency thereof, the State of Nevada, Nye County, and any city, town, corporation, association,

partnership or natural person situated in Nye County, for an appropriate charge, consideration or exchange made thereof, when such supply is available or can be developed as an incident of or in connection with the primary functions and operations of the District.

(u) To create assessment districts to extend mains, improve distribution systems and acquire presently operating private water companies and mutual water distribution systems.

(v) To accept from the Government of the United States or any of its agencies financial assistance or participation in the form of grants-in-aid or any other form in connection with any of the functions of the District.

(w) To do all acts and things reasonably implied from and necessary for the full exercise of all powers of the District granted by sections 1 to 12, inclusive, of this act.

2. As used in this section, "supermajority" means an affirmative vote of not less than five of the seven members of the Board.

Sec. 9. 1. The Board shall:

(a) Choose one of its members to be Chairman, and prescribe the term of that office and the powers and duties thereof.

(b) Fix the time and place at which its regular meetings will be held and provide for the calling and conduct of special meetings.

(c) Fix the location of the principal place of business of the District.

(d) Elect a Secretary-Treasurer of the Board and the District, who may or may not be a member of the Board.

(e) Appoint a General Manager who must not be a member of the Board.

(f) Delegate and redelegate to officers of the District the power to employ necessary executives, clerical workers, engineering assistants and laborers, and to retain legal, accounting or engineering services, subject to such conditions and restrictions as may be imposed by the Board.

(g) Prescribe the powers, duties, compensation and benefits of all officers and employees of the District, and require all bonds necessary to protect the money and property of the District.

(h) Take all actions and do all things reasonably and lawfully necessary to conduct the business of the District and achieve the purposes of sections 1 to 12, inclusive, of this act.

2. A simple majority of the members of the Board constitutes a quorum. Except as otherwise provided in section 8 of this act, a quorum may exercise all the power and authority conferred on the Board.

3. Any person who is aggrieved by any decision of the Board pursuant to sections 1 to 12, inclusive, of this act ~~[, other than a decision by the Board not to exercise the power of eminent domain,]~~ may appeal to the Commission within 30 days after the decision of the Board. The Commission may affirm, modify or reverse the decision of the Board.

4. Members of the Board are entitled to receive reasonable compensation and travel expenses, as set by the Commission, for their attendance at meetings and conduct of other business of the District.

Sec. 10. 1. The Board may levy and collect general ad valorem taxes on all taxable property within the District, but only for the payment of principal and interest on its general obligations. Such a levy and collection must be made in conjunction with Nye County in the manner prescribed in this section.

2. The Board shall determine the amount of money necessary to be raised by taxation for a particular year in addition to other sources of revenue of the District. The Board then shall fix a rate of levy which, when applied to the assessed valuation of all taxable property within the District, will produce an amount, when combined with other revenues of the District, sufficient to pay, when due, all principal of and interest on general obligations of the District and any defaults or deficiencies relating thereto.

3. In accordance with and in the same manner required by the law applicable to incorporated cities, the Board shall certify the rate of levy fixed pursuant to subsection 2 for levy upon all taxable property within the District in accordance with such rate at the time and in the manner required by law for levying of taxes for county purposes.

4. The proper officer or authority of Nye County, upon behalf of the District, shall levy and collect the tax for the District specified in subsection 3. Such a tax must be collected in the same manner, including, without limitation, interest and penalties, as other taxes collected by the County. When collected, the tax must be paid to the District in monthly installments for deposit in the appropriate depository of the District.

5. If the taxes levied are not paid, the property subject to the tax lien must be sold and the proceeds of the sale paid to the District in accordance with the law applicable to tax sales and redemptions.

Sec. 11. The District is exempt from regulation by the Public Utilities Commission of Nevada.

Sec. 12. If any provision of sections 1 to 12, inclusive, of this act or the application thereof to any person, thing or circumstance is held invalid, such invalidity does not affect the provisions or application of sections 1 to 12, inclusive, of this act that can be given effect without the invalid provision or application, and to this end the provisions of sections 1 to 12, inclusive, of this act are declared to be severable.

Sec. 13. As soon as practicable after July 1, 2007, the Board of County Commissioners of Nye County shall appoint the members of the Governing Board of the Nye County Water District created pursuant to section 6 of this act to initial terms as follows:

1. Three members to terms that expire on July 1, 2008; and
2. Four members to terms that expire on July 1, 2009.

Sec. 14. This act becomes effective on July 1, 2007.

Senator Hardy moved that the Senate concur in the Assembly amendment to Senate Bill No. 222.

Remarks by Senator Hardy.

Motion carried by a two-thirds majority.

Bill ordered enrolled.

Senate Bill No. 509.

The following Assembly amendment was read:

Amendment No. 853.

"SUMMARY—Makes various changes to provisions relating to state financial administration, ~~and~~ the acquisition of property ~~and~~ the construction of public works. (BDR 31-424)"

"AN ACT relating to state financial administration; requiring state agencies to advertise for proposals before entering into certain lease-purchase and installment-purchase agreements; making various other changes to provisions relating to lease-purchase and installment-purchase agreements; clarifying the application to certain projects of provisions requiring the payment of prevailing wages on public works; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law authorizes state agencies to enter into lease-purchase and installment-purchase agreements to acquire real property, an interest in real property or an improvement to real property. (NRS 353.500-353.630) Section 2 of this bill requires a state agency to advertise for proposals before it enters into a lease-purchase or installment-purchase agreement for the purpose of acquiring an existing building that is located on property which is not owned by the State. Section 3 of this bill specifies the requirements for such an advertisement. Section 2 also requires that, if a state agency wishes to enter into a lease-purchase or installment-purchase agreement requiring the construction of a building on property which is owned by the State, the agency must contract with a design-build team for the design and construction of the building.

Existing law provides the requirements for lease-purchase and installment-purchase agreements which extend beyond the biennium in which the agreements are executed. Any such agreement must prohibit certificates of participation unless the State Board of Finance waives the prohibition. (NRS 353.550) Section 5 of this bill provides that if the Board waives the prohibition, the agreement does not have to include: (1) the rate of interest to be paid under the agreement; (2) the dates on which and prices at which the prepayments may be made under the agreement; (3) the amount to be received from the sale of the agreement or interests therein; and (4) the principal amount to be paid under the agreement and the amount of principal to be repaid in any particular year.

Existing law provides that if a lease-purchase or installment-purchase agreement involves an improvement to property owned by the State, the State Land Registrar may enter into a lease of the property to which the improvement will be made if the lease has a term of 35 years or less and the lease provides for rental payments that approximate the fair market rental of

the property before the improvement is made. (NRS 353.600) Section 8 of this bill provides that any such lease is exempt from certain provisions in existing law governing the lease of state land that require certain appraisals and the acceptance of sealed bids followed by oral offers.

Existing law authorizes the issuance and prescribes the terms of evidence of certain installment-purchase agreements. (NRS 350.091) Section 9 of this bill provides that certain installment-purchase agreements involving the construction, alteration, repair or remodeling of an improvement need not contain certain details and certain leases thereunder need not comply with certain statutes, but prevailing wage requirements (NRS 338.013-338.090) apply to the construction, alteration, repair or remodeling.

Under existing law, the Nevada Supreme Court has held that even where a statute states specifically that the prevailing wage must be paid pursuant to NRS 338.010 to 338.090, inclusive, prevailing wages need not be paid if the project at issue does not fit the definition of a "public work" and does not involve a "public body." (Carson-Tahoe Hosp. v. Bldg. & Constr. Trades Council of Northern Nevada, 122 Nev. Adv. Op. 19 (2006)) Section 12 of this bill sets forth that if a statute or local or special act provides that a project is subject to the provisions of "NRS 338.010 to 338.090, inclusive," or "NRS 338.013 to 338.090, inclusive," or "NRS 338.020 to 338.090, inclusive," the statute or local or special act must be construed as requiring the provisions of NRS 338.010 to 338.090, inclusive, to apply to the project in the same manner as those provisions apply to a "public work," except that the project will be deemed to be a "public work" solely for the application of those prevailing wage provisions. Section 13 of this bill amends the definition of "public work" to include any project for which a "public body": (1) provides property for development at less than the fair market value of the property; or (2) provides to a developer financial incentives having a value of more than \$100,000.

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

Section 1. Chapter 353 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.

Sec. 2. *Before a state agency enters into an agreement:*

1. *If, pursuant to the terms of the agreement:*

(a) *The state agency will acquire an existing building that is located on property which is not owned by the State; or*

(b) *The state agency will construct a building that will be located on property which is not owned by the State,*

↪ *the state agency shall advertise for proposals in the manner set forth in section 3 of this act.*

2. *If, pursuant to the terms of the agreement, the state agency will construct a building that will be located on property which is owned by the State, the state agency shall contract with a design-build team for the design*

and construction of the building in accordance with NRS 338.1711 to 338.1727, inclusive, regardless of the estimated cost of the building.

Sec. 3. 1. *A state agency that is required to advertise for proposals pursuant to section 2 of this act shall advertise for proposals in a newspaper qualified pursuant to chapter 238 of NRS that is published in the county in which the building is or will be located. If no qualified newspaper is published in the county, the required advertisement must be published in some qualified newspaper that is printed in the State of Nevada and has a general circulation in the county.*

2. *A request for proposals published pursuant to subsection 1 must include, without limitation:*

(a) *A description of the building, including, without limitation, its size and location;*

(b) *An estimate of the cost of the building;*

(c) *If the proposal is for the construction of a building:*

(1) *The date on which it is anticipated that the state agency will begin construction of the building;*

(2) *The date by which proposals must be submitted to the state agency; and*

(3) *A statement setting forth that the contractor who will construct the building must be licensed pursuant to chapter 624 of NRS; and*

(d) *Any other information that the state agency determines to be necessary.*

3. *Nothing in this section shall be construed to require a state agency to enter into an agreement with any person who submits a proposal to the state agency.*

Sec. 4. NRS 353.500 is hereby amended to read as follows:

353.500 As used in NRS 353.500 to 353.630, inclusive, *and sections 2 and 3 of this act*, unless the context otherwise requires, the words and terms defined in NRS 353.510 to 353.540, inclusive, have the meanings ascribed to them in those sections.

Sec. 5. NRS 353.550 is hereby amended to read as follows:

353.550 1. A state agency may propose a project to acquire real property, an interest in real property or an improvement to real property through an agreement which has a term, including the terms of any options for renewal, that extends beyond the biennium in which the agreement is executed if the agreement:

(a) Provides that all obligations of the State of Nevada and the state agency are extinguished by the failure of the Legislature to appropriate money for the ensuing fiscal year for payments due pursuant to the agreement;

(b) Does not encumber any property of the State of Nevada or the state agency except for the property that is the subject of the agreement;

(c) Provides that property of the State of Nevada and the state agency, except for the property that is the subject of the agreement, must not be forfeited if:

(1) The Legislature fails to appropriate money for payments due pursuant to the agreement; or

(2) The State of Nevada or the state agency breaches the agreement;

(d) Prohibits certificates of participation in the agreement; and

(e) For the biennium in which it is executed, does not require payments that are greater than the amount authorized for such payments pursuant to the applicable budget of the state agency.

2. The provisions of paragraph (d) of subsection 1 may be waived by the Board, upon the recommendation of the State Treasurer, if the Board determines that waiving those provisions:

(a) Is in the best interests of this State; and

(b) Complies with federal securities laws.

3. Before an agreement proposed pursuant to subsection 1 may become effective:

(a) The proposed project must be approved by the Legislature by concurrent resolution or statute or as part of the budget of the state agency, or by the Interim Finance Committee when the Legislature is not in regular session;

(b) The agency must submit the proposed agreement to the Chief, the State Treasurer and the State Land Registrar for their review and transmittal to the Board;

(c) The Board must approve the proposed agreement; and

(d) The Governor must execute the agreement.

4. *If the provisions of paragraph (d) of subsection 1 are waived as provided in subsection 2, the agreement proposed pursuant to subsection 1, and the proposed agreement submitted pursuant to paragraph (b) of subsection 3 and approved pursuant to paragraph (c) of subsection 3, need not contain the following details if the Board, before the execution of the agreement by the Governor pursuant to paragraph (d) of subsection 3, delegates to the State Treasurer or his designee the authority to make a binding agreement, subject to paragraphs (a), (b), (c) and (e) of subsection 1:*

(a) The rate of interest to be paid under the agreement;

(b) The dates on which and prices at which the prepayments may be made under the agreement;

(c) The amount to be received from the sale of the agreement or interests therein; and

(d) The principal amount to be paid under the agreement and the amount of principal to be repaid in any particular year.

5. *All terms of the agreement other than:*

(a) The rate of interest to be paid under the agreement;

(b) The dates and prices for the prepayments of amounts under the agreement;

(c) The amount to be received from the sale of the agreement or interests therein; and

(d) The principal amount to be paid under the agreement and the amount of principal to be repaid in any particular year,

↪ must be approved by the Board before the agreement is executed by the Governor.

6. The final rate of interest, dates and prices of prepayments, price for the sale of the agreement or interests therein, principal amount and requirements for the principal amounts to be repaid in any year are not required to be approved by the Board if each of those terms complies with the requirements specified by the Board before the agreement is executed by the Governor.

Sec. 6. NRS 353.580 is hereby amended to read as follows:

353.580 ~~[Any]~~ *Except as otherwise provided in sections 2 and 3 of this act, an agreement entered into pursuant to NRS 353.500 to 353.630, inclusive, and sections 2 and 3 of this act is not subject to any requirement of competitive bidding or other restriction imposed on the procedure for the awarding of contracts.*

Sec. 7. NRS 353.590 is hereby amended to read as follows:

353.590 If an agreement pursuant to NRS 353.500 to 353.630, inclusive, *and sections 2 and 3 of this act* involves the construction, alteration, repair or remodeling of an improvement:

1. The construction, alteration, repair or remodeling of the improvement may be conducted as specified in the agreement without complying with the provisions of:

(a) ~~[Any]~~ *Except as otherwise provided in sections 2 and 3 of this act, any law requiring competitive bidding; or*

(b) Chapter 341 of NRS.

2. The provisions of NRS 338.013 to 338.090, inclusive, apply to the construction, alteration, repair or remodeling of the improvement.

Sec. 8. NRS 353.600 is hereby amended to read as follows:

353.600 1. Except as otherwise provided in this section, if an agreement pursuant to NRS 353.500 to 353.630, inclusive, *and sections 2 and 3 of this act* involves an improvement to property owned by the State of Nevada or the state agency, the State Land Registrar, in consultation with the State Treasurer and in conjunction with the agreement, upon approval of the State Board of Examiners may enter into a lease of the property to which the improvement will be made if the lease:

(a) Has a term of 35 years or less; and

(b) Provides for rental payments that approximate the fair market rental of the property before the improvement is made, as determined by the State Land Registrar in consultation with the State Treasurer at the time the lease is entered into, which must be paid if the agreement terminates before the expiration of the lease because the Legislature fails to appropriate money for payments due pursuant to the agreement.

2. A lease entered into pursuant to this section may provide for nominal rental payments to be paid pursuant to the lease before the agreement terminates.

3. Before the State Land Registrar may enter into a lease pursuant to this section:

(a) The State Land Registrar must submit the proposed lease to the Chief and the State Treasurer for their review and transmittal to the Board; and

(b) The Board must approve the lease.

4. *Any lease of state land under this section is exempt from the requirements of NRS 321.007 and 321.335.*

Sec. 9. NRS 321.007 is hereby amended to read as follows:

321.007 1. Except as otherwise provided in subsection 5, NRS 322.063, 322.065, ~~for~~ 322.075 ~~or~~ 353.600, except as otherwise required by federal law and except for land that is sold or leased pursuant to an agreement entered into pursuant to NRS 277.080 to 277.170, inclusive, when offering any land for sale or lease, the State Land Registrar shall:

(a) Obtain two independent appraisals of the land before selling or leasing it. The appraisals must have been prepared not more than 6 months before the date on which the land is offered for sale or lease.

(b) Notwithstanding the provisions of chapter 333 of NRS, select the two independent appraisers from the list of appraisers established pursuant to subsection 2.

(c) Verify the qualifications of each appraiser selected pursuant to paragraph (b). The determination of the State Land Registrar as to the qualifications of an appraiser is conclusive.

2. The State Land Registrar shall adopt regulations for the procedures for creating or amending a list of appraisers qualified to conduct appraisals of land offered for sale or lease by the State Land Registrar. The list must:

(a) Contain the names of all persons qualified to act as a general appraiser in the same county as the land that may be appraised; and

(b) Be organized at random and rotated from time to time.

3. An appraiser chosen pursuant to subsection 1 must provide a disclosure statement which includes, without limitation, all sources of income of the appraiser that may constitute a conflict of interest and any relationship of the appraiser with the owner of the land or the owner of an adjoining property.

4. An appraiser shall not perform an appraisal on any land offered for sale or lease by the State Land Registrar if the appraiser or a person related to the appraiser within the first degree of consanguinity or affinity has an interest in the land or an adjoining property.

5. If a lease of land is for residential property and the term of the lease is 1 year or less, the State Land Registrar shall obtain an analysis of the market value of similar rental properties prepared by a licensed real estate broker or salesman when offering such a property for lease.

Sec. 10. NRS 321.335 is hereby amended to read as follows:

321.335 1. Except as otherwise provided in NRS 321.125, 321.510, 322.063, 322.065, ~~322.075~~ *or 353.600*, except as otherwise required by federal law and except for an agreement entered into pursuant to the provisions of NRS 277.080 to 277.170, inclusive, or a lease of residential property with a term of 1 year or less, after April 1, 1957, all sales or leases of any lands that the Division is required to hold pursuant to NRS 321.001, including lands subject to contracts of sale that have been forfeited, are governed by the provisions of this section.

2. Whenever the State Land Registrar deems it to be in the best interests of the State of Nevada that any lands owned by the State and not used or set apart for public purposes be sold or leased, he may, with the approval of the State Board of Examiners and the Interim Finance Committee, cause those lands to be sold or leased upon sealed bids, or oral offer after the opening of sealed bids for cash or pursuant to a contract of sale or lease, at a price not less than the highest appraised value for the lands plus the costs of appraisal and publication of notice of sale or lease.

3. Before offering any land for sale or lease, the State Land Registrar shall cause it to be appraised by competent appraisers selected pursuant to NRS 321.007.

4. After receipt of the report of the appraisers, the State Land Registrar shall cause a notice of sale or lease to be published once a week for 4 consecutive weeks in a newspaper of general circulation published in the county where the land to be sold or leased is situated, and in such other newspapers as he deems appropriate. If there is no newspaper published in the county where the land to be sold or leased is situated, the notice must be so published in a newspaper published in this State having a general circulation in the county where the land is situated.

5. The notice must contain:

- (a) A description of the land to be sold or leased;
- (b) A statement of the terms of sale or lease;
- (c) A statement that the land will be sold pursuant to subsection 6; and
- (d) The place where the sealed bids will be accepted, the first and last days on which the sealed bids will be accepted, and the time when and place where the sealed bids will be opened and oral offers submitted pursuant to subsection 6 will be accepted.

6. At the time and place fixed in the notice published pursuant to subsection 4, all sealed bids which have been received must, in public session, be opened, examined and declared by the State Land Registrar. Of the proposals submitted which conform to all terms and conditions specified in the notice published pursuant to subsection 4 and which are made by responsible bidders, the bid which is the highest must be finally accepted, unless a higher oral offer is accepted or the State Land Registrar rejects all bids and offers. Before finally accepting any written bid, the State Land Registrar shall call for oral offers. If, upon the call for oral offers, any responsible person offers to buy or lease the land upon the terms and

conditions specified in the notice, for a price exceeding by at least 5 percent the highest written bid, then the highest oral offer which is made by a responsible person must be finally accepted.

7. The State Land Registrar may reject any bid or oral offer to purchase or lease submitted pursuant to subsection 6, if he deems the bid or offer to be:

- (a) Contrary to the public interest.
- (b) For a lesser amount than is reasonable for the land involved.
- (c) On lands which it may be more beneficial for the State to reserve.
- (d) On lands which are requested by the State of Nevada or any department, agency or institution thereof.

8. Upon acceptance of any bid or oral offer and payment to the State Land Registrar in accordance with the terms of sale specified in the notice of sale, the State Land Registrar shall convey title by quitclaim or cause a patent to be issued as provided in NRS 321.320 and 321.330.

9. Upon acceptance of any bid or oral offer and payment to the State Land Registrar in accordance with the terms of lease specified in the notice of lease, the State Land Registrar shall enter into a lease agreement with the person submitting the accepted bid or oral offer pursuant to the terms of lease specified in the notice of lease.

10. The State Land Registrar may require any person requesting that state land be sold pursuant to the provisions of this section to deposit a sufficient amount of money to pay the costs to be incurred by the State Land Registrar in acting upon the application, including the costs of publication and the expenses of appraisal. This deposit must be refunded whenever the person making the deposit is not the successful bidder. The costs of acting upon the application, including the costs of publication and the expenses of appraisal, must be borne by the successful bidder.

11. If land that is offered for sale or lease pursuant to this section is not sold or leased at the initial offering of the contract for the sale or lease of the land, the State Land Registrar may offer the land for sale or lease a second time pursuant to this section. If there is a material change relating to the title, zoning or an ordinance governing the use of the land, the State Land Registrar must obtain a new appraisal of the land pursuant to the provisions of NRS 321.007 before offering the land for sale or lease a second time. If land that is offered for sale or lease pursuant to this section is not sold or leased at the second offering of the contract for the sale or lease of the land, the State Land Registrar may list the land for sale or lease at the appraised value with a licensed real estate broker, provided that the broker or a person related to the broker within the first degree of consanguinity or affinity does not have an interest in the land or an adjoining property.

Sec. 11. NRS 322.060 is hereby amended to read as follows:

322.060 ~~[Subject]~~ *Except as otherwise provided in NRS 353.600, subject to the provisions of NRS 321.335, leases or easements authorized pursuant to the provisions of NRS 322.050, and not made for the purpose of extracting*

oil, coal or gas or the utilization of geothermal resources from the lands leased, must be:

1. For such areas as may be required to accomplish the purpose for which the land is leased or the easement granted.

2. Except as otherwise provided in NRS 322.063, 322.065 and 322.067, for such term and consideration as the Administrator of the Division of State Lands of the State Department of Conservation and Natural Resources, as ex officio State Land Registrar, may determine reasonable based upon the fair market value of the land.

3. Executed upon a form to be prepared by the Attorney General. The form must contain all of the covenants and agreements usual or necessary to such leases or easements.

Sec. 12. Chapter 338 of NRS is hereby amended by adding thereto a new section to read as follows:

A statute, local or special act or any other law that contains a reference stating that the provisions of "NRS 338.010 to 338.090, inclusive," or "NRS 338.013 to 338.090, inclusive," or "NRS 338.020 to 338.090, inclusive," apply to a specific project, type of project or other authorization for or reference to a construction project must be construed as requiring that the provisions of NRS 338.010 to 338.090, inclusive, apply to the project in the same manner that those provisions apply to a public work, except that the project is hereby deemed to be a public work solely for the purpose of the application of those provisions.

Sec. 13. NRS 338.010 is hereby amended to read as follows:

338.010 As used in this chapter:

1. "Authorized representative" means a person designated by a public body to be responsible for the development, solicitation, award or administration of contracts for public works pursuant to this chapter.

2. "Contract" means a written contract entered into between a contractor and a public body for the provision of labor, materials, equipment or supplies for a public work.

3. "Contractor" means:

(a) A person who is licensed pursuant to the provisions of chapter 624 of NRS or performs such work that he is not required to be licensed pursuant to chapter 624 of NRS.

(b) A design-build team.

4. "Day labor" means all cases where public bodies, their officers, agents or employees, hire, supervise and pay the wages thereof directly to a workman or workmen employed by them on public works by the day and not under a contract in writing.

5. "Design-build contract" means a contract between a public body and a design-build team in which the design-build team agrees to design and construct a public work.

6. "Design-build team" means an entity that consists of:

(a) At least one person who is licensed as a general engineering contractor or a general building contractor pursuant to chapter 624 of NRS; and

(b) For a public work that consists of:

(1) A building and its site, at least one person who holds a certificate of registration to practice architecture pursuant to chapter 623 of NRS.

(2) Anything other than a building and its site, at least one person who holds a certificate of registration to practice architecture pursuant to chapter 623 of NRS or landscape architecture pursuant to chapter 623A of NRS or who is licensed as a professional engineer pursuant to chapter 625 of NRS.

7. "Design professional" means:

(a) A person who is licensed as a professional engineer pursuant to chapter 625 of NRS;

(b) A person who is licensed as a professional land surveyor pursuant to chapter 625 of NRS;

(c) A person who holds a certificate of registration to engage in the practice of architecture, interior design or residential design pursuant to chapter 623 of NRS;

(d) A person who holds a certificate of registration to engage in the practice of landscape architecture pursuant to chapter 623A of NRS; or

(e) A business entity that engages in the practice of professional engineering, land surveying, architecture or landscape architecture.

8. "Eligible bidder" means a person who is:

(a) Found to be a responsible and responsive contractor by a local government or its authorized representative which requests bids for a public work in accordance with paragraph (b) of subsection 1 of NRS 338.1373; or

(b) Determined by a public body or its authorized representative which awarded a contract for a public work pursuant to NRS 338.1375 to 338.139, inclusive, to be qualified to bid on that contract pursuant to NRS 338.1379 or 338.1382.

9. "General contractor" means a person who is licensed to conduct business in one, or both, of the following branches of the contracting business:

(a) General engineering contracting, as described in subsection 2 of NRS 624.215.

(b) General building contracting, as described in subsection 3 of NRS 624.215.

10. "Governing body" means the board, council, commission or other body in which the general legislative and fiscal powers of a local government are vested.

11. "Local government" means every political subdivision or other entity which has the right to levy or receive money from ad valorem or other taxes or any mandatory assessments, and includes, without limitation, counties, cities, towns, boards, school districts and other districts organized pursuant to chapters 244A, 309, 318, 379, 474, 538, 541, 543 and 555 of NRS,

NRS 450.550 to 450.750, inclusive, and any agency or department of a county or city which prepares a budget separate from that of the parent political subdivision. The term includes a person who has been designated by the governing body of a local government to serve as its authorized representative.

12. "Offense" means failing to:

- (a) Pay the prevailing wage required pursuant to this chapter;
- (b) Pay the contributions for unemployment compensation required pursuant to chapter 612 of NRS;
- (c) Provide and secure compensation for employees required pursuant to chapters 616A to 617, inclusive, of NRS; or
- (d) Comply with subsection 4 or 5 of NRS 338.070.

13. "Prime contractor" means a contractor who:

- (a) Contracts to construct an entire project;
- (b) Coordinates all work performed on the entire project;
- (c) Uses his own workforce to perform all or a part of the public work; and
- (d) Contracts for the services of any subcontractor or independent contractor or is responsible for payment to any contracted subcontractors or independent contractors.

➡ The term includes, without limitation, a general contractor or a specialty contractor who is authorized to bid on a project pursuant to NRS 338.139 or 338.148.

14. "Public body" means the State, county, city, town, school district or any public agency of this State or its political subdivisions sponsoring or financing a public work.

15. "Public work" means any project for the new construction, repair or reconstruction of:

- (a) A project financed in whole or in part from public money for:
 - (1) Public buildings;
 - (2) Jails and prisons;
 - (3) Public roads;
 - (4) Public highways;
 - (5) Public streets and alleys;
 - (6) Public utilities;
 - (7) Publicly owned water mains and sewers;
 - (8) Public parks and playgrounds;
 - (9) Public convention facilities which are financed at least in part with public money; ~~and~~

(10) All other publicly owned works and property ~~and~~; and

(11) All other projects for which a public body provides:

(I) Property for development at less than the fair market value of the property; or

(II) Financial incentives to a developer, if the financial incentives have a value of more than \$100,000.

(b) A building for the Nevada System of Higher Education of which 25 percent or more of the costs of the building as a whole are paid from money appropriated by this State or from federal money.

16. "Specialty contractor" means a person who is licensed to conduct business as described in subsection 4 of NRS 624.215.

17. "Stand-alone underground utility project" means an underground utility project that is not integrated into a larger project, including, without limitation:

(a) An underground sewer line or an underground pipeline for the conveyance of water, including facilities appurtenant thereto; and

(b) A project for the construction or installation of a storm drain, including facilities appurtenant thereto,

➡ that is not located at the site of a public work for the design and construction of which a public body is authorized to contract with a design-build team pursuant to subsection 2 of NRS 338.1711.

18. "Subcontract" means a written contract entered into between:

(a) A contractor and a subcontractor or supplier; or

(b) A subcontractor and another subcontractor or supplier,

➡ for the provision of labor, materials, equipment or supplies for a construction project.

19. "Subcontractor" means a person who:

(a) Is licensed pursuant to the provisions of chapter 624 of NRS or performs such work that he is not required to be licensed pursuant to chapter 624 of NRS; and

(b) Contracts with a contractor, another subcontractor or a supplier to provide labor, materials or services for a construction project.

20. "Supplier" means a person who provides materials, equipment or supplies for a construction project.

21. "Wages" means:

(a) The basic hourly rate of pay; and

(b) The amount of pension, health and welfare, vacation and holiday pay, the cost of apprenticeship training or other similar programs or other bona fide fringe benefits which are a benefit to the workman.

22. "Workman" means a skilled mechanic, skilled workman, semiskilled mechanic, semiskilled workman or unskilled workman in the service of a contractor or subcontractor under any appointment or contract of hire or apprenticeship, express or implied, oral or written, whether lawfully or unlawfully employed. The term does not include a design professional.

Sec. 14. NRS 338.090 is hereby amended to read as follows:

338.090 1. Any person, including the officers, agents or employees of a public body, who violates any provision of NRS 338.010 to 338.090, inclusive, and section 13 of this act, or any regulation adopted pursuant thereto, is guilty of a misdemeanor.

2. The Labor Commissioner, in addition to any other remedy or penalty provided in this chapter:

(a) Shall assess a person who, after an opportunity for a hearing, is found to have failed to pay the prevailing wage required pursuant to NRS 338.020 to 338.090, inclusive, and section 13 of this act, an amount equal to the difference between the prevailing wages required to be paid and the wages that the contractor or subcontractor actually paid; and

(b) May, in addition to any other administrative penalty, impose an administrative penalty not to exceed the costs incurred by the Labor Commissioner to investigate and prosecute the matter.

3. If the Labor Commissioner finds that a person has failed to pay the prevailing wage required pursuant to NRS 338.020 to 338.090, inclusive, and section 13 of this act, the public body may, in addition to any other remedy or penalty provided in this chapter, require the person to pay the actual costs incurred by the public body to investigate the matter.

Sec. 15. NRS 350.091 is hereby amended to read as follows:

350.091 1. Whenever the governing body of any local government is authorized to enter into a medium-term obligation or installment-purchase agreement as provided in NRS 280.266 or 350.089 that is intended to finance a capital project, the governing body shall update its plan for capital improvement in the same manner as is required for general obligation debt pursuant to NRS 350.013.

2. Whenever the governing body of any local government is authorized to enter into a medium-term obligation as provided in NRS 350.089, the governing body may issue, as evidence thereof, negotiable notes or medium-term negotiable bonds that, except as otherwise provided in subsection 5 of NRS 496.155:

(a) Must mature not later than 10 years after the date of issuance;

(b) Must bear interest at a rate or rates which do not exceed by more than 3 percent the Index of Twenty Bonds which was most recently published before the bids are received or a negotiated offer is accepted; and

(c) May, at the option of the local government, contain a provision which allows redemption of the notes or bonds before maturity, upon such terms as the governing body determines.

3. Whenever the governing body of any local government is authorized to enter into an installment-purchase agreement as provided in NRS 280.266 or 350.089, the governing body may issue, as evidence thereof, an installment-purchase agreement, lease or other evidence of a transaction described in NRS 350.800. An installment-purchase agreement, lease or other evidence of a transaction described in NRS 350.800 issued pursuant to this subsection:

(a) Must have a term that is 30 years or less;

(b) Must bear interest at a rate or rates that do not exceed by more than 3 percent the Index of Revenue Bonds which was most recently published before the local government enters into the installment-purchase agreement; and

(c) May, at the option of the local government, contain a provision that allows prepayment of the purchase price upon such terms as are provided in the agreement.

4. *A proposed installment-purchase agreement approved by the governing body need not contain the following details if the governing body, before the execution of the installment-purchase agreement, delegates to its chief administrative officer or chief financial officer, or both, the authority to make a binding agreement, subject to paragraph (a) of subsection 1 of NRS 350.800:*

(a) The rate of interest to be paid under the installment-purchase agreement;

(b) The dates on which and the prices at which the prepayments may be made under the installment-purchase agreement;

(c) The amount to be received from the sale of the installment-purchase agreement or interests therein; and

(d) The principal amount to be paid under the installment-purchase agreement and the amount of principal to be repaid in any particular year.

5. *All terms of the installment-purchase agreement other than:*

(a) The rate of interest;

(b) The dates and prices for the prepayments of amounts under the installment-purchase agreement;

(c) The amount to be received from the sale of the installment-purchase agreement or interests therein; and

(d) The principal amount to be paid under the installment-purchase agreement and the amount of principal to be repaid in any particular year,

↪ must be approved by the governing body before the installment-purchase agreement is executed.

6. *If an installment-purchase agreement involves a lease for a term of 35 years or less of land of the municipality on which improvements are to be located which will be, in whole or in part, the subject of the installment-purchase agreement, then no provisions of law, including, without limitation, NRS 244.2795, 244.281, 244.282, 244.283, 266.267, 268.059, 268.061 or 268.062, that require an appraisal or public bidding before entering into or executing that lease apply to the lease entered into under this subsection.*

7. *If an installment-purchase agreement pursuant to this section involves the construction, alteration, repair or remodeling of an improvement, the provisions of NRS 338.013 to 338.090, inclusive, apply to the construction, alteration, repair or remodeling of the improvement.*

8. *If the term of the medium-term obligation or installment-purchase agreement is more than 5 years, the weighted average term of the medium-term obligation or installment-purchase agreement may not exceed the estimated weighted average useful life of the assets being financed with the medium-term obligation or installment-purchase agreement.*

~~[5-]~~ 9. For the purposes of subsection ~~[4-]~~ 8, the Committee on Local Government Finance may adopt regulations that provide guidelines for the useful life of various types of assets and for calculation of the weighted average useful life of assets.

~~[Sec. 13-]~~ Sec. 16. This act becomes effective on July 1, 2007.

Senator Hardy moved that the Senate do not concur in the Assembly amendment to Senate Bill No. 509.

Remarks by Senator Hardy.

Motion carried.

Bill ordered transmitted to the Assembly.

RECEDE FROM SENATE AMENDMENT

Senator Amodei moved that the Senate do not recede from its action on Assembly Bill No. 50, that a conference be requested, and that Mr. President appoint a first Conference Committee consisting of three members to meet with a like committee of the Assembly.

Remarks by Senator Amodei.

Motion carried.

Bill ordered transmitted to the Assembly.

APPOINTMENT OF CONFERENCE COMMITTEES

President Krolicki appointed Senators Amodei, Wiener and Care as a first Conference Committee to meet with a like committee of the Assembly for the further consideration of Assembly Bill No. 50.

RECEDE FROM SENATE AMENDMENTS

Senator Amodei moved that the Senate do not recede from its action on Assembly Bill No. 127, that a conference be requested, and that Mr. President appoint a first Conference Committee consisting of three members to meet with a like committee of the Assembly.

Remarks by Senator Amodei.

Motion carried.

Bill ordered transmitted to the Assembly.

APPOINTMENT OF CONFERENCE COMMITTEES

President Krolicki appointed Senators Washington, McGinness and Wiener as a first Conference Committee to meet with a like committee of the Assembly for the further consideration of Assembly Bill No. 127.

RECEDE FROM SENATE AMENDMENTS

Senator Townsend moved that the Senate do not recede from its action on Assembly Bill No. 385, that a conference be requested, and that Mr. President appoint a first Conference Committee consisting of three members to meet with a like committee of the Assembly.

Remarks by Senator Townsend.

Motion carried.

Bill ordered transmitted to the Assembly.

APPOINTMENT OF CONFERENCE COMMITTEES

President Krollicki appointed Senators Heck, Schneider and Townsend as a first Conference Committee to meet with a like committee of the Assembly for the further consideration of Assembly Bill No. 385.

RECEDE FROM SENATE AMENDMENTS

Senator Amodei moved that the Senate do not recede from its action on Assembly Bill No. 521, that a conference be requested, and that Mr. President appoint a first Conference Committee consisting of three members to meet with a like committee of the Assembly.

Remarks by Senator Amodei.

Motion carried.

Bill ordered transmitted to the Assembly.

APPOINTMENT OF CONFERENCE COMMITTEES

President Krollicki appointed Senators Amodei, Wiener and Care as a first Conference Committee to meet with a like committee of the Assembly for the further consideration of Assembly Bill No. 521.

REPORTS OF CONFERENCE COMMITTEES

Mr. President:

The first Conference Committee concerning Assembly Bill No. 418, consisting of the undersigned members, has met and reports that:

It has agreed to recommend that the Amendment No. 757 of the Senate be concurred in.

It has agreed to recommend that the bill be further amended as set forth in Conference Amendment No. 2, which is attached to and hereby made a part of this report.

Conference Amendment.

"SUMMARY—Makes various changes relating to unarmed combat. (BDR 41-889)"

"AN ACT relating to unarmed combat; removing references to wrestling in various statutes relating to unarmed combat; ~~eliminating the Medical Advisory Board;~~ changing the appointing authority for the Medical Advisory Board from the Governor to the Nevada Athletic Commission; repealing the Medical Advisory Board effective July 1, 2009; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Sections 1-3 of this bill remove references to wrestling that are contained in various statutes relating to unarmed combat.

Section ~~[4.5]~~ 1.5 of this bill ~~[eliminates]~~ provides that the Nevada Athletic Commission, rather than the Governor, is authorized to appoint the members of the Medical Advisory Board, which [currently] recommends standards for the physical and mental examination of contestants, recommends physicians for licensing, advises the Nevada Athletic Commission as to the physical or mental fitness of a contestant and submits reports containing recommendations for revisions in the law to protect the health of contestants. (NRS 467.018) Section 4.5 of this bill repeals the provisions of NRS 467.0101, 467.012, 467.015 and 467.018 governing the creation, membership and duties of the Board effective July 1, 2009.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN

SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 467.0107 is hereby amended to read as follows:

467.0107 "Unarmed combat" means boxing ~~[, wrestling]~~ or any form of competition in which a blow is usually struck which may reasonably be expected to inflict injury.

Sec. 1.5. NRS 467.012 is hereby amended to read as follows:

467.012 1. The Medical Advisory Board consisting of five members to be appointed by the ~~[Governor]~~ Commission is hereby created.

2. The ~~[Governor]~~ Commission shall designate one of the members of the Board as its Chairman.

3. After the initial terms, ~~[the Governor]~~ *the Commission* shall appoint each member to a term of 4 years. If the position of a member is vacated, the ~~[Governor]~~ *Commission* shall appoint a qualified person to replace the member for the remainder of the unexpired term.

Sec. 2. NRS 467.108 is hereby amended to read as follows:

467.108 1. Except as otherwise provided in subsection 2, in addition to the payment of any other fees or taxes required by this chapter, a promoter shall pay to the Commission a fee of \$1.00 for each ticket sold for admission to a live professional ~~[boxing or wrestling]~~ contest ~~[match or exhibition]~~ of unarmed combat which is held in this State.

2. In lieu of the fee imposed pursuant to subsection 1, the Executive Director of the Commission may require a promoter to pay to the Commission a fee of \$0.50 for each ticket sold for admission to a live professional ~~[boxing or wrestling]~~ contest ~~[match or exhibition]~~ of unarmed combat which is held in this State if the gross receipts from admission fees to the contest ~~[match or exhibition]~~ of unarmed combat are less than \$500,000.

3. The money collected pursuant to subsections 1 and 2 must be used by the Commission to award grants to organizations which promote amateur ~~[boxing]~~ contests or exhibitions of unarmed combat in this State.

4. The Commission shall adopt by regulation ~~[the]~~ :

(a) ~~The~~ manner in which ~~[-]~~

~~(a) The~~ the fees required by subsections 1 and 2 must be paid.

(b) ~~[Applications]~~ The manner in which applications for grants may be submitted to the Commission. ~~[and the]~~

(c) The standards to be used to award grants to organizations which promote amateur ~~[boxing]~~ contests or exhibitions of unarmed combat in this State.

Sec. 3. NRS 467.135 is hereby amended to read as follows:

467.135 1. The Commission, its Executive Director or any other employee authorized by the Commission may order the promoter to withhold any part of a purse or other money belonging or payable to any contestant, manager or second if, in the judgment of the Commission, Executive Director or other employee:

(a) The contestant is not competing honestly or to the best of his skill and ability or the contestant otherwise violates any regulations adopted by the Commission or any of the provisions of this chapter, including, but not limited to, the provisions of subsection 1 of NRS 467.110; or

(b) The manager or seconds violate any regulations adopted by the Commission or any of the provisions of this chapter, including, but not limited to, the provisions of subsection 1 of NRS 467.110.

2. ~~[This section does not apply to any contestant in a wrestling exhibition who appears not to be competing honestly or to the best of his skill and ability.]~~

~~3.]~~ Upon the withholding of any part of a purse or other money pursuant to this section, the Commission shall immediately schedule a hearing on the matter, provide adequate notice to all interested parties and dispose of the matter as promptly as possible.

~~[4.]~~ 3. If it is determined that a contestant, manager or second is not entitled to any part of his share of the purse or other money, the promoter shall pay the money over to the Commission. Subject to the provisions of subsection ~~[5.]~~ 4, the money must be deposited with the State Treasurer for credit to the State General Fund.

~~[5.]~~ 4. Money turned over to the Commission pending final action in any matter must be credited to the Athletic Commission's Agency Account and must remain in that Account until the Commission orders its disposition in accordance with the final action taken.

Sec. 4. (Deleted by amendment.)

Sec. 4.3. 1. The members of the Medical Advisory Board who are serving on the effective date of this act continue to serve until their terms expire. If the position of a member becomes vacant on or after the effective date of this act, the Nevada Athletic Commission shall appoint a qualified person to replace the member for the remainder of the unexpired term.

2. Notwithstanding the provisions of NRS 467.012, the Commission shall appoint to the Board three persons who are qualified pursuant to NRS 467.015 to serve terms commencing on July 1, 2007, and expiring on June 30, 2009.

Sec. 4.5. NRS 467.0101, 467.012, 467.015 and 467.018 are hereby repealed.

Sec. 5. 1. This section and sections 1 to 4.3, inclusive, of this act ~~becomes~~ become effective ~~on July 1, 2007,~~ upon passage and approval.

2. Section 4.5 of this act becomes effective on July 1, 2009.

LEADLINES OF REPEALED SECTIONS

467.0101 "Board" defined.

467.012 Creation; Chairman; terms.

467.015 Qualifications of members.

467.018 Duties.

MARK E. AMODEI

TERRY CARE

MIKE MCGINNESS

Senate Conference Committee

BERNIE ANDERSON

HARVEY J. MUNFORD

GARN MABEY

Assembly Conference Committee

Senator McGinness moved that the Senate adopt the report of the first Conference Committee concerning Assembly Bill No. 418.

Remarks by Senator McGinness.

Motion carried by a constitutional majority.

APPOINTMENT OF CONFERENCE COMMITTEES

President Krolicki appointed Senators Cegavske, Wiener and Nolan as a first Conference Committee to meet with a like committee of the Assembly for the further consideration of Senate Bill No. 5.

President Krolicki appointed Senators Heck, Carlton and Schneider as a first Conference Committee to meet with a like committee of the Assembly for the further consideration of Senate Bill No. 19.

President Krolicki appointed Senators Care, Nolan and McGinness as a first Conference Committee to meet with a like committee of the Assembly for the further consideration of Senate Bill No. 129.

President Krolicki appointed Senators Heck, Horsford and Washington as a first Conference Committee to meet with a like committee of the Assembly for the further consideration of Senate Bill No. 171.

President Krolicki appointed Senators Hardy, Lee and Beers as a first Conference Committee to meet with a like committee of the Assembly for the further consideration of Senate Bill No. 201.

President Krolicki appointed Senators Beers, Lee and Care as a first Conference Committee to meet with a like committee of the Assembly for the further consideration of Senate Bill No. 320.

President Krolicki appointed Senators Rhoads, McGinness and Schneider as a first Conference Committee to meet with a like committee of the Assembly for the further consideration of Senate Bill No. 329.

President Krolicki appointed Senators Horsford, Hardy and Titus as a first Conference Committee to meet with a like committee of the Assembly for the further consideration of Senate Bill No. 352.

President Krolicki appointed Senators Schneider, Hardy and Townsend as a first Conference Committee to meet with a like committee of the Assembly for the further consideration of Senate Bill No. 432.

President Krolicki appointed Senators Washington, Woodhouse and Heck as a first Conference Committee to meet with a like committee of the Assembly for the further consideration of Senate Bill No. 529.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Care moved that Senate Bill No. 123 be taken from the General File and placed on the General File for the next legislative day.

Remarks by Senator Care.

Motion carried.

GENERAL FILE AND THIRD READING

Senate Bill No. 73.

Bill read third time.

Roll call on Senate Bill No. 73:

YEAS—21.

NAYS—None.

Senate Bill No. 73 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 226.

Bill read third time.

Roll call on Senate Bill No. 226:

YEAS—21.

NAYS—None.

Senate Bill No. 226 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 252.

Bill read third time.

Roll call on Senate Bill No. 252:

YEAS—21.

NAYS—None.

Senate Bill No. 252 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 462.

Bill read third time.

Roll call on Senate Bill No. 462:

YEAS—21.

NAYS—None.

Senate Bill No. 462 having received a constitutional majority,
Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 128.

Bill read third time.

Roll call on Assembly Bill No. 128:

YEAS—21.

NAYS—None.

Assembly Bill No. 128 having received a constitutional majority,
Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 445.

Bill read third time.

Roll call on Assembly Bill No. 445:

YEAS—21.

NAYS—None.

Assembly Bill No. 445 having received a constitutional majority,
Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

UNFINISHED BUSINESS

CONSIDERATION OF ASSEMBLY AMENDMENTS

Senate Bill No. 354.

The following Assembly amendment was read:

Amendment No. 930.

"SUMMARY—Makes various changes to provisions relating to the safety
of children. (BDR 15-1062)"

"AN ACT relating to the safety of children; increasing the penalty for the
unlawful possession of a firearm while on school property; prohibiting the
possession of certain firearms on the property of or in a vehicle of child care
facilities; revising the definition of "firearm"; requiring children who are
taken into custody for possession of a firearm while on school property to
submit to an evaluation by a qualified professional and a drug test; revising
provisions concerning certain sex offenders who are on lifetime supervision
or released on parole, probation or a suspended sentence; ~~authorizing~~
revising the jurisdiction of school police officers ~~to issue traffic citations~~
under certain circumstances; and providing other matters properly relating
thereto."

Legislative Counsel's Digest:

Section 1 of this bill revises the definition of "firearm" and increases the
penalty for the unlawful possession of a firearm while on school property
from a gross misdemeanor to a category E felony. (NRS 202.265) Section 1
further makes the provisions prohibiting a person from carrying or
possessing certain firearms while on school grounds or in a vehicle of a

school applicable to child care facilities. However, if the child care facility is located at or in the home of a natural person, those provisions do not apply to the owner or operator of the facility who resides in the home if he complies with all laws concerning possession of the weapon. In addition, the prohibition only applies with respect to such a facility during the normal hours of business. Existing law allows a juvenile court to decide whether to order a child who is taken into custody for certain unlawful acts involving firearms to submit to an evaluation by a qualified professional. (NRS 62C.060) Section 3 of this bill requires a juvenile court to order a child who is taken into custody for possession of a firearm on school property or at a child care facility to submit to an evaluation by a qualified professional and a drug test.

Existing law sets forth certain conditions to be imposed on sex offenders on lifetime supervision or released on parole, probation or a suspended sentence. (NRS 176A.410, 213.1243, 213.1245, 213.1255) Sections 4-6 of this bill prohibit such sex offenders from establishing residences in a facility that houses more than three persons who have been released from prison unless the facility is a facility for transitional living for released offenders that is licensed pursuant to chapter 449 of NRS.

Existing law gives school police officers the powers of a peace officer ~~and establishes the jurisdiction of such officers.~~ (NRS ~~289.190~~ 391.275) Section ~~8~~ 8.5 of this bill ~~defines the scope of authority of school police officers, including the authority to issue traffic citations on any public street lying near any public school.~~ expands the jurisdiction of school police officers in certain circumstances.

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

Section 1. NRS 202.265 is hereby amended to read as follows:

202.265 1. Except as otherwise provided in this section, a person shall not carry or possess ~~any~~ while on the property of the Nevada System of Higher Education, ~~for~~ a private or public school or child care facility, or while in a vehicle of a private or public school ~~any~~ or child care facility:

- (a) An explosive or incendiary device;
- (b) A dirk, dagger or switchblade knife;
- (c) A nunchaku or trefoil;
- (d) A blackjack or billy club or metal knuckles; or
- (e) ~~A pistol, revolver or other firearm.~~ Any device used to mark any part of a person with paint or any other substance.

2. Any person who violates subsection 1 is guilty of a gross misdemeanor.

3. Except as otherwise provided in this section, a person who carries or possesses a pistol, revolver or other firearm while on the property of the Nevada System of Higher Education, ~~for~~ a private or public school or child care facility, or while in a vehicle of a private or public school or child care

facility is guilty of a category E felony and shall be punished as provided in NRS 193.130.

4. This section does not prohibit the possession of a weapon listed in subsection 1 *or described in subsection 3* on the property of ~~the~~:

(a) A private or public school or child care facility by a:

~~[(a)]~~ (1) Peace officer;

~~[(b)]~~ (2) School security guard; or

~~[(c)]~~ (3) Person having written permission from the president of a branch or facility of the Nevada System of Higher Education or the principal of the school *or the person designated by a child care facility to give permission* to carry or possess the weapon.

(b) A child care facility which is located at or in the home of a natural person by the person who owns or operates the facility so long as the person resides in the home and the person complies with any laws governing the possession of such a weapon.

5. *The provisions of this section apply to a child care facility located at or in the home of a natural person only during the normal hours of business of the facility.*

~~[4.]~~ ~~5.]~~ 6. For the purposes of this section:

(a) "Firearm" includes ~~the~~:

~~(1) Any device used to mark the clothing of a person with paint or any other substance; and~~

~~(2) Any~~ any device from which a metallic projectile, including any ball bearing or pellet, may be expelled by means of spring, gas, air or other force.

(b) "Nunchaku" has the meaning ascribed to it in NRS 202.350.

(c) "Switchblade knife" has the meaning ascribed to it in NRS 202.350.

(d) "Trefoil" has the meaning ascribed to it in NRS 202.350.

(e) "Vehicle" has the meaning ascribed to "school bus" in NRS 484.148.

Sec. 2. NRS 202.3673 is hereby amended to read as follows:

202.3673 1. Except as otherwise provided in subsections 2 and 3, a permittee may carry a concealed firearm while he is on the premises of any public building.

2. A permittee shall not carry a concealed firearm while he is on the premises of a public building that is located on the property of a public airport.

3. A permittee shall not carry a concealed firearm while he is on the premises of:

(a) A public building that is located on the property of a public school *or a child care facility* or the property of the Nevada System of Higher Education, unless the permittee has obtained written permission to carry a concealed firearm while he is on the premises of the public building pursuant to *subparagraph (3) of paragraph* ~~[(c)]~~ (a) of subsection ~~[3]~~ 4 of NRS 202.265.

(b) A public building that has a metal detector at each public entrance or a sign posted at each public entrance indicating that no firearms are allowed in the building, unless the permittee is not prohibited from carrying a concealed

firearm while he is on the premises of the public building pursuant to subsection 4.

4. The provisions of paragraph (b) of subsection 3 do not prohibit:

(a) A permittee who is a judge from carrying a concealed firearm in the courthouse or courtroom in which he presides or from authorizing a permittee to carry a concealed firearm while in the courtroom of the judge and while traveling to and from the courtroom of the judge.

(b) A permittee who is a prosecuting attorney of an agency or political subdivision of the United States or of this State from carrying a concealed firearm while he is on the premises of a public building.

(c) A permittee who is employed in the public building from carrying a concealed firearm while he is on the premises of the public building.

(d) A permittee from carrying a concealed firearm while he is on the premises of the public building if the permittee has received written permission from the person in control of the public building to carry a concealed firearm while the permittee is on the premises of the public building.

5. A person who violates subsection 2 or 3 is guilty of a misdemeanor.

6. As used in this section, “public building” means any building or office space occupied by:

(a) Any component of the Nevada System of Higher Education and used for any purpose related to the System; or

(b) The Federal Government, the State of Nevada or any county, city, school district or other political subdivision of the State of Nevada and used for any public purpose.

↪ If only part of the building is occupied by an entity described in this subsection, the term means only that portion of the building which is so occupied.

Sec. 3. NRS 62C.060 is hereby amended to read as follows:

62C.060 1. If a peace officer or probation officer has probable cause to believe that a child is committing or has committed an unlawful act that involves the possession, use or threatened use of a firearm, the officer shall take the child into custody.

2. If a child is taken into custody for an unlawful act described in this section, the child must not be released before a detention hearing is held pursuant to NRS 62C.040.

3. At the detention hearing, the juvenile court shall , *if the child was taken into custody for:*

(a) *Carrying or possessing a firearm while on the property of the Nevada System of Higher Education, ~~for~~ a private or public school or child care facility, or while in a vehicle of a private or public school ~~or~~ or child care facility, order the child to:*

(1) *Be evaluated by a qualified professional; and*

(2) *Submit to a test to determine whether the child is using any controlled substance.*

(b) *Committing an unlawful act involving a firearm other than the act described in paragraph (a),* determine whether to order the child to be evaluated by a qualified professional.

4. If the juvenile court orders the child to be evaluated by a qualified professional ~~or to submit to a test to determine whether the child is using any controlled substance,~~ the evaluation ~~or the results from the test~~ must be completed not later than 14 days after the detention hearing. Until the evaluation ~~or the test~~ is completed, the child must be:

(a) Detained at a facility for the detention of children; or

(b) Placed under a program of supervision in the home of the child that may include electronic surveillance of the child.

5. If a child is evaluated by a qualified professional pursuant to this section, the statements made by the child to the qualified professional during the evaluation and any evidence directly or indirectly derived from those statements may not be used for any purpose in a proceeding which is conducted to prove that the child committed a delinquent act or criminal offense. The provisions of this subsection do not prohibit the district attorney from proving that the child committed a delinquent act or criminal offense based upon evidence obtained from sources or by means that are independent of the statements made by the child to the qualified professional during the evaluation.

Sec. 4. NRS 176A.410 is hereby amended to read as follows:

176A.410 1. Except as otherwise provided in subsection 3, if a defendant is convicted of a sexual offense and the court grants probation or suspends the sentence, the court shall, in addition to any other condition ordered pursuant to NRS 176A.400, order as a condition of probation or suspension of sentence that the defendant:

(a) Submit to a search and seizure of his person, residence or vehicle or any property under his control, at any time of the day or night, without a warrant, by any parole and probation officer or any peace officer, for the purpose of determining whether the defendant has violated any condition of probation or suspension of sentence or committed any crime . ~~and~~

(b) Reside at a location only if ~~it~~ :

(1) *The residence* has been approved by the parole and probation officer assigned to the defendant . ~~and keep~~

(2) *If the residence is a facility that houses more than three persons who have been released from prison, the facility is a facility for transitional living for released offenders that is licensed pursuant to chapter 449 of NRS.*

(3) *The defendant keeps* the parole and probation officer informed of his current address . ~~and~~

(c) Accept a position of employment or a position as a volunteer only if it has been approved by the parole and probation officer assigned to the

defendant and keep the parole and probation officer informed of the location of his position of employment or position as a volunteer . { }

(d) Abide by any curfew imposed by the parole and probation officer assigned to the defendant . { }

(e) Participate in and complete a program of professional counseling approved by the Division . { }

(f) Submit to periodic tests, as requested by the parole and probation officer assigned to the defendant, to determine whether the defendant is using a controlled substance . { }

(g) Submit to periodic polygraph examinations, as requested by the parole and probation officer assigned to the defendant . { }

(h) Abstain from consuming, possessing or having under his control any alcohol . { }

(i) Not have contact or communicate with a victim of the sexual offense or a witness who testified against the defendant or solicit another person to engage in such contact or communication on behalf of the defendant, unless approved by the parole and probation officer assigned to the defendant, and a written agreement is entered into and signed in the manner set forth in subsection 2 . { }

(j) Not use aliases or fictitious names . { }

(k) Not obtain a post office box unless the defendant receives permission from the parole and probation officer assigned to the defendant . { }

(l) Not have contact with a person less than 18 years of age in a secluded environment unless another adult who has never been convicted of a sexual offense is present and permission has been obtained from the parole and probation officer assigned to the defendant in advance of each such contact . { }

(m) Unless approved by the parole and probation officer assigned to the defendant and by a psychiatrist, psychologist or counselor treating the defendant, if any, not be in or near:

(1) A playground, park, school or school grounds;

(2) A motion picture theater; or

(3) A business that primarily has children as customers or conducts events that primarily children attend . { }

(n) Comply with any protocol concerning the use of prescription medication prescribed by a treating physician, including, without limitation, any protocol concerning the use of psychotropic medication . { }

(o) Not possess any sexually explicit material that is deemed inappropriate by the parole and probation officer assigned to the defendant . { }

(p) Not patronize a business which offers a sexually related form of entertainment and which is deemed inappropriate by the parole and probation officer assigned to the defendant . { }

(q) Not possess any electronic device capable of accessing the Internet and not access the Internet through any such device or any other means, unless

possession of such a device or such access is approved by the parole and probation officer assigned to the defendant . ~~[-and]~~

(r) Inform the parole and probation officer assigned to the defendant if the defendant expects to be or becomes enrolled as a student at an institution of higher education or changes the date of commencement or termination of his enrollment at an institution of higher education. As used in this paragraph, "institution of higher education" has the meaning ascribed to it in NRS 179D.045.

2. A written agreement entered into pursuant to paragraph (i) of subsection 1 must state that the contact or communication is in the best interest of the victim or witness, and specify the type of contact or communication authorized. The written agreement must be signed and agreed to by:

- (a) The victim or the witness;
- (b) The defendant;
- (c) The parole and probation officer assigned to the defendant;
- (d) The psychiatrist, psychologist or counselor treating the defendant, victim or witness, if any; and
- (e) If the victim or witness is a child under 18 years of age, each parent, guardian or custodian of the child.

3. The court is not required to impose a condition of probation or suspension of sentence listed in subsection 1 if the court finds that extraordinary circumstances are present and the court enters those extraordinary circumstances in the record.

4. As used in this section, "sexual offense" has the meaning ascribed to it in NRS 179D.410.

Sec. 5. NRS 213.1243 is hereby amended to read as follows:

213.1243 1. The Board shall establish by regulation a program of lifetime supervision of sex offenders to commence after any period of probation or any term of imprisonment and any period of release on parole. The program must provide for the lifetime supervision of sex offenders by parole and probation officers.

2. Lifetime supervision shall be deemed a form of parole for:

(a) The limited purposes of the applicability of the provisions of NRS 213.1076, subsection 9 of NRS 213.1095, NRS 213.1096 and subsection 2 of NRS 213.110; and

(b) The purposes of the Interstate Compact for Adult Offender Supervision ratified, enacted and entered into by the State of Nevada pursuant to NRS 213.215.

3. *Except as otherwise provided in subsection 4, the Board shall require as a condition of lifetime supervision that the sex offender reside at a location only if:*

(a) The residence has been approved by the parole and probation officer assigned to the person.

(b) If the residence is a facility that houses more than three persons who have been released from prison, the facility is a facility for transitional living for released offenders that is licensed pursuant to chapter 449 of NRS.

(c) The person keeps the parole and probation officer informed of his current address.

4. The Board is not required to impose a condition pursuant to the program of lifetime supervision listed in subsection 3 if the Board finds that extraordinary circumstances are present and the Board states those extraordinary circumstances in writing.

5. A person who commits a violation of a condition imposed on him pursuant to the program of lifetime supervision is guilty of:

(a) If the violation constitutes a minor violation, a misdemeanor.

(b) If the violation constitutes a major violation, a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 6 years, and may be further punished by a fine of not more than \$5,000.

~~{4.}~~ 6. For the purposes of prosecution of a violation by a person of a condition imposed upon him pursuant to the program of lifetime supervision, the violation shall be deemed to have occurred in, and may only be prosecuted in, the county in which the court that imposed the sentence of lifetime supervision pursuant to NRS 176.0931 is located, regardless of whether the acts or conduct constituting the violation took place, in whole or in part, within or outside that county or within or outside this State.

~~{5.}~~ 7. As used in this section:

(a) "Major violation" means a violation which poses a threat to the safety or well-being of others and which involves:

(1) The commission of any crime that is punishable as a gross misdemeanor or felony or any crime that involves a victim who is less than 18 years of age;

(2) The use of a deadly weapon, explosives or a firearm;

(3) The use or threatened use of force or violence against a person;

(4) Death or bodily injury of a person;

(5) An act of domestic violence;

(6) Harassment, stalking or threats of any kind; or

(7) The forcible or unlawful entry of a home, building, structure or vehicle in which a person is present.

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

Sec. 6. NRS 213.1245 is hereby amended to read as follows:

213.1245 1. Except as otherwise provided in subsection 3, if the Board releases on parole a prisoner convicted of an offense listed in NRS 179D.620, the Board shall, in addition to any other condition of parole, require as a condition of parole that the parolee:

(a) Reside at a location only if ~~{it}~~ :

(1) *The residence* has been approved by the parole and probation officer assigned to the parolee . ~~and keep~~

(2) *If the residence is a facility that houses more than three persons who have been released from prison, the facility is a facility for transitional living for released offenders that is licensed pursuant to chapter 449 of NRS.*

(3) *The parolee keeps* the parole and probation officer informed of his current address . ~~;~~

(b) Accept a position of employment or a position as a volunteer only if it has been approved by the parole and probation officer assigned to the parolee and keep the parole and probation officer informed of the location of his position of employment or position as a volunteer . ~~;~~

(c) Abide by any curfew imposed by the parole and probation officer assigned to the parolee . ~~;~~

(d) Participate in and complete a program of professional counseling approved by the Division . ~~;~~

(e) Submit to periodic tests, as requested by the parole and probation officer assigned to the parolee, to determine whether the parolee is using a controlled substance . ~~;~~

(f) Submit to periodic polygraph examinations, as requested by the parole and probation officer assigned to the parolee . ~~;~~

(g) Abstain from consuming, possessing or having under his control any alcohol . ~~;~~

(h) Not have contact or communicate with a victim of the offense or a witness who testified against the parolee or solicit another person to engage in such contact or communication on behalf of the parolee, unless approved by the parole and probation officer assigned to the parolee, and a written agreement is entered into and signed in the manner set forth in subsection 2 . ~~;~~

(i) Not use aliases or fictitious names . ~~;~~

(j) Not obtain a post office box unless the parolee receives permission from the parole and probation officer assigned to the parolee . ~~;~~

(k) Not have contact with a person less than 18 years of age in a secluded environment unless another adult who has never been convicted of an offense listed in NRS 179D.410 is present and permission has been obtained from the parole and probation officer assigned to the parolee in advance of each such contact . ~~;~~

(l) Unless approved by the parole and probation officer assigned to the parolee and by a psychiatrist, psychologist or counselor treating the parolee, if any, not be in or near:

(1) A playground, park, school or school grounds;

(2) A motion picture theater; or

(3) A business that primarily has children as customers or conducts events that primarily children attend . ~~;~~

(m) Comply with any protocol concerning the use of prescription medication prescribed by a treating physician, including, without limitation, any protocol concerning the use of psychotropic medication . ~~{-}~~

(n) Not possess any sexually explicit material that is deemed inappropriate by the parole and probation officer assigned to the parolee . ~~{-}~~

(o) Not patronize a business which offers a sexually related form of entertainment and which is deemed inappropriate by the parole and probation officer assigned to the parolee . ~~{-}~~

(p) Not possess any electronic device capable of accessing the Internet and not access the Internet through any such device or any other means, unless possession of such a device or such access is approved by the parole and probation officer assigned to the parolee . ~~{- and}~~

(q) Inform the parole and probation officer assigned to the parolee if the parolee expects to be or becomes enrolled as a student at an institution of higher education or changes the date of commencement or termination of his enrollment at an institution of higher education. As used in this paragraph, "institution of higher education" has the meaning ascribed to it in NRS 179D.045.

2. A written agreement entered into pursuant to paragraph (h) of subsection 1 must state that the contact or communication is in the best interest of the victim or witness, and specify the type of contact or communication authorized. The written agreement must be signed and agreed to by:

- (a) The victim or the witness;
- (b) The parolee;
- (c) The parole and probation officer assigned to the parolee;
- (d) The psychiatrist, psychologist or counselor treating the parolee, victim or witness, if any; and
- (e) If the victim or witness is a child under 18 years of age, each parent, guardian or custodian of the child.

3. The Board is not required to impose a condition of parole listed in subsection 1 if the Board finds that extraordinary circumstances are present and the Board states those extraordinary circumstances in writing.

Sec. 7. (Deleted by amendment.)

Sec. 8. ~~{NRS 289.190 is hereby amended to read as follows:~~

~~289.190 1. A person employed or appointed to serve as a school police officer pursuant to subsection 8 of NRS 391.100 has the powers of a peace officer. A school police officer shall perform his duties in compliance with the provisions of NRS 171.1223 [-] and, except as otherwise provided in subsection 2, may exercise his power and authority only:~~

- ~~(a) Upon the property of the school district;~~
- ~~(b) When in hot pursuit of a violator leaving such property;~~
- ~~(c) In or about other grounds or properties of the school district; and~~
- ~~(d) At activities or events sponsored by the school district that are in a location other than the property of the school district.~~

~~2. A school police officer may, in the manner provided in NRS 484.799, prepare and issue a traffic citation for a violation of chapter 484 of NRS on any public street that is adjacent to any public school in the school district.~~

~~3. A person appointed pursuant to NRS 393.0718 by the board of trustees of any school district has the powers of a peace officer to carry out the intents and purposes of NRS 393.071 to 393.0719, inclusive.~~

~~[3.] 4. Members of every board of trustees of a school district, superintendents of schools, principals and teachers have concurrent power with peace officers for the protection of children in school and on the way to and from school, and for the enforcement of order and discipline among such children, including children who attend school within one school district but reside in an adjoining school district or adjoining state, pursuant to the provisions of chapter 392 of NRS. This subsection must not be construed so as to make it the duty of superintendents of schools, principals and teachers to supervise the conduct of children while not on the school property.]~~

(Deleted by amendment.)

Sec. 8.5. *NRS 391.275 is hereby amended to read as follows:*

391.275 1. The jurisdiction of each school police officer of a school district extends to all school property, buildings and facilities within the school district ~~for~~ for the purpose of:

~~[1.]~~ (a) Protecting school district personnel, pupils, or real or personal property; or

~~[2.]~~ (b) Cooperating with local law enforcement agencies in matters relating to personnel, pupils or real or personal property of the school district.

2. *In addition to the jurisdiction set forth in subsection 1, a school police officer of a school district has jurisdiction:*

(a) Beyond the school property, buildings and facilities when in hot pursuit of a person believed to have committed a crime;

(b) At activities or events sponsored by the school district that are in a location other than the property, buildings or facilities within the school district; and

(c) When authorized by the superintendent of schools of the school district, on the streets that are adjacent to the school property, buildings and facilities within the school district for the purpose of issuing traffic citations for violations of traffic laws and ordinances during the times that the school is in session or school-related activities are in progress.

Sec. 9. NRS 449.037 is hereby amended to read as follows:

449.037 1. The Board shall adopt:

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

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

(c) Regulations governing the procedure and standards for granting an extension of the time for which a natural person may provide certain care in his home without being considered a residential facility for groups pursuant

to NRS 449.017. The regulations must require that such grants are effective only if made in writing.

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

(e) Any other regulations as it deems necessary or convenient to carry out the provisions of NRS 449.001 to 449.240, inclusive.

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

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

(b) Residential facilities for groups,

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

3. The Board shall adopt separate regulations for:

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

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

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

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

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

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

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

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

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

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

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

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

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

7. The Board shall adopt separate regulations governing the licensing and operation of residential facilities for groups which provide assisted living services. The Board shall not allow the licensing of a facility as a residential facility for groups which provides assisted living services and a residential facility for groups shall not claim that it provides "assisted living services" unless:

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

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

(1) Except as otherwise provided in subsection 8, contain toilet facilities;

(2) Contain a sleeping area or bedroom; and

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

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

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

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

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

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

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

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

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

8. The Health Division may grant an exception from the requirement of subparagraph (1) of paragraph (b) of subsection 7 to a facility licensed as a residential facility for groups on or before July 1, 2005, and which is authorized to have 10 or fewer beds and was originally constructed as a single-family dwelling, if the Health Division finds that:

(a) Strict application of that requirement would result in economic hardship to the facility requesting the exception; and

(b) The exception, if granted, would not:

(1) Cause substantial detriment to the health or welfare of any resident of the facility;

(2) Result in more than two residents sharing a toilet facility; or

(3) Otherwise impair substantially the purpose of that requirement.

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

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

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

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

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

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

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

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

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

➤ *The regulations must provide that if a facility was originally constructed as a single-family dwelling, the facility must not be authorized for more than eight beds.*

11. As used in this section, "living unit" means an individual private accommodation designated for a resident within the facility.

Sec. 10. The amendatory provisions of:

1. Section 4 of this act apply to any person who is granted probation or a suspension of sentence before, on or after October 1, 2007;

2. Section 5 of this act apply to any person placed under a program of lifetime supervision before, on or after October 1, 2007; and

3. Sections 6 and 7 of this act apply to any person released on parole before, on or after October 1, 2007.

Amendment No. 1017.

"SUMMARY—Makes various changes to provisions relating to the safety of children. (BDR 15-1062)"

"AN ACT relating to the safety of children; ~~increasing the penalty for the unlawful possession of a firearm while on school property;~~ prohibiting the possession of certain firearms on the property of or in a vehicle of child care facilities; revising the definition of "firearm"; requiring children who are taken into custody for possession of a firearm while on school property to submit to an evaluation by a qualified professional and a drug test; revising provisions concerning certain sex offenders who are on lifetime supervision or released on parole, probation or a suspended sentence; revising the jurisdiction of school police officers under certain circumstances; and providing other matters property relating thereto."

Legislative Counsel's Digest:

Section 1 of this bill revises the definition of "firearm" ~~and increases the penalty~~ for the purposes of the provision prohibiting the unlawful possession of a firearm while on school property ~~from a gross misdemeanor to a category E felony.~~ (NRS 202.265) Section 1 further makes the provisions prohibiting a person from carrying or possessing certain firearms while on school grounds or in a vehicle of a school applicable to child care facilities. However, if the child care facility is located at or in the home of a natural person, those provisions do not apply to the owner or operator of the facility who resides in the home if he complies with all laws concerning possession of the weapon. In addition, the prohibition only applies with respect to such a facility during the normal hours of business. Existing law allows a juvenile court to decide whether to order a child who is taken into custody for certain unlawful acts involving firearms to submit to an evaluation by a qualified professional. (NRS 62C.060) Section 3 of this bill requires a juvenile court to order a child who is taken into custody for possession of a firearm on school property or at a child care facility to submit to an evaluation by a qualified professional and a drug test.

Existing law sets forth certain conditions to be imposed on sex offenders on lifetime supervision or released on parole, probation or a suspended sentence. (NRS 176A.410, 213.1243, 213.1245, 213.1255) Sections 4-6 of this bill prohibit such sex offenders from establishing residences in a facility that houses more than three persons who have been released from prison unless the facility is a facility for transitional living for released offenders that is licensed pursuant to chapter 449 of NRS.

Existing law gives school police officers the powers of a peace officer and establishes the jurisdiction of such officers. (NRS 391.275) Section 8.5 of

this bill expands the jurisdiction of school police officers in certain circumstances.

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

Section 1. NRS 202.265 is hereby amended to read as follows:

202.265 1. Except as otherwise provided in this section, a person shall not carry or possess ~~[-]~~ while on the property of the Nevada System of Higher Education, ~~[-or]~~ a private or public school *or child care facility*, or while in a vehicle of a private or public school ~~[-]~~ *or child care facility*:

- (a) An explosive or incendiary device;
- (b) A dirk, dagger or switchblade knife;
- (c) A nunchaku or trefoil;
- (d) A blackjack or billy club or metal knuckles; ~~[-or]~~
- (e) A pistol, revolver or other firearm ~~[-]~~; or
- (f) Any device used to mark any part of a person with paint or any other substance.

2. Any person who violates subsection 1 is guilty of a gross misdemeanor.

3. ~~If Except as otherwise provided in this section, a person who carries or possesses a pistol, revolver or other firearm while on the property of the Nevada System of Higher Education, a private or public school or child care facility, or while in a vehicle of a private or public school or child care facility, is guilty of a category E felony and shall be punished as provided in NRS 193.130.~~

~~4.]~~ This section does not prohibit the possession of a weapon listed in subsection 1 ~~for described in subsection 3]~~ on the property of ~~[a]~~:

- (a) A private or public school *or child care facility* by a:
 - ~~[(a)]~~ (1) Peace officer;
 - ~~[(b)]~~ (2) School security guard; or
 - ~~[(c)]~~ (3) Person having written permission from the president of a branch or facility of the Nevada System of Higher Education or the principal of the school *or the person designated by a child care facility to give permission to carry or possess the weapon.*

(b) A child care facility which is located at or in the home of a natural person by the person who owns or operates the facility so long as the person resides in the home and the person complies with any laws governing the possession of such a weapon.

~~5.]~~ 4. The provisions of this section apply to a child care facility located at or in the home of a natural person only during the normal hours of business of the facility.

~~4.]~~ ~~6.]~~ 5. For the purposes of this section:

- (a) "Firearm" includes ~~[-]~~
- ~~(1) Any device used to mark the clothing of a person with paint or any other substance; and~~

~~(2) Any~~ any device from which a metallic projectile, including any ball bearing or pellet, may be expelled by means of spring, gas, air or other force.

(b) "Nunchaku" has the meaning ascribed to it in NRS 202.350.

(c) "Switchblade knife" has the meaning ascribed to it in NRS 202.350.

(d) "Trefoil" has the meaning ascribed to it in NRS 202.350.

(e) "Vehicle" has the meaning ascribed to "school bus" in NRS 484.148.

Sec. 2. NRS 202.3673 is hereby amended to read as follows:

202.3673 1. Except as otherwise provided in subsections 2 and 3, a permittee may carry a concealed firearm while he is on the premises of any public building.

2. A permittee shall not carry a concealed firearm while he is on the premises of a public building that is located on the property of a public airport.

3. A permittee shall not carry a concealed firearm while he is on the premises of:

(a) A public building that is located on the property of a public school *or a child care facility* or the property of the Nevada System of Higher Education, unless the permittee has obtained written permission to carry a concealed firearm while he is on the premises of the public building pursuant to *subparagraph (3) of paragraph (c)* ~~(a)~~ of subsection 3 ~~4~~ of NRS 202.265.

(b) A public building that has a metal detector at each public entrance or a sign posted at each public entrance indicating that no firearms are allowed in the building, unless the permittee is not prohibited from carrying a concealed firearm while he is on the premises of the public building pursuant to subsection 4.

4. The provisions of paragraph (b) of subsection 3 do not prohibit:

(a) A permittee who is a judge from carrying a concealed firearm in the courthouse or courtroom in which he presides or from authorizing a permittee to carry a concealed firearm while in the courtroom of the judge and while traveling to and from the courtroom of the judge.

(b) A permittee who is a prosecuting attorney of an agency or political subdivision of the United States or of this State from carrying a concealed firearm while he is on the premises of a public building.

(c) A permittee who is employed in the public building from carrying a concealed firearm while he is on the premises of the public building.

(d) A permittee from carrying a concealed firearm while he is on the premises of the public building if the permittee has received written permission from the person in control of the public building to carry a concealed firearm while the permittee is on the premises of the public building.

5. A person who violates subsection 2 or 3 is guilty of a misdemeanor.

6. As used in this section, "public building" means any building or office space occupied by:

(a) Any component of the Nevada System of Higher Education and used for any purpose related to the System; or

(b) The Federal Government, the State of Nevada or any county, city, school district or other political subdivision of the State of Nevada and used for any public purpose.

➡ If only part of the building is occupied by an entity described in this subsection, the term means only that portion of the building which is so occupied.

Sec. 3. NRS 62C.060 is hereby amended to read as follows:

62C.060 1. If a peace officer or probation officer has probable cause to believe that a child is committing or has committed an unlawful act that involves the possession, use or threatened use of a firearm, the officer shall take the child into custody.

2. If a child is taken into custody for an unlawful act described in this section, the child must not be released before a detention hearing is held pursuant to NRS 62C.040.

3. At the detention hearing, the juvenile court shall , *if the child was taken into custody for:*

(a) Carrying or possessing a firearm while on the property of the Nevada System of Higher Education, a private or public school or child care facility, or while in a vehicle of a private or public school or child care facility, order the child to:

(1) Be evaluated by a qualified professional; and

(2) Submit to a test to determine whether the child is using any controlled substance.

(b) Committing an unlawful act involving a firearm other than the act described in paragraph (a), determine whether to order the child to be evaluated by a qualified professional.

4. If the juvenile court orders the child to be evaluated by a qualified professional ~~or to submit to a test to determine whether the child is using any controlled substance~~, the evaluation ~~or the results from the test~~ must be completed not later than 14 days after the detention hearing. Until the evaluation ~~or the test~~ is completed, the child must be:

(a) Detained at a facility for the detention of children; or

(b) Placed under a program of supervision in the home of the child that may include electronic surveillance of the child.

5. If a child is evaluated by a qualified professional pursuant to this section, the statements made by the child to the qualified professional during the evaluation and any evidence directly or indirectly derived from those statements may not be used for any purpose in a proceeding which is conducted to prove that the child committed a delinquent act or criminal offense. The provisions of this subsection do not prohibit the district attorney from proving that the child committed a delinquent act or criminal offense based upon evidence obtained from sources or by means that are independent of the statements made by the child to the qualified professional during the evaluation.

Sec. 4. NRS 176A.410 is hereby amended to read as follows:

176A.410 1. Except as otherwise provided in subsection 3, if a defendant is convicted of a sexual offense and the court grants probation or suspends the sentence, the court shall, in addition to any other condition ordered pursuant to NRS 176A.400, order as a condition of probation or suspension of sentence that the defendant:

(a) Submit to a search and seizure of his person, residence or vehicle or any property under his control, at any time of the day or night, without a warrant, by any parole and probation officer or any peace officer, for the purpose of determining whether the defendant has violated any condition of probation or suspension of sentence or committed any crime . ~~{-}~~

(b) Reside at a location only if ~~{-}~~ :

(1) *The residence* has been approved by the parole and probation officer assigned to the defendant . ~~{-and keep-}~~

(2) *If the residence is a facility that houses more than three persons who have been released from prison, the facility is a facility for transitional living for released offenders that is licensed pursuant to chapter 449 of NRS.*

(3) *The defendant keeps* the parole and probation officer informed of his current address . ~~{-}~~

(c) Accept a position of employment or a position as a volunteer only if it has been approved by the parole and probation officer assigned to the defendant and keep the parole and probation officer informed of the location of his position of employment or position as a volunteer . ~~{-}~~

(d) Abide by any curfew imposed by the parole and probation officer assigned to the defendant . ~~{-}~~

(e) Participate in and complete a program of professional counseling approved by the Division . ~~{-}~~

(f) Submit to periodic tests, as requested by the parole and probation officer assigned to the defendant, to determine whether the defendant is using a controlled substance . ~~{-}~~

(g) Submit to periodic polygraph examinations, as requested by the parole and probation officer assigned to the defendant . ~~{-}~~

(h) Abstain from consuming, possessing or having under his control any alcohol . ~~{-}~~

(i) Not have contact or communicate with a victim of the sexual offense or a witness who testified against the defendant or solicit another person to engage in such contact or communication on behalf of the defendant, unless approved by the parole and probation officer assigned to the defendant, and a written agreement is entered into and signed in the manner set forth in subsection 2 . ~~{-}~~

(j) Not use aliases or fictitious names . ~~{-}~~

(k) Not obtain a post office box unless the defendant receives permission from the parole and probation officer assigned to the defendant . ~~{-}~~

(l) Not have contact with a person less than 18 years of age in a secluded environment unless another adult who has never been convicted of a sexual offense is present and permission has been obtained from the parole and

probation officer assigned to the defendant in advance of each such contact .
~~[-]~~

(m) Unless approved by the parole and probation officer assigned to the defendant and by a psychiatrist, psychologist or counselor treating the defendant, if any, not be in or near:

- (1) A playground, park, school or school grounds;
- (2) A motion picture theater; or
- (3) A business that primarily has children as customers or conducts events that primarily children attend . ~~[-]~~

(n) Comply with any protocol concerning the use of prescription medication prescribed by a treating physician, including, without limitation, any protocol concerning the use of psychotropic medication . ~~[-]~~

(o) Not possess any sexually explicit material that is deemed inappropriate by the parole and probation officer assigned to the defendant . ~~[-]~~

(p) Not patronize a business which offers a sexually related form of entertainment and which is deemed inappropriate by the parole and probation officer assigned to the defendant . ~~[-]~~

(q) Not possess any electronic device capable of accessing the Internet and not access the Internet through any such device or any other means, unless possession of such a device or such access is approved by the parole and probation officer assigned to the defendant . ~~[- and]~~

(r) Inform the parole and probation officer assigned to the defendant if the defendant expects to be or becomes enrolled as a student at an institution of higher education or changes the date of commencement or termination of his enrollment at an institution of higher education. As used in this paragraph, "institution of higher education" has the meaning ascribed to it in NRS 179D.045.

2. A written agreement entered into pursuant to paragraph (i) of subsection 1 must state that the contact or communication is in the best interest of the victim or witness, and specify the type of contact or communication authorized. The written agreement must be signed and agreed to by:

- (a) The victim or the witness;
- (b) The defendant;
- (c) The parole and probation officer assigned to the defendant;
- (d) The psychiatrist, psychologist or counselor treating the defendant, victim or witness, if any; and
- (e) If the victim or witness is a child under 18 years of age, each parent, guardian or custodian of the child.

3. The court is not required to impose a condition of probation or suspension of sentence listed in subsection 1 if the court finds that extraordinary circumstances are present and the court enters those extraordinary circumstances in the record.

4. As used in this section, "sexual offense" has the meaning ascribed to it in NRS 179D.410.

Sec. 5. NRS 213.1243 is hereby amended to read as follows:

213.1243 1. The Board shall establish by regulation a program of lifetime supervision of sex offenders to commence after any period of probation or any term of imprisonment and any period of release on parole. The program must provide for the lifetime supervision of sex offenders by parole and probation officers.

2. Lifetime supervision shall be deemed a form of parole for:

(a) The limited purposes of the applicability of the provisions of NRS 213.1076, subsection 9 of NRS 213.1095, NRS 213.1096 and subsection 2 of NRS 213.110; and

(b) The purposes of the Interstate Compact for Adult Offender Supervision ratified, enacted and entered into by the State of Nevada pursuant to NRS 213.215.

3. *Except as otherwise provided in subsection 4, the Board shall require as a condition of lifetime supervision that the sex offender reside at a location only if:*

(a) The residence has been approved by the parole and probation officer assigned to the person.

(b) If the residence is a facility that houses more than three persons who have been released from prison, the facility is a facility for transitional living for released offenders that is licensed pursuant to chapter 449 of NRS.

(c) The person keeps the parole and probation officer informed of his current address.

4. *The Board is not required to impose a condition pursuant to the program of lifetime supervision listed in subsection 3 if the Board finds that extraordinary circumstances are present and the Board states those extraordinary circumstances in writing.*

5. A person who commits a violation of a condition imposed on him pursuant to the program of lifetime supervision is guilty of:

(a) If the violation constitutes a minor violation, a misdemeanor.

(b) If the violation constitutes a major violation, a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 6 years, and may be further punished by a fine of not more than \$5,000.

~~{4.}~~ 6. For the purposes of prosecution of a violation by a person of a condition imposed upon him pursuant to the program of lifetime supervision, the violation shall be deemed to have occurred in, and may only be prosecuted in, the county in which the court that imposed the sentence of lifetime supervision pursuant to NRS 176.0931 is located, regardless of whether the acts or conduct constituting the violation took place, in whole or in part, within or outside that county or within or outside this State.

~~{5.}~~ 7. As used in this section:

(a) "Major violation" means a violation which poses a threat to the safety or well-being of others and which involves:

(1) The commission of any crime that is punishable as a gross misdemeanor or felony or any crime that involves a victim who is less than 18 years of age;

(2) The use of a deadly weapon, explosives or a firearm;

(3) The use or threatened use of force or violence against a person;

(4) Death or bodily injury of a person;

(5) An act of domestic violence;

(6) Harassment, stalking or threats of any kind; or

(7) The forcible or unlawful entry of a home, building, structure or vehicle in which a person is present.

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

Sec. 6. NRS 213.1245 is hereby amended to read as follows:

213.1245 1. Except as otherwise provided in subsection 3, if the Board releases on parole a prisoner convicted of an offense listed in NRS 179D.620, the Board shall, in addition to any other condition of parole, require as a condition of parole that the parolee:

(a) Reside at a location only if ~~it~~ :

(1) *The residence* has been approved by the parole and probation officer assigned to the parolee. ~~and keep~~

(2) *If the residence is a facility that houses more than three persons who have been released from prison, the facility is a facility for transitional living for released offenders that is licensed pursuant to chapter 449 of NRS.*

(3) *The parolee keeps* the parole and probation officer informed of his current address. ~~;~~

(b) Accept a position of employment or a position as a volunteer only if it has been approved by the parole and probation officer assigned to the parolee and keep the parole and probation officer informed of the location of his position of employment or position as a volunteer. ~~;~~

(c) Abide by any curfew imposed by the parole and probation officer assigned to the parolee. ~~;~~

(d) Participate in and complete a program of professional counseling approved by the Division. ~~;~~

(e) Submit to periodic tests, as requested by the parole and probation officer assigned to the parolee, to determine whether the parolee is using a controlled substance. ~~;~~

(f) Submit to periodic polygraph examinations, as requested by the parole and probation officer assigned to the parolee. ~~;~~

(g) Abstain from consuming, possessing or having under his control any alcohol. ~~;~~

(h) Not have contact or communicate with a victim of the offense or a witness who testified against the parolee or solicit another person to engage in such contact or communication on behalf of the parolee, unless approved by the parole and probation officer assigned to the parolee, and a written

agreement is entered into and signed in the manner set forth in subsection 2 .
[;]

- (i) Not use aliases or fictitious names . [;]
- (j) Not obtain a post office box unless the parolee receives permission from the parole and probation officer assigned to the parolee . [;]
- (k) Not have contact with a person less than 18 years of age in a secluded environment unless another adult who has never been convicted of an offense listed in NRS 179D.410 is present and permission has been obtained from the parole and probation officer assigned to the parolee in advance of each such contact . [;]
- (l) Unless approved by the parole and probation officer assigned to the parolee and by a psychiatrist, psychologist or counselor treating the parolee, if any, not be in or near:
 - (1) A playground, park, school or school grounds;
 - (2) A motion picture theater; or
 - (3) A business that primarily has children as customers or conducts events that primarily children attend . [;]
- (m) Comply with any protocol concerning the use of prescription medication prescribed by a treating physician, including, without limitation, any protocol concerning the use of psychotropic medication . [;]
- (n) Not possess any sexually explicit material that is deemed inappropriate by the parole and probation officer assigned to the parolee . [;]
- (o) Not patronize a business which offers a sexually related form of entertainment and which is deemed inappropriate by the parole and probation officer assigned to the parolee . [;]
- (p) Not possess any electronic device capable of accessing the Internet and not access the Internet through any such device or any other means, unless possession of such a device or such access is approved by the parole and probation officer assigned to the parolee . [; and]
- (q) Inform the parole and probation officer assigned to the parolee if the parolee expects to be or becomes enrolled as a student at an institution of higher education or changes the date of commencement or termination of his enrollment at an institution of higher education. As used in this paragraph, "institution of higher education" has the meaning ascribed to it in NRS 179D.045.

2. A written agreement entered into pursuant to paragraph (h) of subsection 1 must state that the contact or communication is in the best interest of the victim or witness, and specify the type of contact or communication authorized. The written agreement must be signed and agreed to by:

- (a) The victim or the witness;
- (b) The parolee;
- (c) The parole and probation officer assigned to the parolee;
- (d) The psychiatrist, psychologist or counselor treating the parolee, victim or witness, if any; and

(e) If the victim or witness is a child under 18 years of age, each parent, guardian or custodian of the child.

3. The Board is not required to impose a condition of parole listed in subsection 1 if the Board finds that extraordinary circumstances are present and the Board states those extraordinary circumstances in writing.

Sec. 7. (Deleted by amendment.)

Sec. 8. (Deleted by amendment.)

Sec. 8.5. NRS 391.275 is hereby amended to read as follows:

391.275 1. The jurisdiction of each school police officer of a school district extends to all school property, buildings and facilities within the school district ~~{ }~~ for the purpose of:

~~{1-}~~ (a) Protecting school district personnel, pupils, or real or personal property; or

~~{2-}~~ (b) Cooperating with local law enforcement agencies in matters relating to personnel, pupils or real or personal property of the school district.

2. *In addition to the jurisdiction set forth in subsection 1, a school police officer of a school district has jurisdiction:*

(a) Beyond the school property, buildings and facilities when in hot pursuit of a person believed to have committed a crime;

(b) At activities or events sponsored by the school district that are in a location other than the property, buildings or facilities within the school district; and

(c) When authorized by the superintendent of schools of the school district, on the streets that are adjacent to the school property, buildings and facilities within the school district for the purpose of issuing traffic citations for violations of traffic laws and ordinances during the times that the school is in session or school-related activities are in progress.

Sec. 9. NRS 449.037 is hereby amended to read as follows:

449.037 1. The Board shall adopt:

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

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

(c) Regulations governing the procedure and standards for granting an extension of the time for which a natural person may provide certain care in his home without being considered a residential facility for groups pursuant to NRS 449.017. The regulations must require that such grants are effective only if made in writing.

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

(e) Any other regulations as it deems necessary or convenient to carry out the provisions of NRS 449.001 to 449.240, inclusive.

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

- (a) Facilities for the care of adults during the day; and
- (b) Residential facilities for groups,
→ which provide care to persons with Alzheimer's disease.

3. The Board shall adopt separate regulations for:

- (a) The licensure of rural hospitals which take into consideration the unique problems of operating such a facility in a rural area.
- (b) The licensure of facilities for refractive surgery which take into consideration the unique factors of operating such a facility.
- (c) The licensure of mobile units which take into consideration the unique factors of operating a facility that is not in a fixed location.

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

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

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

- (a) The ultimate user's physical and mental condition is stable and is following a predictable course.
- (b) The amount of the medication prescribed is at a maintenance level and does not require a daily assessment.
- (c) A written plan of care by a physician or registered nurse has been established that:

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

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

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

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

7. The Board shall adopt separate regulations governing the licensing and operation of residential facilities for groups which provide assisted living services. The Board shall not allow the licensing of a facility as a residential facility for groups which provides assisted living services and a residential

facility for groups shall not claim that it provides "assisted living services" unless:

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

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

(1) Except as otherwise provided in subsection 8, contain toilet facilities;

(2) Contain a sleeping area or bedroom; and

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

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

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

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

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

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

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

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

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

8. The Health Division may grant an exception from the requirement of subparagraph (1) of paragraph (b) of subsection 7 to a facility licensed as a residential facility for groups on or before July 1, 2005, and which is authorized to have 10 or fewer beds and was originally constructed as a single-family dwelling, if the Health Division finds that:

(a) Strict application of that requirement would result in economic hardship to the facility requesting the exception; and

(b) The exception, if granted, would not:

(1) Cause substantial detriment to the health or welfare of any resident of the facility;

(2) Result in more than two residents sharing a toilet facility; or

(3) Otherwise impair substantially the purpose of that requirement.

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

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

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

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

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

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

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

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

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

➡ *The regulations must provide that if a facility was originally constructed as a single-family dwelling, the facility must not be authorized for more than eight beds.*

11. As used in this section, "living unit" means an individual private accommodation designated for a resident within the facility.

Sec. 10. The amendatory provisions of:

1. Section 4 of this act apply to any person who is granted probation or a suspension of sentence before, on or after October 1, 2007;

2. Section 5 of this act apply to any person placed under a program of lifetime supervision before, on or after October 1, 2007; and

3. Sections 6 and 7 of this act apply to any person released on parole before, on or after October 1, 2007.

Senator Amodei moved that the Senate do not concur in the Assembly amendments to Senate Bill No. 354.

Remarks by Senator Amodei.

Motion carried.

Bill ordered transmitted to the Assembly.

Senate Bill No. 517.

The following Assembly amendment was read:

Amendment No. 1053.

"SUMMARY—Requires that certain payments to the State of Nevada be made electronically. (BDR 31-633)"

"AN ACT relating to state financial administration; requiring that certain payments made to agencies of this State be made electronically; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

This bill requires all payments of money owed to a state agency for taxes, interest, penalties or any other obligations that, in the aggregate, amount to \$10,000 or more be made by electronic transfer. This requirement does not apply to such payments owed by governmental entities, ~~for to~~ such payments to the Secretary of State unless the Secretary of State so requires ~~for~~ or such payments made by credit card or debit card if the state agency requires the cardholder to pay a fee that does not exceed the fee charged to the state agency by the issuer of the credit card or debit card.

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

Section 1. Chapter 353 of NRS is hereby amended by adding thereto a new section to read as follows:

1. *Except as otherwise provided in subsection 2, all payments of money owed to a state agency for taxes, interest, penalties or any other obligations that, in the aggregate, amount to \$10,000 or more must be made by any method of electronic transfer of money allowed by the state agency.*

2. *The provisions of subsection 1:*

(a) *Apply to a person who has entered into an agreement with one or more employers who are required to pay contributions pursuant to NRS 612.535, if:*

(1) *Pursuant to such agreement, the person is required to submit the contributions to the Employment Security Division of the Department of Employment, Training and Rehabilitation on behalf of the employers; and*

(2) *The amount of such contributions from employers, in the aggregate, is \$10,000 or more.*

(b) *Do not apply to ~~for~~ the payment of money for taxes, interest, penalties or any other obligations that, in the aggregate, amount to \$10,000 or more owed to:*

(1) *The ~~payment of money owed to the~~ Secretary of State, unless the Secretary of State requires ~~the~~ that such a payment ~~of money owed to his office for taxes, interest, penalties or any other obligations that, in the aggregate, amount to \$10,000 or more~~ be made by any method of electronic transfer of money.*

(2) ~~The payment of money owed to a~~ A state agency by a governmental entity.

(3) A state agency that is made by credit card or debit card if the state agency requires the cardholder to pay the fee authorized pursuant to subsection 3 of NRS 353.1465.

3. If the payment of money owed to a state agency is required pursuant to this section to be made electronically, the electronic payment must be credited to the State of Nevada on or before the date that such payment is due. An employer who is required to pay a contribution pursuant to NRS 612.535 must initiate the payment of the contribution on or before the date that such payment is due.

4. As used in this section:

(a) "Cardholder" has the meaning ascribed to it in NRS 353.1465.

(b) "Credit card" has the meaning ascribed to it in NRS 353.1465.

(c) "Debit card" has the meaning ascribed to it in NRS 353.1465.

(d) "Electronic transfer of money" means any transfer of money, other than a transaction initiated by a check or other similar instrument, that is initiated through an automated clearinghouse transaction, an electronic check transaction or a wire transfer for the purpose of ordering, instructing or authorizing a financial institution to debit or credit an account.

~~(b)~~ (e) "Employer" has the meaning ascribed to it in NRS 612.055.

~~(c)~~ (f) "Governmental entity" means:

(1) The government of this State;

(2) An agency of the government of this State;

(3) A political subdivision of this State; and

(4) An agency of a political subdivision of this State.

Sec. 2. NRS 353.146 is hereby amended to read as follows:

353.146 As used in NRS 353.146 to 353.148, inclusive, and section 1 of this act, "state agency" means an agency, bureau, board, commission, department, division or any other unit of the Executive Department of the State Government.

Sec. 3. NRS 31A.090 is hereby amended to read as follows:

31A.090 1. A notice to withhold income is binding upon any employer of an obligor to whom it is mailed. To reimburse the employer for his costs in making the withholding, he may deduct \$3 from the amount paid the obligor each time he makes a withholding.

2. ~~But~~ Except as otherwise provided in subsection 3, if an employer receives notices to withhold income for more than one employee, he may consolidate the amounts of money that are payable to:

(a) The enforcing authority and pay those amounts with one check; and

(b) The State Treasurer and pay those amounts with one check,

↳ but the employer shall attach to each check a statement identifying by name and social security number each obligor for whom payment is made and the amount transmitted for that obligor.

3. *If the provisions of section 1 of this act apply, the employer shall make payment to the enforcing authority or the State Treasurer, as applicable, by way of any method of electronic transfer of money allowed by the enforcing authority or the State Treasurer. If an employer makes such payment by way of electronic transfer of money, the employer shall transmit separately the name and appropriate identification number, if any, of each obligor for whom payment is made and the amount transmitted for that obligor.*

4. An employer shall cooperate with and provide relevant information to an enforcing authority as necessary to enable it to enforce an obligation of support. A disclosure made in good faith pursuant to this subsection does not give rise to any action for damages resulting from the disclosure.

5. *As used in this section, "electronic transfer of money" has the meaning ascribed to it in section 1 of this act.*

Sec. 4. NRS 108.650 is hereby amended to read as follows:

108.650 1. Any person or his insurer who, after the receipt of a certified copy of the notice of lien pursuant to NRS 108.610, makes any payment to the injured person, his heirs, personal representatives or the attorney for any of them, as compensation for the injury suffered, without paying the hospital the reasonable value of hospitalization rendered to the injured person and claimed in its notice of lien or so much thereof as can be satisfied out of the money due under any final judgment, settlement or compromise, after paying the attorney's fees, costs and expenses incurred in connection therewith and any prior liens, is, for a period of 180 days after the date of that payment, liable to the hospital for the amount or part thereof which the hospital was entitled to receive. The hospital has, within that period, a cause of action or other claim for relief against the person or insurer making the payment, which may be prosecuted and maintained in any county wherein the notice of lien was filed.

2. ~~HH~~ *Except as otherwise provided in this subsection, if the hospital is publicly owned or not for profit, the person or his insurer shall make the payment to the hospital by issuing to the hospital a separate check or other negotiable instrument. If the provisions of section 1 of this act apply, the person or his insurer shall make the payment to the hospital by way of any method of electronic transfer of money allowed by the hospital.*

3. *As used in this section, "electronic transfer of money" has the meaning ascribed to it in section 1 of this act.*

Sec. 5. The Legislative Counsel shall, where applicable:

1. In preparing the reprint and supplements to the Nevada Revised Statutes, with respect to any section that is not amended by this act or is further amended by another act, appropriately change any reference to a "check" or "negotiable instrument" to an "electronic transfer of money."

2. In preparing supplements to the Nevada Administrative Code, appropriately change any reference to a "check" or "negotiable instrument" to an "electronic transfer of money."

Sec. 6. This act becomes effective on July 1, 2008.

Senator Hardy moved that the Senate do not concur in the Assembly amendment to Senate Bill No. 517.

Remarks by Senator Hardy.

Motion carried.

Bill ordered transmitted to the Assembly.

REPORTS OF CONFERENCE COMMITTEES

Mr. President:

The first Conference Committee concerning Senate Bill No. 143, consisting of the undersigned members, has met and reports that:

It has agreed to recommend that the Amendment Nos. 820 and 933 of the Assembly be concurred in.

MAURICE E. WASHINGTON

VALERIE WIENER

BARBARA K. CEGAVSKE

Senate Conference Committee

DEBBIE SMITH

RUBEN KIHUEN

JOE HARDY

Assembly Conference Committee

Senator Washington moved that the Senate adopt the report of the first Conference Committee concerning Senate Bill No. 143.

Remarks by Senator Washington.

Motion carried by a constitutional majority.

SIGNING OF BILLS AND RESOLUTIONS

There being no objections, the President and Secretary signed Senate Bills Nos. 106, 128, 237, 242, 288, 394, 425, 450, 452, 548, 549; Senate Joint Resolutions Nos. 2, 3, 18; Senate Concurrent Resolution No. 17; Assembly Bill No. 431.

GUESTS EXTENDED PRIVILEGE OF SENATE FLOOR

On request of Senator Hardy, the privilege of the floor of the Senate Chamber for this day was extended to Beth Jewitt, Carol Hardy, Hannah Hafen, Isaac Hardy, Shelby Hafen and the following students and chaperones from the John R. Hummel Elementary School: Mona Ademe, Riley Chapmen, Shayli Charles, Ryan Clark, Sage Cristostomo, Darby Dacus, Sadoria Manzano, Danielle Palmer, Ryan Pettrey, Ashlynn Poole, Dez' John Potter, Kaela Rodgers, Chesta Sarmiento, Matthew Simon, Ethan Tuilagi, Alikaya Lopez, Jose Corral, Negin Yazdkhasti, Austin Morrow, Rae Alfonso, Emani Beethley, Mackenzie Grobe, Amanda Kuhlman, Danny Lopez, Lexi Mansour, Romy Mansour, Sydnee Mansour, Javani Newton, Jade Pulcini, Tara Richardson, Keanu Torres, Madison Darrington; chaperones: Matthew Grobe, Ignacio Lopez, Kimberly Lang, Christina Eagar, Rick Darrington, Betty Jane Parker, Jill Hochgraber, Marjory Hochgraber, Joseph Kennedy, Regina Clark, Dawn Dacus, Marie Bell Poole, Louisa Tuilagi, Debra Lopez and Chris Eagar.

On request of Senator Washington, the privilege of the floor of the Senate Chamber for this day was extended to the following students from the Katherine Dunn Elementary School: Cesar Aguero, Julian Baeza, Taylor

Blake, Jesse Brock, Sean Byers, Mark Comia, Michael Darden, David Delazaro, Aniletzy Garcia, Christina Gouem, Austin Hanson, Taelor Hoffman, Benjamin Huerta, Chance Kazen, Kirsten Lealtad, Melissa Lopez, Denzel Magpantay, Lisa Martin, Mazielle Martinez, Kayla Nocelo, Jaycob Nolte, Jaysen Nolte, Danielmyr Orpiada, Ryeli Pferschy, Ashlynn Rice, Jeovanie Sanchez, Karun Sharma, Kimberly Tovar, Danielle Van Heuklon, Trae Wells, Alexis Rhodes, Nicholas Martin, Karen Damon, Jayne Lealtad, Renee Brock and Deanna Layport.

Senator Raggio moved that the Senate adjourn until Friday, June 1, 2007, at 11 a.m.

Motion carried.

Senate adjourned at 6:43 p.m.

Approved:

BRIAN K. KROLICKI
President of the Senate

Attest: CLAIRE J. CLIFT
Secretary of the Senate