

THE ONE HUNDRED AND SEVENTEENTH DAY

CARSON CITY (Friday), June 1, 2007

Assembly called to order at 11:23 a.m.

Madam Speaker presiding.

Roll called.

All present.

Prayer by the Chaplain, Minister Bruce Henderson.

Lord, we're near the end of the week and the end of our work here. Thank You for the privilege of serving the people of Nevada. And thank You for the staff of wonderful people who have helped us on this journey. Please give us the strength and even the love we'll need to wrap things up.

AMEN.

Pledge of allegiance to the Flag.

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

Motion carried.

REPORTS OF COMMITTEES

Madam Speaker:

Your Committee on Education, to which was referred Senate Bill No. 404, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

BONNIE PARNELL, *Chair*

Madam Speaker:

Your Committee on Transportation, to which was rereferred Assembly Bill No. 595, 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 Transportation, to which was referred Senate Bill No. 393, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

KELVIN ATKINSON, *Chair*

Madam Speaker:

Your Committee on Ways and Means, to which was rereferred Assembly Bill No. 144, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

Also, your Committee on Ways and Means, to which was referred Senate Bill No. 342, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

MORSE ARBERRY JR., *Chair*

Madam Speaker:

Your Concurrent Committee on Ways and Means, to which were referred Assembly Bills Nos. 280, 565, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

MORSE ARBERRY JR., *Chair*

MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, May 31, 2007

To the Honorable the Assembly:

I have the honor to inform your honorable body that the Senate on this day passed Assembly Bills Nos. 128, 445.

Also, I have the honor to inform your honorable body that the Senate amended, and on this day passed, as amended, Assembly Bill No. 182, Amendment No. 1056; Assembly Bill No. 440, Amendment No. 1064; Assembly Bill No. 624, Amendment No. 1070, and respectfully requests your honorable body to concur in said amendments.

Also, I have the honor to inform your honorable body that the Senate on this day receded from its action on Assembly Bill No. 110, Senate Amendment No. 711.

Also, I have the honor to inform your honorable body that the Senate on this day adopted the report of the first Conference Committee concerning Assembly Bill No. 418.

Also, I have the honor to inform your honorable body that the Senate on this day respectfully refused to recede from its action on Assembly Bill No. 50, Senate Amendment No. 759, and requests a conference, and appointed Senators Amodei, Wiener and Care as a first Conference Committee to meet with a like committee of the Assembly.

Also, I have the honor to inform your honorable body that the Senate on this day respectfully refused to recede from its action on Assembly Bill No. 127, Senate Amendment No. 792, and requests a conference, and appointed Senators Washington, McGinness and Wiener as a first Conference Committee to meet with a like committee of the Assembly.

Also, I have the honor to inform your honorable body that the Senate on this day respectfully refused to recede from its action on Assembly Bill No. 385, Senate Amendment No. 771, and requests a conference, and appointed Senators Heck, Schneider and Townsend as a first Conference Committee to meet with a like committee of the Assembly.

Also, I have the honor to inform your honorable body that the Senate on this day respectfully refused to recede from its action on Assembly Bill No. 460, Senate Amendment No. 995, and requests a conference, and appointed Senators Washington, Cegavske and Raggio as a first Conference Committee to meet with a like committee of the Assembly.

Also, I have the honor to inform your honorable body that the Senate on this day respectfully refused to recede from its action on Assembly Bill No. 461, Senate Amendment No. 803, and requests a conference, and appointed Senators McGinness, Hardy, and Lee as a first Conference Committee to meet with a like committee of the Assembly.

Also, I have the honor to inform your honorable body that the Senate on this day respectfully refused to recede from its action on Assembly Bill No. 521, Senate Amendments Nos. 784, 1021, and requests a conference, and appointed Senators Amodei, Wiener and Care as a first Conference Committee to meet with a like committee of the Assembly.

Also, I have the honor to inform your honorable body that the Senate on this day respectfully refused to recede from its action on Assembly Bill No. 585, Senate Amendment No. 713, and requests a conference, and appointed as a first Conference Committee to meet with a like committee of the Assembly.

Also, I have the honor to inform your honorable body that the Senate on this day passed, as amended, Senate Bills Nos. 73, 189, 226, 252, 462, 544, 573.

Also, I have the honor to inform your honorable body that the Senate on this day concurred in the Assembly Amendment No. 927 to Senate Bill No. 196; Assembly Amendment No. 852 to Senate Bill No. 222; Assembly Amendment No. 700 to Senate Bill No. 310.

Also, I have the honor to inform your honorable body that the Senate on this day respectfully refused to concur in the Assembly Amendments Nos. 945, 993 to Senate Bill No. 274; Assembly Amendment No. 836 to Senate Bill No. 303; Assembly Amendments Nos. 848, 1027 to Senate Bill No. 328; Assembly Amendments Nos. 930, 1017 to Senate Bill No. 354; Assembly Amendment No. 853 to Senate Bill No. 509; Assembly Amendment No. 1053 to Senate Bill No. 517.

Also, I have the honor to inform your honorable body that the Senate on this day adopted the report of the first Conference Committee concerning Senate Bill No. 115.

Also, I have the honor to inform your honorable body that the Senate on this day adopted the report of the first Conference Committee concerning Senate Bill No. 143.

Also, I have the honor to inform your honorable body that the Senate on this day appointed Senators Cegavske, Wiener and Nolan as a first Conference Committee concerning Senate Bill No. 5.

Also, I have the honor to inform your honorable body that the Senate on this day appointed Senators Heck, Carlton and Schneider as a first Conference Committee concerning Senate Bill No. 19.

Also, I have the honor to inform your honorable body that the Senate on this day appointed Senators Care, Nolan and McGinness as a first Conference Committee concerning Senate Bill No. 129.

Also, I have the honor to inform your honorable body that the Senate on this day appointed Senators Heck, Horsford and Washington as a first Conference Committee concerning Senate Bill No. 171.

Also, I have the honor to inform your honorable body that the Senate on this day appointed Senators Hardy, Lee and Beers as a first Conference Committee concerning Senate Bill No. 201.

Also, I have the honor to inform your honorable body that the Senate on this day appointed Senators Beers, Lee and Care as a first Conference Committee concerning Senate Bill No. 320.

Also, I have the honor to inform your honorable body that the Senate on this day appointed Senators Rhoads, McGinness and Schneider as a first Conference Committee concerning Senate Bill No. 329.

Also, I have the honor to inform your honorable body that the Senate on this day appointed Senators Horsford, Hardy and Titus as a first Conference Committee concerning Senate Bill No. 352.

Also, I have the honor to inform your honorable body that the Senate on this day appointed Senators Schneider, Hardy and Townsend as a first Conference Committee concerning Senate Bill No. 432.

Also, I have the honor to inform your honorable body that the Senate on this day appointed Senators Washington, Woodhouse and Heck as a first Conference Committee concerning Senate Bill No. 529.

SHERRY L. RODRIGUEZ
Assistant Secretary of the Senate

UNFINISHED BUSINESS

APPOINTMENT OF CONFERENCE COMMITTEES

Madam Speaker appointed Assemblymen Conklin, Gerhardt and Christensen as a first Conference Committee to meet with a like committee of the Senate for the further consideration of Assembly Bill No. 50.

Madam Speaker appointed Assemblymen Conklin, Horne, and Mabey as a first Conference Committee to meet with a like committee of the Senate for the further consideration of Assembly Bill No. 385.

Madam Speaker appointed Assemblymen Parnell, Kihuen, and Beers as a first Conference Committee to meet with a like committee of the Senate for the further consideration of Assembly Bill No. 460.

Madam Speaker appointed Assemblymen Parks, Pierce, and Allen as a first Conference Committee to meet with a like committee of the Senate for the further consideration of Assembly Bill No. 461.

Madam Speaker appointed Assemblymen McClain, Horne, and Weber as a first Conference Committee to meet with a like committee of the Senate for the further consideration of Assembly Bill No. 585.

MOTIONS, RESOLUTIONS AND NOTICES

By the Committee on Judiciary:

Assembly Concurrent Resolution No. 34—Requesting the return to the Assembly from the Governor's office of Assembly Bill No. 483 of this session.

Assemblyman Anderson moved the adoption of the resolution.

Remarks by Assemblyman Anderson.

Resolution adopted.

Assemblyman Anderson moved that all rules be suspended and that Assembly Concurrent Resolution No. 34 be immediately transmitted to the Senate.

Motion carried.

INTRODUCTION, FIRST READING AND REFERENCE

Senate Bill No. 73.

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

Motion carried.

Senate Bill No. 189.

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

Motion carried.

Senate Bill No. 226.

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

Motion carried.

Senate Bill No. 252.

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

Motion carried.

Senate Bill No. 462.

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

Motion carried.

Senate Bill No. 544.

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

Motion carried.

Senate Bill No. 573.

Assemblyman Ocegüera moved that the bill be referred to the Committee on Elections, Procedures, Ethics, and Constitutional Amendments.

Motion carried.

GENERAL FILE AND THIRD READING

Senate Bill No. 499.

Bill read third time.

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

Amendment No. 1090.

AN ACT relating to school facilities; revising provisions governing the approval of certain plans, designs and specifications for, and the inspection of the construction and renovation of, school buildings; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, the board of trustees of a school district must, before letting a contract for the construction or renovation of a school building, submit the relevant plans, designs and specifications to the State Public Works Board for the Board's review and approval. Existing law provides exceptions to this requirement if certain standard plans, designs and specifications are used, or if the State Public Works Board enters into an agreement to have such functions performed by the building department of a county or city. (NRS 385.125, 393.110)

Section 4 of this bill provides that, in a county whose population is 400,000 or more (currently Clark County), existing law remains unchanged.

Section 4 provides that, in a county whose population is ~~30,000 or more but~~ less than 400,000 (currently ~~Washoe, Elko, Douglas, Nye and Lyon Counties, and Carson City~~), **counties other than Clark County**, plans, designs and specifications pertaining to the construction or renovation of school buildings must be reviewed by, and the construction or renovation must be inspected by, the county building department or another local building department in the county. If there is no such department, the board of trustees of the school district is required to enter into an agreement with the State Public Works Board, a private ~~entity~~ **person certified by the International Code Council or its successor**, or a building department in another county to perform the necessary reviews and inspections.

~~Section 4 provides that, in a county whose population is less than 30,000 (currently Churchill, Humboldt, White Pine, Pershing, Lander, Mineral, Lincoln, Storey, Eureka and Esmeralda Counties), plans, designs and~~

~~specifications pertaining to the construction or renovation of school buildings must be reviewed by, and the construction or renovation must be inspected by, the State Public Works Board. If the Board determines that the building department of the county or another local building department has the expertise to perform such functions, the Board may enter into an agreement with that department to perform the necessary reviews and inspections.~~

Sections 4 and 5 of this bill clarify that the approval of the State Fire Marshal is not required for plans, designs and specifications of school buildings that are reviewed by a local building department or a private ~~entity~~ **person certified by the International Code Council or its successor** and, similarly, an inspection of the construction and renovation of school buildings by the State Fire Marshal is not required if ~~such an~~ **the** inspection is conducted by **such** a local building department or private ~~entity~~ **person. However, in conducting reviews pursuant to section 4, the State Public Works Board, building department or private person, as applicable, is required to verify that the plans, designs and specifications comply with the applicable requirements of the relevant codes adopted by this State, including the applicable requirements of any relevant codes and regulations adopted by the State Fire Marshal.** (NRS 393.110, 477.030)

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

Section 1. NRS 278.580 is hereby amended to read as follows:

278.580 1. Subject to the limitation set forth in NRS 244.368, the governing body of any city or county may adopt a building code, specifying the design, soundness and materials of structures, and may adopt rules, ordinances and regulations for the enforcement of the building code.

2. The governing body may also fix a reasonable schedule of fees for the issuance of building permits. A schedule of fees so fixed does not apply to the State of Nevada ~~or~~ the Nevada System of Higher Education, ~~for any school district,~~ except that such entities may *enter into a* contract with the governing body to pay such fees for the issuance of building permits, the review of plans and the inspection of construction. Except as it may agree to in such a contract, a governing body is not required to provide for the review of plans or the inspection of construction with respect to a structure of the State of Nevada ~~or~~ the Nevada System of Higher Education. ~~for any school district.~~

3. Notwithstanding any other provision of law, the State and its political subdivisions shall comply with all zoning regulations adopted pursuant to this chapter, except for the expansion of any activity existing on April 23, 1971.

4. A governing body shall amend its building codes and, if necessary, its zoning ordinances and regulations to permit the use of:

(a) Straw or other materials and technologies which conserve scarce natural resources or resources that are renewable in the construction of a structure; and

(b) Systems which use solar or wind energy to reduce the costs of energy for a structure if such systems and structures are otherwise in compliance with applicable building codes and zoning ordinances, including those relating to the design, location and soundness of such systems and structures, to the extent the local climate allows for the use of such materials, technologies, resources and systems.

5. The amendments required by subsection 4 may address, without limitation:

(a) The inclusion of characteristics of land and structures that are most appropriate for the construction and use of systems using solar and wind energy.

(b) The recognition of any impediments to the development of systems using solar and wind energy.

(c) The preparation of design standards for the construction, conversion or rehabilitation of new and existing systems using solar and wind energy.

6. A governing body shall amend its building codes to include:

(a) The seismic provisions of the International Building Code published by the International Code Council; and

(b) Standards for the investigation of hazards relating to seismic activity, including, without limitation, potential surface ruptures and liquefaction.

Sec. 2. NRS 244.3675 is hereby amended to read as follows:

244.3675 Subject to the limitations set forth in NRS 244.368, 278.580, 278.582 and 444.340 to 444.430, inclusive, the boards of county commissioners within their respective counties may:

1. Regulate all matters relating to the construction, maintenance and safety of buildings, structures and property within the county.

2. Adopt any building, electrical, housing, plumbing or safety code necessary to carry out the provisions of this section and establish such fees as may be necessary. Except as otherwise provided in NRS 278.580, these fees do not apply to the State of Nevada ~~or~~ the Nevada System of Higher Education . ~~for any school district.~~

Sec. 3. NRS 268.413 is hereby amended to read as follows:

268.413 Subject to the limitations contained in NRS 244.368, 278.580, 278.582 and 444.340 to 444.430, inclusive, the city council or other governing body of an incorporated city may:

1. Regulate all matters relating to the construction, maintenance and safety of buildings, structures and property within the city.

2. Adopt any building, electrical, plumbing or safety code necessary to carry out the provisions of this section and establish such fees as may be necessary. Except as otherwise provided in NRS 278.580, these fees do not apply to the State of Nevada ~~or~~ the Nevada System of Higher Education . ~~for any school district.~~

Sec. 4. NRS 393.110 is hereby amended to read as follows:

393.110 1. Each school district shall, in the design, construction and alteration of school buildings and facilities, comply with the applicable requirements of the Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12101 et seq., and the regulations adopted pursuant thereto, including, without limitation, the Americans with Disabilities Act Accessibility Guidelines for Buildings and Facilities set forth in Appendix A of Part 36 of Title 28 of the Code of Federal Regulations. The requirements of this subsection are not satisfied if a school district complies solely with the Uniform Federal Accessibility Standards set forth in Appendix A of Part 101-19.6 of Title 41 of the Code of Federal Regulations.

2. ~~Except as otherwise provided in subsection 3:~~

~~(a) Unless~~ ***In a county whose population is 400,000 or more:***

(a) Except as otherwise provided in paragraph (c), unless standard plans, designs and specifications are to be used as provided in NRS 385.125, before letting any contract or contracts for the erection of any new school building, the board of trustees of ~~the~~ ***the county*** school district shall submit ***the*** plans, designs and specifications ~~therefor~~ to, and obtain the written approval of the plans, designs and specifications by, the State Public Works Board. The State Public Works Board shall review the plans, designs and specifications and make any recommendations as expeditiously as practicable. The State Public Works Board is authorized to charge and collect, and the board of trustees ***of the county school district*** is authorized to pay, a reasonable fee for the payment of any costs incurred by the State Public Works Board in securing the approval of qualified architects or engineers of the plans, designs and specifications submitted by the board of trustees in compliance with the provisions of this paragraph.

~~(b) Before~~ ***Except as otherwise provided in paragraph (c), before*** letting any contract or contracts for any addition to or alteration of an existing school building which involves structural systems, or exiting, sanitary or fire protection facilities, the board of trustees of ~~the~~ ***the county*** school district shall submit ***the*** plans, designs and specifications ~~therefor~~ to, and obtain the written approval of the plans, designs and specifications by, the State Public Works Board. The State Public Works Board shall review the plans, designs and specifications and make any recommendations as expeditiously as practicable. The State Public Works Board is authorized to charge and collect, and the board of trustees ***of the county school district*** is authorized to pay, a reasonable fee for the payment of any costs incurred by the State Public Works Board in securing the approval of qualified architects or engineers of the plans, designs and specifications submitted by the board of trustees in compliance with the provisions of this paragraph.

~~The State Public Works Board shall verify that all plans, designs and specifications that it reviews pursuant to this section comply with all applicable requirements of the Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12101 et seq., and the regulations adopted pursuant thereto,~~

including, without limitation, the Americans with Disabilities Act Accessibility Guidelines for Buildings and Facilities set forth in Appendix A of Part 36 of Title 28 of the Code of Federal Regulations. The requirements of this subsection are not satisfied if the plans, designs and specifications comply solely with the Uniform Federal Accessibility Standards set forth in Appendix A of Part 101-19.6 of Title 41 of the Code of Federal Regulations.

~~3.1~~ (c) The State Public Works Board may enter into an agreement with the appropriate building department of a county or city to review plans, designs and specifications of a school district pursuant to ~~subsection 2.1~~ **paragraph (a) or (b)**. If the State Public Works Board enters into such an agreement, the board of trustees of the school district shall submit a copy of its plans, designs and specifications for any project to which ~~subsection 2.1~~ **paragraph (a) or (b)** applies to the building department before commencement of the project for the approval of ~~the~~ **that** building department. The building department shall review the plans, designs and specifications and provide responsive comment as expeditiously as practicable. ~~3.1~~ ***The approval of the State Fire Marshal is not required for any plans, designs and specifications reviewed by a building department pursuant to this paragraph. A building department that has entered into an agreement pursuant to this paragraph is authorized to charge and collect, and the board of trustees of the county school district is authorized to pay, a reasonable fee for the review conducted pursuant to this paragraph.***

3. In a county whose population is ~~30,000 or more but~~ less than 400,000:

(a) Except as otherwise provided in paragraph (b), unless standard plans, designs and specifications are to be used as provided in NRS 385.125, before letting any contract or contracts for the erection of any new school building or for any addition to or alteration of an existing school building, the board of trustees of the county school district shall submit the plans, designs and specifications to, and obtain written approval of the plans, designs and specifications by, the building department of the county or another local building department in the county, as applicable, and all other local agencies or departments whose approval is necessary for the issuance of the appropriate permit. The approval of the State Fire Marshal is not required for any plans, designs and specifications reviewed by a building department pursuant to this paragraph.

(b) If there is no county building department or other local building department in the county in which the school district is located, the board of trustees of the school district shall enter into an agreement with the State Public Works Board, a private ~~entity~~ certificate holder or a local building department in another county to obtain the required reviews of the plans, designs and specifications and to have the required inspections conducted. The approval of the State Fire Marshal is not required for any plans, designs and specifications reviewed by a private ~~entity~~ certificate holder or local building department pursuant to this paragraph.

(c) A permit for construction must be issued before the school district commences construction.

(d) The county building department or other local building department, the State Public Works Board or the private ~~entity,~~ certificate holder, as applicable, shall conduct inspections of all work to determine compliance with the approved plans, designs and specifications. An inspection of the work by the State Fire Marshal is not required if the work is inspected by the private ~~entity,~~ certificate holder or local building department.

(e) A department, agency ~~for entity,~~ private certificate holder or the State Public Works Board is authorized to charge and collect, and the board of trustees of the county school district is authorized to pay, a reasonable fee for:

(1) Review of the plans, designs or specifications as required by this subsection; or

(2) The inspections conducted pursuant to this subsection.

4. ~~In a county whose population is less than 30,000:~~

~~(a) Except as otherwise provided in paragraph (d), unless standard plans, designs and specifications are to be used as provided in NRS 385.125, before letting any contract or contracts for the erection of any new school building or for any addition to or alteration of an existing school building, the board of trustees of the county school district shall submit the plans, designs and specifications to, and obtain written approval of the plans, designs and specifications by, the State Public Works Board and all other local agencies or departments whose approval is necessary for the issuance of the appropriate permit.~~

~~(b) A permit for construction must be issued before the school district commences construction.~~

~~(c) Except as otherwise provided in paragraph (d), the State Public Works Board shall conduct inspections of all work to determine compliance with the approved plans, designs and specifications.~~

~~(d) The State Public Works Board may, if it determines that the building department of the county or another local building department has the necessary expertise, enter into an agreement with the appropriate building department to allow that building department to review the plans, designs and specifications and conduct the inspections required by this subsection. If plans, designs and specifications were reviewed and an inspection was conducted by a building department pursuant to this paragraph, the approval of the plans, designs and specifications by and an inspection by the State Fire Marshal is not required.~~

~~(e) The State Public Works Board or a local building department is authorized to charge and collect, and the board of trustees of the county school district is authorized to pay, a reasonable fee for:~~

~~(1) The review of the plans, designs or specifications as required by this subsection; or~~

~~(2) The inspections conducted pursuant to this subsection.~~

~~5.7~~ *In conducting reviews pursuant to this section, the State Public Works Board, building department or private ~~entity~~ certificate holder, as applicable, shall verify that the plans, designs and specifications comply with ~~fall~~:*

(a) The applicable requirements of the relevant codes adopted by this State ~~and~~, including, without limitation, the applicable requirements of any relevant codes and regulations adopted by the State Fire Marshal;

(b) The applicable requirements of the relevant codes adopted by the local authority having jurisdiction; and

(c) All applicable requirements of the Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12101 et seq., inclusive, and the regulations adopted pursuant thereto, including, without limitation, the Americans with Disabilities Act Accessibility Guidelines for Buildings and Facilities set forth in Appendix A of Part 36 of Title 28 of the Code of Federal Regulations. ~~The building department may charge and collect a reasonable fee from the board of trustees of the school district for the payment of any costs incurred by the building department in reviewing the plans, designs and specifications. A permit for construction must not be issued without the approval of the building department pursuant to this subsection.~~ The requirements of this subsection are not satisfied if the plans, designs and specifications comply solely with the Uniform Federal Accessibility Standards set forth in Appendix A of Part 101-19.6 of Title 41 of the Code of Federal Regulations.

~~4.7~~ ~~6.7~~ 5. *No contract for any of the purposes specified in ~~subsection 1~~ this section made by a board of trustees of a school district contrary to the provisions of this section is valid, nor shall any public money be paid for erecting, adding to or altering any school building in contravention of this section.*

6. *As used in this section, “private certificate holder” means a person who, as applicable, holds a valid certification issued by the International Code Council or its successor:*

(a) To review plans, designs and specifications for the erection of, addition to or alteration of a school building;

(b) To inspect work to ensure that the erection of, addition to or alteration of a school building is carried out in conformance with the relevant plans, designs and specifications; or

(c) To perform the activities described in paragraphs (a) and (b).

Sec. 5. NRS 477.030 is hereby amended to read as follows:

477.030 1. Except as otherwise provided in this section, the State Fire Marshal shall enforce all laws and adopt regulations relating to:

(a) The prevention of fire.

(b) The storage and use of:

(1) Combustibles, flammables and fireworks; and

(2) Explosives in any commercial construction, but not in mining or the control of avalanches,

↪ under those circumstances that are not otherwise regulated by the Division of Industrial Relations of the Department of Business and Industry pursuant to NRS 618.890.

(c) The safety, access, means and adequacy of exit in case of fire from mental and penal institutions, facilities for the care of children, foster homes, residential facilities for groups, facilities for intermediate care, nursing homes, hospitals, schools, all buildings, except private residences, which are occupied for sleeping purposes, buildings used for public assembly and all other buildings where large numbers of persons work, live or congregate for any purpose. As used in this paragraph, "public assembly" means a building or a portion of a building used for the gathering together of 50 or more persons for purposes of deliberation, education, instruction, worship, entertainment, amusement or awaiting transportation, or the gathering together of 100 or more persons in establishments for drinking or dining.

(d) The suppression and punishment of arson and fraudulent claims or practices in connection with fire losses.

↪ The regulations of the State Fire Marshal apply throughout the State, but, except with respect to state-owned or state-occupied buildings, his authority to enforce them or conduct investigations under this chapter does not extend to ***a school district*** ~~in a county whose population is 30,000 or more~~ ***except as otherwise provided in NRS 393.110, or a county whose population is 100,000 or more or which has been converted into a consolidated municipality, except in those local jurisdictions in those counties where he is requested to exercise that authority by the chief officer of the organized fire department of that jurisdiction or except as otherwise provided in a regulation adopted pursuant to paragraph (b) of subsection 2.***

2. The State Fire Marshal may:

(a) Set standards for equipment and appliances pertaining to fire safety or to be used for fire protection within this State, including the threads used on fire hose couplings and hydrant fittings; and

(b) Adopt regulations based on nationally recognized standards setting forth the requirements for fire departments to provide training to firefighters using techniques or exercises that involve the use of fire or any device that produces or may be used to produce fire.

3. The State Fire Marshal shall cooperate with the State Forester Firewarden in the preparation of regulations relating to standards for fire retardant roofing materials pursuant to paragraph (e) of subsection 1 of NRS 472.040.

4. The State Fire Marshal shall cooperate with the Division of Child and Family Services of the Department of Health and Human Services in establishing reasonable minimum standards for overseeing the safety of and directing the means and adequacy of exit in case of fire from family foster homes and group foster homes.

5. The State Fire Marshal shall coordinate all activities conducted pursuant to 15 U.S.C. §§ 2201 et seq. and receive and distribute money allocated by the United States pursuant to that act.

6. Except as otherwise provided in subsection 10, the State Fire Marshal shall:

(a) Investigate any fire which occurs in a county other than one whose population is 100,000 or more or which has been converted into a consolidated municipality, and from which a death results or which is of a suspicious nature.

(b) Investigate any fire which occurs in a county whose population is 100,000 or more or which has been converted into a consolidated municipality, and from which a death results or which is of a suspicious nature, if requested to do so by the chief officer of the fire department in whose jurisdiction the fire occurs.

(c) Cooperate with the Commissioner of Insurance, the Attorney General and the Fraud Control Unit established pursuant to NRS 228.412 in any investigation of a fraudulent claim under an insurance policy for any fire of a suspicious nature.

(d) Cooperate with any local fire department in the investigation of any report received pursuant to NRS 629.045.

(e) Provide specialized training in investigating the causes of fires if requested to do so by the chief officer of an organized fire department.

7. The State Fire Marshal shall put the National Fire Incident Reporting System into effect throughout the State and publish at least annually a summary of data collected under the System.

8. The State Fire Marshal shall provide assistance and materials to local authorities, upon request, for the establishment of programs for public education and other fire prevention activities.

9. The State Fire Marshal shall:

(a) ~~Assist~~ ***Except as otherwise provided in NRS 393.110, assist*** in checking plans and specifications for construction;

(b) Provide specialized training to local fire departments; and

(c) Assist local governments in drafting regulations and ordinances,

↪ on request or as he deems necessary.

10. Except as otherwise provided in this subsection, ~~and NRS 393.110,~~ in a county other than one whose population is 100,000 or more or which has been converted into a consolidated municipality, the State Fire Marshal shall, upon request by a local government, delegate to the local government by interlocal agreement all or a portion of his authority or duties if the local government's personnel and programs are, as determined by the State Fire Marshal, equally qualified to perform those functions. If a local government fails to maintain the qualified personnel and programs in accordance with such an agreement, the State Fire Marshal shall revoke the agreement. The provisions of this subsection do not apply to the authority of the State Fire Marshal to adopt regulations pursuant to paragraph (b) of subsection 2.

11. The State Fire Marshal may, as a public safety officer or as a technical expert on issues relating to hazardous materials, participate in any local, state or federal team or task force that is established to conduct enforcement and interdiction activities involving:

- (a) Commercial trucking;
- (b) Environmental crimes;
- (c) Explosives and pyrotechnics;
- (d) Drugs or other controlled substances; or
- (e) Any similar activity specified by the State Fire Marshal.

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

Assemblywoman Kirkpatrick moved the adoption of the amendment.

Amendment adopted.

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

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Ocegüera moved that Assembly Bill No. 595 be taken from its position on the General File and placed at the top of the General File.

Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 595.

Bill read third time.

The following amendment was proposed by the Committee on Transportation:

Amendment No. 1101.

AN ACT relating to vehicles; making various changes regarding the imposition, reporting, payment, collection, refunding, administration and enforcement of certain taxes on fuels; **providing for the issuance of bonds by the county fair and recreation board in certain counties to assist in the funding of highway projects in the county;** allocating a portion of the proceeds of certain taxes and fees to the construction and maintenance of public highways; ~~increasing the maximum maturity period allowed for certain special obligation bonds issued to finance highway construction projects;~~ **requiring analyses of the costs and benefits of proposals for certain highway projects; requiring annual performance measurements of and various periodic reports by the Department of Transportation;** ~~requiring~~ **revising the provisions governing the fees charged by a short-term lessor of a passenger car ;** ~~to impose a recovery surcharge fee; providing for the imposition and payment of a licensing fee on the operation of certain heavy-weight vehicles;~~ providing penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, a taxpayer is entitled to receive interest on an overpayment of taxes. (NRS 360.2935, 360A.110) Section 2 of this bill

provides that no interest will be paid on an overpayment of taxes on fuels if the overpayment is made intentionally or carelessly.

Under existing law, if the Department of Motor Vehicles issues a deficiency determination against a taxpayer for underpayment of taxes on fuels, the taxpayer may file a petition for redetermination and seek an oral hearing on the petition. (NRS 360A.160, 360A.180) Section 3 of this bill changes the hearing to an administrative hearing.

Under existing law, persons licensed under chapter 365 of NRS are required to submit reports and pay excise taxes to the Department for motor vehicle and other fuels subject to that chapter. (NRS 365.170, 365.175) Section 5 of this bill imposes similar requirements on unlicensed persons who collect such excise taxes.

Existing law in chapter 366 of NRS concerning taxes on special fuels includes provisions relating to the confidentiality of records, the unlawful disclosure of information, false or fraudulent reports, and the sealing of fuel pumps. (NRS 366.160, 366.180, 366.710, 366.715) Sections 6-9 of this bill add similar provisions to chapter 365 of NRS concerning taxes on motor vehicle and other fuels.

Under existing law, licenses issued pursuant to chapter 365 of NRS for dealers, suppliers, transporters and exporters are valid until suspended, revoked or cancelled. (NRS 365.304) Section 15 of this bill limits the validity of each such license to 1 year and requires the Department to adopt regulations providing for the renewal of such licenses.

Existing law in chapter 366 of NRS concerning taxes on special fuels includes provisions governing the due date of such taxes. (NRS 366.370) Section 18 of this bill adds similar provisions to chapter 365 of NRS concerning taxes on motor vehicle and other fuels. (NRS 365.330)

Section 21 of this bill increases the power of the Department and its agents to make examinations and inspections, including the power to stop and inspect motor vehicles that are using or transporting motor vehicle and other fuels, to determine whether all excise taxes due pursuant to chapter 365 of NRS are being properly reported and paid. (NRS 365.500)

Under existing law, persons licensed under chapter 366 of NRS are required to file tax returns and pay excise taxes to the Department for special fuels subject to that chapter. (NRS 366.380, 366.383, 366.386, 366.540) Section 26 of this bill imposes similar requirements on unlicensed persons who collect such excise taxes.

Existing law in chapter 365 of NRS concerning taxes on motor vehicle and other fuels includes provisions relating to the liability of a person for willfully failing to collect or pay excise taxes, the records that must be maintained by retailers, the payment of the costs of prosecuting violations, and the enforcement of the provisions of the chapter by county sheriffs and other peace officers. (NRS 365.351, 365.510, 365.590, 365.610) Sections 27-30 of this bill add similar provisions to chapter 366 of NRS concerning taxes on special fuel.

Under existing law, licenses issued pursuant to chapter 366 of NRS for special fuel dealers, special fuel suppliers, special fuel transporters and special fuel exporters are valid until suspended, revoked or cancelled, and licenses for special fuel users are valid for 1 year. (NRS 366.260) Section 36 of this bill limits the validity of each such license to 1 year and requires the Department to adopt regulations providing for the renewal of such licenses.

Section 46 of this bill revises the provisions in NRS 366.720 that establish various violations and penalties relating to taxes on special fuels by specifying that each day during which such a violation occurs constitutes a separate offense.

Section 46.5 of this bill requires the county fair and recreation board in a county whose population is 400,000 or more (currently Clark County) to issue, under certain conditions, bonds to assist in the funding of highway projects in that county. Section 55.3 of this bill requires annual reports by the Department of Transportation on the projects undertaken with that funding.

Existing law authorizes a county to impose an ad valorem tax for capital projects in the amount of 5 cents per \$100 of the assessed valuation of the county. (NRS 354.59815) Section 47 of this bill requires the allocation of **an incrementally increasing portion, which will not exceed 60 percent**, of the proceeds of any such tax imposed in a county with a population of ~~400,000~~ **100,000** or more (currently Clark ~~County~~) **and Washoe Counties**) to the State Highway Fund for use in the construction and maintenance of the public highways in that county.

~~[Existing law authorizes the issuance of special obligation bonds of the State to provide money for highway construction projects, and limits the term of those bonds to not more than 20 years. (NRS 408.273) Section 48 of this bill extends that limitation to not more than 30 years.]~~

Section 47.2 of this bill requires the adoption of performance measurements for the Department of Transportation and annual reports of performance. Section 47.3 of this bill requires the Department to prepare a written analysis of the costs and benefits of each proposal for a highway project that will cost \$25 million or more. Section 55.5 of this bill requires quarterly reports by the Department on the status of certain proposed highway projects.

Existing law authorizes a short-term lessor of a passenger car to impose a recovery surcharge of 4 percent of the total amount for which the car is leased. (NRS 482.313) Section 49 of this bill mandates the imposition of that fee and requires the deposit of ~~half~~ **one-quarter** of the proceeds thereof into the State Highway Fund for use in the construction and maintenance of the public highways.

~~[Section 50 of this bill provides for the imposition and payment of a licensing fee for the operation of certain heavyweight vehicles by motor carriers in this State in the amount of 15 cents per mile traveled. Section 52 provides for the prepayment of this licensing fee by a person who obtains a~~

~~temporary permit to operate such a vehicle in this State. Section 54 provides that any violation of the requirements regarding this licensing fee constitutes a misdemeanor.]~~

Existing law prescribes a maximum amount of \$15 per day that a short-term lessor of vehicles may charge for a waiver of damages. (NRS 482.31565) Section 49.5 of this bill increases that amount to \$22 and provides for subsequent annual increases in that amount based upon increases in the Consumer Price Index.

Existing law prescribes a maximum amount of \$5 per day that a short-term lessor of vehicles may charge for more than one additional driver. (NRS 482.3158) Section 49.7 of this bill increases that amount to \$10, provides for subsequent annual increases in that amount based upon increases in the Consumer Price Index and authorizes the imposition of the charge for any additional drivers.

Existing law authorizes a purchaser of motor vehicle fuel or special fuel from a supplier to apply to the Department for a permit to defer payment of the taxes to the supplier, and authorizes the supplier to deduct from his tax payments to the Department the amount of such deferred taxes. (NRS 365.326, 365.328, 366.397, 366.540) Sections 42 and 55 of this bill delete or repeal those provisions. Section 55 also repeals NRS 366.360 because its provisions are being added to NRS 366.350 by section 38 of this bill.

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

Section 1. NRS 360A.050 is hereby amended to read as follows:

360A.050 ~~[Except for any payments authorized pursuant to NRS 365.328, 365.340, 366.375 and 366.397, if]~~ *If* the Department grants an extension of time for paying any amount required to be paid pursuant to chapter 365, 366 or 373 of NRS or NRS 590.120 or 590.840, a person who pays the amount within the period for which the extension is granted shall pay, in addition to the amount owing, interest at the rate of 1 percent per month from the date the amount would have been due without the extension until the date of payment.

Sec. 2. NRS 360A.110 is hereby amended to read as follows:

360A.110 ~~[m]~~

1. Except as otherwise provided in subsection 2, in making a determination, the Department may offset overpayments for a period or periods, together with interest on the overpayments, against underpayments for another period or periods or against penalties and the interest on underpayments.

2. No interest is allowed on any overpayment that the Department determines has been made intentionally or by reason of careless reporting.

Sec. 3. NRS 360A.180 is hereby amended to read as follows:

360A.180 1. If a petition for redetermination is filed within the period prescribed in NRS 360A.160, the Department shall reconsider the

determination and, if the person has so requested in the petition, grant the person an ~~oral~~ **administrative** hearing and give him at least 10 days' notice of the time and place of the hearing.

2. ~~{The Department may continue the}~~ Any hearing **held pursuant to subsection 1 may be continued** from time to time as may be necessary.

3. **A petitioner aggrieved by the decision of the Department may appeal the decision by submitting a written request to the Department for an administrative hearing not more than 30 days after notice of the redetermination was made by the Department.**

Sec. 4. Chapter 365 of NRS is hereby amended by adding thereto the provisions set forth as sections 5 to 9, inclusive, of this act.

Sec. 5. **Every person not licensed pursuant to this chapter who collects an excise tax shall:**

1. **Not later than the last day of each calendar month, submit a statement to the Department of all such taxes collected during the preceding calendar month; and**

2. **In accordance with the provisions of NRS 365.330, pay the tax to the Department.**

Sec. 6. **All supporting schedules, invoices and other pertinent papers relating to the business affairs and operations of any supplier, dealer, exporter or transporter, and any information obtained by an investigation of the records and equipment of any supplier, dealer, exporter or transporter, shall be deemed confidential and must not be revealed to any person except as necessary to administer this chapter or as otherwise provided by law.**

Sec. 7. 1. **It is unlawful for the Department or any person having an administrative duty under this chapter to divulge or to make known in any manner whatever the business affairs, operations or information obtained by an investigation or examination of the records of any person visited or examined in the discharge of official duty, or the amount or source of income, profits, losses, expenditures or any particular thereof set forth or disclosed in any report, or to permit any report or copy thereof to be seen or examined by any person except as otherwise provided in section 6 of this act and NRS 365.140.**

2. **Any violation of the provisions of subsection 1 is a gross misdemeanor.**

Sec. 8. **Any person required to make, submit, sign or verify any report who makes any false or fraudulent report with intent to defeat or evade the assessment required by law to be made is guilty of a gross misdemeanor.**

Sec. 9. 1. **The Department may seal a fuel pump of a retailer or dealer, or the metered pipes and hoses of a rack of a dealer or supplier, if the retailer, dealer or supplier:**

(a) **Becomes delinquent in payment of any amount due pursuant to the provisions of this chapter;**

(b) Operates without the license required by the provisions of this chapter; or

(c) Operates without the bond or cash deposit required by the provisions of this chapter.

2. A fuel pump of a retailer or dealer, or the metered pipes and hoses of a rack of a dealer or supplier, may be sealed until all required reports are filed, the tax, penalties and interest are paid in full, the required license is obtained and the bond or cash deposit is provided.

3. Before sealing a fuel pump or the metered pipes and hoses of a rack, the Department must send a notice by registered or certified mail to the retailer, dealer or supplier at his last known address ordering him to appear before the Department at a time not less than 10 days after the mailing of the notice and show cause why the fuel pump or the metered pipes and hoses of the rack should not be sealed.

Sec. 10. NRS 365.092 is hereby amended to read as follows:

365.092 "Transporter" means a person, except a supplier or an exporter licensed pursuant to this chapter, who transports motor vehicle fuel or fuel for jet or turbine-powered aircraft *by pipeline, rail or truck* in interstate commerce to or from any point within this State, or solely within this State.

Sec. 11. NRS 365.140 is hereby amended to read as follows:

365.140 The Department ~~shall~~ *may*, upon a request from the officials to whom is entrusted the enforcement of the motor vehicle fuel tax laws of any other state, if the other state furnishes ~~like~~ *similar* information to this State, forward any information which it may have in its possession relative to the manufacture, receipt, *storage, delivery*, sale, use, transportation, ~~or~~ shipment *or other disposition* by any *supplier, dealer, exporter, transporter or other* person of motor vehicle fuel or fuel for jet or turbine-powered aircraft.

Sec. 12. NRS 365.170 is hereby amended to read as follows:

365.170 Except as otherwise provided in NRS 365.135, every dealer shall ~~not~~:

1. Not later than the last day of each calendar month ~~+~~ ~~Render~~, *submit* to the Department a statement of all aviation fuel and fuel for jet or turbine-powered aircraft sold, distributed or used by him in this State, as well as all such fuel sold, distributed or used in this State by a purchaser thereof upon which sale, distribution or use the dealer has assumed liability for the tax thereon pursuant to NRS 365.020, during the preceding calendar month; and

2. Pay *In accordance with the provisions of NRS 365.330, pay* an excise tax on:

(a) All fuel for jet or turbine-powered aircraft in the amount of 1 cent per gallon, plus any applicable amount imposed pursuant to NRS 365.203; and

(b) Aviation fuel in the amount of 2 cents per gallon, plus any applicable amount imposed pursuant to NRS 365.203,

↪ so sold, distributed or used . ~~{, in the manner and within the time prescribed in this chapter.}~~

Sec. 13. NRS 365.175 is hereby amended to read as follows:

365.175 Except as otherwise provided in NRS 365.135, every supplier shall ~~{, not}~~ :

1. *Not* later than the last day of each calendar month ~~{~~
~~1—Submit}~~ , **submit** to the Department a statement of all motor vehicle fuel, except aviation fuel, sold, distributed or used by him in this State ~~{}~~
during the preceding calendar month; and

2. ~~{Pay}~~ **In accordance with the provisions of NRS 365.330, pay** an excise tax on all motor vehicle fuel, except aviation fuel, in the amount of 17.65 cents per gallon *so* sold, distributed or used . ~~{in the manner prescribed in this chapter.}~~

Sec. 14. NRS 365.290 is hereby amended to read as follows:

365.290 1. Before granting any application for a license as a dealer or supplier, the Department shall require the applicant to file with the Department a bond executed by the applicant as principal, and by a corporation qualified under the laws of this State as surety, payable to this State and conditioned upon the faithful performance of all the requirements of this chapter and upon the punctual payment of all excise taxes, penalties and other obligations of the applicant as a dealer or supplier.

2. The total amount of the bond or bonds required of any dealer or supplier must be fixed by the Department at three times the estimated maximum monthly tax, determined in such a manner as the Department deems proper, or \$1,000, whichever is greater. If ~~{the Department determines that}~~ a person is habitually delinquent in the payment of amounts due pursuant to this chapter, ~~{it}~~ **the Department** may increase the amount of his security to not more than five times the estimated maximum monthly tax. When cash or a savings certificate, certificate of deposit or investment certificate is used, the amount required must be rounded off to the next larger integral multiple of \$100, within the same upper limit.

3. The Department may increase or decrease the amount of security required by this section subject to the limitations provided in this section.

4. No recovery on any bond, ~~{nor the}~~ execution of any new bond, ~~{nor the}~~ **or** revocation, cancellation or suspension of any license , affects the validity of any bond.

5. In lieu of any bond or bonds, a dealer or supplier may deposit with the Department, under such terms and conditions as the Department may prescribe, ~~{a like}~~ **an equivalent** amount of lawful money of the United States or any other form of security authorized by NRS 100.065. If security is provided in the form of a savings certificate, certificate of deposit or investment certificate, the certificate must state that the amount is unavailable for withdrawal except upon order of the Department.

6. **If the amount of security required by this section is decreased pursuant to subsection 3, the Department shall immediately reinstate the**

original requirements for a bond for a holder of a license as a dealer or supplier upon his:

- (a) Lack of faithful performance of the requirements of this chapter; or*
- (b) Failure to pay punctually all taxes, fees, penalties and interest due the State of Nevada.*

7. For the purposes of this section, a person is "habitually delinquent" if, within any 12-month period, the person commits each of the following acts or commits either of the following acts more than once:

(a) Fails timely to file a monthly tax return, unless the Department determines that:

(1) The failure to file was caused by circumstances beyond the control of the person and occurred notwithstanding the exercise of ordinary care; and

(2) The person has paid any penalty and interest imposed by the Department because of the failure to file.

(b) Fails timely to submit to the Department any tax collected by the person pursuant to this chapter.

Sec. 15. NRS 365.304 is hereby amended to read as follows:

365.304 *1.* A license issued pursuant to this chapter:

~~{1}~~ *(a)* Is valid ~~{until}~~ *for 1 year, unless* suspended, revoked or cancelled.

~~{2}~~ *(b)* Is not transferable.

2. The Department shall adopt regulations providing for the renewal of such licenses.

Sec. 16. NRS 365.306 is hereby amended to read as follows:

365.306 If any person ceases to be a dealer, supplier, exporter or transporter within this State by reason of the discontinuance, sale or transfer of his business, he shall:

1. Notify the Department in writing at the time the discontinuance, sale or transfer takes effect. The notice must give the date of the discontinuance, sale or transfer, and the name and address of any purchaser or transferee.

2. Surrender to the Department the license issued to him pursuant to this chapter.

3. If he is:

(a) A dealer, file a monthly tax return and pay all taxes, interest and penalties required pursuant to chapter 360A of NRS and NRS 365.170 and 365.203 on or before the last day of the month following the month of the discontinuance, sale or transfer of the business.

(b) A supplier, file a monthly tax return and pay all taxes, interest and penalties required pursuant to chapter 360A of NRS and NRS 365.175 to 365.192, inclusive, on or before the last day of the month following the month of the discontinuance, sale or transfer of the business.

(c) An exporter, file the report required pursuant to NRS 365.515 on or before the last day of the month following the month of the discontinuance, sale or transfer of the business.

(d) A transporter, file the report required pursuant to NRS 365.520 ~~within 25 days after the end~~ **on or before the last day** of the month **following the month** of the discontinuance, sale or transfer of the business.

Sec. 17. NRS 365.324 is hereby amended to read as follows:

365.324 1. Except as otherwise provided in ~~subsections 2 and 3,~~ **subsection 2**, each supplier who sells or distributes motor vehicle fuel, other than aviation fuel, shall, at the time the motor vehicle fuel is distributed from a terminal, collect the taxes imposed pursuant to NRS 365.175 to 365.192, inclusive.

2. ~~{A supplier may sell motor vehicle fuel, other than aviation fuel, to a purchaser without collecting the taxes imposed pursuant to NRS 365.175 to 365.192, inclusive, if the purchaser of the motor vehicle fuel:~~

~~(a) Has been issued a permit by the Department pursuant to NRS 365.328; and~~

~~(b) Elects to defer payment of the taxes.~~

~~3.} A supplier shall not collect the taxes imposed pursuant to NRS 365.175 to 365.192, inclusive, if the purchaser of the motor vehicle fuel is:~~

~~(a) A supplier; or~~

~~(b) An exporter.~~

3. A supplier or exporter shall not purchase motor vehicle fuel on which the tax has been paid, except that a newly licensed supplier or exporter may purchase such fuel during its first month of operation.

4. A supplier who sells motor vehicle fuel, other than aviation fuel, to any other supplier shall keep such records of the transaction as the Department may require. The Department shall adopt regulations setting forth:

(a) The records which must be kept by ~~the dealer~~ **a supplier** pursuant to this subsection; and

(b) The period for which those records must be kept. ~~{by the dealer.}~~

Sec. 18. NRS 365.330 is hereby amended to read as follows:

365.330 1. The excise taxes ~~{prescribed in}~~ **imposed by** this chapter ~~{must be paid on or before the last day of each calendar month to the Department.}~~ **are due on or before the last day of the first month following the month to which they relate.**

2. If the due date falls on a Saturday, Sunday or legal holiday, the next business day is the final due date.

3. Payment shall be deemed received on the date shown by the cancellation mark stamped by the United States Postal Service or the postal service of any other country upon an envelope containing payment properly addressed to the Department.

4. The Department shall deliver the taxes to the State Treasurer, who shall provide ~~{to the dealer, supplier or user}~~ a receipt for the payment of the taxes ~~{~~

~~2.}~~ **to the person who made the payment.**

5. Except as otherwise provided in subsection ~~{3.}~~ **6:**

(a) From the tax found to be due upon any statement submitted by a dealer pursuant to NRS 365.170, the dealer may retain an amount equal to 2 percent of the amount of the tax collected to cover the dealer's costs of collection of the tax and of compliance with this chapter, and the dealer's handling losses occasioned by evaporation, spillage or other similar causes.

(b) Each supplier may retain an amount equal to 2 percent of the amount of the tax collected by the supplier to cover the supplier's costs of collection of the tax and of compliance with this chapter, and the supplier's handling losses occasioned by evaporation, spillage or other similar causes.

~~{3-}~~ 6. A dealer or supplier who fails to submit a tax return when due pursuant to this chapter or fails to pay the tax when due pursuant to this chapter is not entitled to retain any of the amount authorized pursuant to subsection ~~{2}~~ 5 for any month for which a tax return is not filed when due or a payment is not made when due.

~~{4-}~~ 7. If the Department determines that a dealer or supplier, **or any unlicensed person who collects an excise tax**, has failed to submit a tax return when due pursuant to this chapter or failed to pay the tax when due pursuant to this chapter, the Department may order the dealer, ~~for~~ supplier **or unlicensed person** to hold the amount of all taxes collected pursuant to this chapter in a separate account in trust for the State. The dealer, ~~for~~ supplier **or unlicensed person** shall comply with the order immediately upon receiving notification of the order from the Department.

Sec. 19. NRS 365.340 is hereby amended to read as follows:

365.340 1. If the amount of any excise tax for any month is not paid to the State on or before the ~~{last day of the next month,}~~ **date due**, it becomes delinquent at the close of business on that day. ~~{A dealer, supplier or user may have up to 15 additional days to make the payment if he makes written application to the Department on or before the day the payment is due and the Department finds good cause for the extension.}~~

2. The proceeds from any penalty levied for the delinquent payment of an excise tax must be deposited with the State Treasurer to the credit of the State Highway Fund.

Sec. 20. NRS 365.370 is hereby amended to read as follows:

365.370 Any person who exports any motor vehicle fuel or fuel for jet or turbine-powered aircraft from this State, or who sells any such fuel to the United States Government for official use of the United States Armed Forces, or who buys and uses any such fuel for purposes other than for the propulsion of motor vehicles or jet or turbine-powered aircraft, and who has paid any tax on such fuel levied or directed to be paid as provided by this chapter, either directly by the collection of the tax by the vendor from the customer or indirectly by the addition of the amount of the tax to the price of the fuel, must be reimbursed and repaid the amount of the tax so paid by him, except as follows:

1. ~~{Refund claims}~~ **Claims for refunds** must be paid by prescribed classes in accordance with the ~~{department's regulations.}~~ **regulations of the Department.**

2. The minimum claim for a refund must be based on at least 200 gallons of such fuel purchased ~~{and used}~~ in this State within a 6-month period ~~{}~~ which is used for a purpose that is exempt from payment of the excise taxes imposed by this chapter.

3. No refund of motor vehicle fuel taxes may be made for off-highway use of motor vehicle fuel consumed in watercraft in this State for recreational purposes.

4. A person who exports, sells, buys or uses aviation fuel for any purpose is not entitled to reimbursement of any tax paid by him on such fuel.

Sec. 21. NRS 365.500 is hereby amended to read as follows:

365.500 1. Every dealer, supplier, exporter and transporter shall cause to be kept a true record, in such form as may be prescribed or approved by the Department, of all stocks of motor vehicle fuel and fuel for jet or turbine-powered aircraft and of other inflammable or combustible liquids, and of all manufacture, refining, compounding, blending, purchases, receipts, exportations, transportations, use, sales and distribution thereof.

2. The Department or its authorized agents may:

(a) Examine the books, records, papers and equipment of any dealer, supplier, exporter or transporter of such fuel or liquids, or of any other person transporting or storing such fuel or liquids;

(b) Investigate the character of the disposition which any person makes of such fuel or liquids; and

(c) Stop and inspect a motor vehicle that is using or transporting such fuel or liquids,

↳ to determine whether all excise taxes due pursuant to this chapter are being properly reported and paid.

3. Books and records ~~{are subject to inspection at all times within business hours by the Department or its authorized agents, and}~~ subject to examination pursuant to subsection 2 must remain available for ~~{inspection}~~ examination for a period of 4 years after the date of any entry therein.

~~{}~~ 4. If a dealer, supplier, exporter or transporter wishes to keep proper books and records pertaining to business done in Nevada elsewhere than within the State of Nevada for inspection as provided in this section, he must pay a fee for the examination in an amount per day equal to the amount set by law for out-of-state travel for each day or fraction thereof during which the examiner is actually engaged in examining those books and records, plus the actual expenses of the examiner during the time that the examiner is absent from this State for the purpose of making the examination, but the time must not exceed 1 day going to and 1 day coming from the place where the examination is to be made in addition to the number of days or fractions thereof the examiner is actually engaged in auditing those books and records.

Not more than two such examinations may be charged against any dealer, supplier, exporter or transporter in any year.

~~{4.}~~ 5. Any money received must be deposited by the Department to the credit of the fund or operating account from which the expenditures for the examination were paid.

~~{5.}~~ 6. Upon the demand of the Department, each dealer, supplier, exporter or transporter shall furnish a statement showing the contents of the **books and** records to such extent and in such detail and form as the Department may require.

Sec. 22. NRS 365.520 is hereby amended to read as follows:

365.520 1. Every transporter, except a dealer licensed under this chapter or a wholesale distributor transporting the products of a dealer licensed under this chapter, who transports motor vehicle fuel or fuel for jet or turbine-powered aircraft in interstate commerce to or from any point within this State, or solely within this State, shall report all ~~{of}~~ those deliveries to the Department.

2. A report must be made for each calendar month and must be filed ~~{within 25 days after the end of the month for which the report is made.}~~ **not later than the last day of each month for the deliveries made during the preceding month.** The report must show:

(a) The name and address of every consignor and consignee and of every person other than the designated consignee to whom delivery has actually been made.

(b) The date of every delivery.

(c) The amount of every delivery in gallons.

(d) Such other information as the Department may require.

Sec. 23. NRS 365.545 is hereby amended to read as follows:

365.545 1. The proceeds of all taxes on fuel for jet or turbine-powered aircraft imposed pursuant to the provisions of NRS 365.170 or 365.203 must be deposited in the Account for Taxes on Fuel for Jet or Turbine-Powered Aircraft in the State General Fund and must be allocated monthly by the Department to the:

(a) Governmental entity which operates the airport at which the tax was collected, if the airport is operated by a governmental entity;

(b) Governmental entity which owns the airport at which the tax was collected, if the airport is owned but not operated by a governmental entity;
or

(c) County in which is located the airport at which the tax was collected, if the airport is neither owned nor operated by a governmental entity.

2. Except as otherwise provided in subsection 3, the money allocated pursuant to subsection 1:

(a) Must be used by the governmental entity receiving it to pay the cost of:

(1) Transportation projects related to airports, including access on the ground to airports;

(2) The payment of principal and interest on notes, bonds or other obligations incurred to fund projects described in subparagraph (1);

(3) Promoting the use of an airport located in a county whose population is less than 400,000, including, without limitation, increasing the number and availability of flights at the airport;

(4) Contributing money to the Trust Fund for Aviation created by NRS 494.048; or

(5) Any combination of those purposes; and

(b) May also be pledged for the payment of general or special obligations issued to fund projects described in paragraph (a). Any money pledged pursuant to this paragraph may be treated as pledged revenues of the project for the purposes of subsection 3 of NRS 350.020.

3. Any money allocated pursuant to subsection 1 to a county whose population is 400,000 or more and in which a regional transportation commission has been created pursuant to chapter 373 of NRS, from the proceeds of the tax imposed pursuant to ~~subparagraph (1) of paragraph (b) of subsection 1~~ **paragraph (a) of subsection 2** of NRS 365.170 on fuel for jet or turbine-powered aircraft sold, distributed or used in that county, excluding the proceeds of any tax imposed pursuant to NRS 365.203, may, in addition to the uses authorized pursuant to subsection 2, be allocated by the county to that regional transportation commission. The money allocated pursuant to this subsection to a regional transportation commission:

(a) Must be used by the regional transportation commission:

(1) To pay the cost of transportation projects described in a regional plan for transportation established by that regional transportation commission pursuant to NRS 373.1161;

(2) For the payment of principal and interest on notes, bonds or other obligations incurred to fund projects described in subparagraph (1); or

(3) For any combination of those purposes; and

(b) May also be pledged for the payment of general or special obligations issued by the county at the request of the regional transportation commission to fund projects described in paragraph (a). Any money pledged pursuant to this paragraph may be treated as pledged revenues of the project for the purposes of subsection 3 of NRS 350.020.

Sec. 24. NRS 365.575 is hereby amended to read as follows:

365.575 An exporter shall not sell or distribute motor vehicle fuel ~~[- other than aviation fuel,]~~ in this State. An exporter who violates the provisions of this section:

1. Is guilty of a misdemeanor; and

2. Shall, within the period prescribed in NRS ~~[365.175,]~~ **365.330**, pay to the Department the taxes imposed pursuant to NRS 365.175 to 365.192, inclusive, on all motor vehicle fuel ~~[- other than aviation fuel,]~~ sold or distributed in this State.

Sec. 25. Chapter 366 of NRS is hereby amended by adding thereto the provisions set forth as sections 26 to 30, inclusive, of this act.

Sec. 26. *Every person not licensed pursuant to this chapter who collects an excise tax shall, not later than the last day of each calendar month, file with the Department a tax return upon which is reported all such taxes collected during the preceding calendar month and, in accordance with the provisions of NRS 366.370, pay the tax to the Department.*

Sec. 27. 1. *A responsible person who willfully fails to collect or pay to the Department the tax imposed by this chapter or who willfully attempts to evade the payment of the tax is jointly and severally liable with the special fuel dealer or special fuel supplier for the tax owed, plus interest and all applicable penalties. The responsible person shall pay the tax upon notice from the Department that it is due.*

2. *As used in this section, "responsible person" includes:*

(a) An officer or employee of a corporation; and

(b) A member or employee of a partnership or limited-liability company, whose job or duty it is to collect, account for or pay to the Department the tax imposed by this chapter.

Sec. 28. 1. *Every retailer shall maintain and keep within the State for a period of 4 years a true record of special fuel received, the price thereof and the name of the person who supplied the special fuel, together with delivery tickets, invoices and such other records as the Department may require.*

2. *Such records are subject to inspection by the Department or its authorized agents at all times during business hours.*

Sec. 29. *The Department is authorized to have paid out of the State Highway Fund all expenses incurred in the prosecution before any court of this State of any person charged with the violation of any provision of this chapter.*

Sec. 30. *County sheriffs and all other peace officers and traffic officers of this State shall, without further compensation, assist in the enforcement of this chapter, and make arrests for that purpose when requested by the Department or its duly authorized agents.*

Sec. 31. NRS 366.075 is hereby amended to read as follows:

366.075 "Special fuel transporter" means a person, except a special fuel supplier or special fuel exporter licensed pursuant to this chapter, who transports special fuel in interstate commerce *by pipeline, rail or truck* to or from any point within this State, or solely within this State.

Sec. 32. NRS 366.140 is hereby amended to read as follows:

366.140 1. Every special fuel supplier, special fuel dealer, special fuel exporter, special fuel transporter, special fuel user and retailer, and every other person transporting or storing special fuel in this State shall keep such records, receipts, invoices and other pertinent papers with respect thereto as the Department requires.

2. The records, receipts, invoices and other pertinent papers described in subsection 1 must be preserved for 4 years after the date on which the record, receipt, invoice or other pertinent paper was created or generated.

3. The records, receipts, invoices and other pertinent papers must be available at all times during business hours to the Department or its authorized agents.

4. In addition to any other penalty that may be imposed, any violation of the provisions of this section constitutes grounds for the Department to deny any future application for a license pursuant to this chapter that is submitted by a person who is determined to be responsible for the violation.

Sec. 33. NRS 366.207 is hereby amended to read as follows:

366.207 1. Except as otherwise provided in ~~{subsections 2 and 3,}~~ **subsection 2**, each special fuel supplier who sells or distributes special fuel to which dye has not been added shall, at the time the special fuel is purchased, collect the tax imposed pursuant to NRS 366.190.

2. ~~{A special fuel supplier may sell special fuel to a purchaser without collecting the tax imposed pursuant to NRS 366.190 if the purchaser of the special fuel:~~

~~(a) Has been issued a permit by the Department pursuant to NRS 366.397; and~~

~~(b) Elects to defer payment of the tax.~~

3. A special fuel supplier shall not collect the tax imposed pursuant to NRS 366.190 if the purchaser of the special fuel is:

(a) A special fuel supplier;

(b) A special fuel exporter; or

(c) A special fuel dealer.

3. A special fuel supplier or special fuel exporter shall not purchase special fuel on which the tax imposed pursuant to NRS 366.190 has been paid, except that a newly licensed special fuel supplier or special fuel exporter may purchase such fuel during its first month of operation.

4. A special fuel supplier who sells special fuel to any other special fuel supplier, ~~or~~ special fuel dealer **or special fuel exporter** shall keep such records of the transaction as the Department may require. The Department shall adopt regulations setting forth:

(a) The records which must be kept by the special fuel supplier pursuant to this subsection; and

(b) The period for which those records must be kept by the special fuel supplier.

5. If, within a period of 6 months, a person purchases ~~{not less than}~~ 200 gallons **or more** of special fuel in this State which is used for a purpose that is exempt from the payment of the tax on special fuel pursuant to NRS 366.200, he may apply to the Department for a refund in the manner prescribed in subsection 6 of NRS 366.650.

6. Any person who resells, for a taxable purpose, special fuel that was exempt from the tax imposed by this chapter and to which dye has not been added shall collect the tax and remit it to the Department.

Sec. 34. NRS 366.220 is hereby amended to read as follows:

366.220 1. Except as otherwise provided in this chapter ~~[, it is unlawful for any:~~

~~(a) Special fuel supplier, special fuel dealer or special fuel user to sell or use special fuel within this State unless the special fuel supplier, special fuel dealer or special fuel user is the holder of a special fuel supplier's, special fuel dealer's or special fuel user's license issued to him by the Department.~~

~~(b) Person to be a:~~

~~(1) Special fuel exporter unless the person is the holder of a special fuel exporter's license issued to him by the Department.~~

~~(2) Special fuel transporter unless the person is the holder of a special fuel transporter's license issued to him by the Department.~~

~~(c) Retailer or other person to sell or distribute dyed special fuel unless the retailer or person controls the access to the dyed special fuel.] :~~

(a) Before becoming a special fuel dealer, special fuel supplier, special fuel exporter, special fuel transporter or special fuel user, a person must apply to the Department, on forms to be prescribed by the Department, for a license authorizing the applicant to engage in business as a special fuel dealer, special fuel supplier, special fuel exporter or special fuel transporter, or to operate as a special fuel user.

(b) It is unlawful for any person to be:

(1) A special fuel dealer without holding a license as a special fuel dealer pursuant to this chapter.

(2) A special fuel supplier without holding a license as a special fuel supplier pursuant to this chapter.

(3) A special fuel exporter without holding a license as a special fuel exporter pursuant to this chapter.

(4) A special fuel transporter without holding a license as a special fuel transporter pursuant to this chapter.

(5) A special fuel user without holding a license as a special fuel user pursuant to this chapter.

2. The Department may adopt regulations relating to the issuance of any ~~[special fuel supplier's, special fuel dealer's, special fuel exporter's, special fuel transporter's or special fuel user's]~~ license *pursuant to this chapter* and the collection of fees therefor.

Sec. 35. NRS 366.235 is hereby amended to read as follows:

366.235 1. An applicant for or holder of a *license as a* special fuel ~~[supplier's]~~ *supplier* or special fuel ~~[dealer's license]~~ *dealer* shall provide a bond executed by him as principal, and by a corporation qualified pursuant to the laws of this State as surety, payable to the State of Nevada, and conditioned upon the faithful performance of all ~~[of]~~ the requirements of this chapter and upon the punctual payment of all excise taxes, penalties and

interest due ~~to~~ the State of Nevada. The total amount of the bond or bonds of any holder of *such* a ~~special fuel supplier's or special fuel dealer's~~ license must be fixed by the Department at not less than three times the estimated maximum monthly tax, determined in such a manner as the Department deems proper, but the amount must not be less than \$1,000 for a special fuel supplier and must not be less than \$100 for a special fuel dealer. If ~~the Department determines that a person~~ *a special fuel supplier or special fuel dealer* is habitually delinquent in the payment of amounts due *pursuant to this chapter*, the Department ~~it~~ may increase the amount of his security to not more than five times the estimated maximum monthly tax. When cash or a savings certificate, certificate of deposit or investment certificate is used, the amount required must be rounded off to the next larger integral multiple of \$100.

2. *If a special fuel user is habitually delinquent in the payment of amounts due pursuant to this chapter, the Department shall require the special fuel user to provide a bond executed by him as principal, and by a corporation qualified pursuant to the laws of this State as surety, payable to the State of Nevada, and conditioned upon the faithful performance of all the requirements of this chapter and upon the punctual payment of all excise taxes, penalties and interest due the State of Nevada. The total amount of the bond must not be less than \$2,500.*

3. No recovery on any bond, ~~nor the~~ execution of any new bond ~~nor the~~ or suspension or revocation of any *license as a special fuel supplier's or supplier, special fuel dealer's license dealer or special fuel user* affects the validity of any bond.

~~3.~~ 4. In lieu of a bond or bonds, an applicant for or holder of a *license as a special fuel supplier's supplier or special fuel dealer's license dealer, or a person required to provide a bond pursuant to subsection 2*, may deposit with the State Treasurer, under such terms as the Department may prescribe, ~~a like~~ *an equivalent* amount of lawful money of the United States or any other form of security authorized by NRS 100.065. If security is provided in the form of a savings certificate, certificate of deposit or investment certificate, the certificate must state that the amount is unavailable for withdrawal except upon order of the Department.

~~4.~~ 5. If the holder of a *license as a special fuel supplier's supplier or special fuel dealer's license dealer* is required to provide a bond of more than \$5,000, the Department may reduce the requirements for the bond to not less than \$5,000 upon the ~~supplier's or dealer's~~ faithful performance of *the special fuel supplier or special fuel dealer of* all the requirements of this chapter and the punctual payment of all taxes due the State of Nevada for the 3 preceding calendar years.

~~5.~~ 6. The Department shall immediately reinstate the original requirements for a bond for a holder of a *license as a special fuel supplier's supplier or special fuel dealer's license dealer* upon his:

- (a) Lack of faithful performance of the requirements of this chapter; or

(b) Failure to pay punctually all taxes, fees, penalties and interest due the State of Nevada.

7. For the purposes of this section, a person is “habitually delinquent” if, within any 12-month period, the person commits each of the following acts or commits either of the following acts more than once:

(a) Fails timely to file a monthly or quarterly special fuel tax return, unless the Department determines that:

(1) The failure to file was caused by circumstances beyond the control of the person and occurred notwithstanding the exercise of ordinary care; and

(2) The person has paid any penalty and interest imposed by the Department because of the failure to file.

(b) Fails timely to submit to the Department any tax collected by the person pursuant to this chapter.

Sec. 36. NRS 366.260 is hereby amended to read as follows:

366.260 1. A license issued pursuant to this chapter:

(a) ~~Except as otherwise provided in subsection 2, is valid until~~ **Is valid for 1 year unless** suspended, revoked or cancelled.

(b) Is not transferable.

2. ~~Each special fuel user’s license is valid for a calendar year unless suspended, revoked or cancelled.~~ **The Department shall adopt regulations providing for the renewal of such licenses.**

Sec. 37. NRS 366.270 is hereby amended to read as follows:

366.270 If any person ceases to be a special fuel supplier, special fuel dealer, special fuel exporter, special fuel transporter or special fuel user within this State by reason of the discontinuance, sale or transfer of his business, he shall:

1. Notify the Department in writing at the time the discontinuance, sale or transfer takes effect. The notice must give the date of the discontinuance, sale or transfer, and the name and address of any purchaser or transferee.

2. Surrender to the Department the license issued to him by the Department.

3. If he is:

(a) A special fuel user ~~[-]~~ **registered under the Interstate Highway User Fee Apportionment Act**, file the tax return required pursuant to NRS 366.380 and pay all taxes, interest and penalties required pursuant to this chapter and chapter 360A of NRS, except that both the filing and payment are due on or before the last day of the month following the month of the discontinuance, sale or transfer of the business.

(b) A special fuel supplier, file the tax return required pursuant to NRS 366.383 and pay all taxes, interest and penalties required pursuant to this chapter and chapter 360A of NRS on or before the last day of the month following the month of the discontinuance, sale or transfer of the business.

(c) A special fuel dealer, file the tax return required pursuant to NRS 366.386 and pay all taxes, interest and penalties required pursuant to this

chapter and chapter 360A of NRS, except that both the filing and payment are due on or before the last day of the month following the month of the discontinuance, sale or transfer of the business.

(d) A special fuel exporter, file the report required pursuant to NRS 366.387 on or before the last day of the month following the month of the discontinuance, sale or transfer of the business.

(e) A special fuel transporter, file the report required pursuant to NRS 366.695 ~~[within 25 days after the end]~~ **on or before the last day** of the month **following the month** of the discontinuance, sale or transfer of the business.

Sec. 38. NRS 366.350 is hereby amended to read as follows:

366.350 1. The Department may *suspend*, revoke *or cancel* the license of any special fuel dealer, special fuel supplier, special fuel exporter, special fuel transporter or special fuel user for ~~[reasonable cause, including, without limitation,]~~ refusing or neglecting to comply with the provisions of this chapter.

2. *If a special fuel dealer or special fuel supplier becomes delinquent in the payment of excise taxes as prescribed by this chapter to the extent that his liability exceeds the total amount of bond or bonds furnished by the special fuel dealer or special fuel supplier, the Department shall suspend his license immediately.*

3. Before revoking *or cancelling* a license ~~[]~~ *issued pursuant to this chapter*, the Department shall send a notice by registered or certified mail to the ~~[licensee]~~ *special fuel dealer, special fuel supplier, special fuel exporter or special fuel transporter* at his last known address . ~~[ordering him to appear before the Department at a time not less than 10 days after the mailing of the notice and]~~ *The notice must order the special fuel dealer, special fuel supplier, special fuel exporter or special fuel transporter to show cause why ~~[the]~~ his license should not be revoked ~~[]~~ by appearing before the Department at Carson City, Nevada, or such other place in this State as may be designated by the Department, at a time not less than 10 days after the mailing of the notice. The Department shall allow the special fuel dealer, special fuel supplier, special fuel exporter or special fuel transporter an opportunity to be heard. The Department may revoke or cancel his license after reviewing all information received.*

4. *The Department shall cancel any license issued pursuant to this chapter upon the surrender of the license by the holder.*

5. *If a surety has lodged with the Department a written request to be released and discharged of liability, the Department shall notify the special fuel supplier or special fuel dealer who furnished the bond, and unless he files a new bond as required by the Department or makes a deposit in lieu thereof as provided in NRS 366.235, the Department shall cancel his license.*

Sec. 39. NRS 366.375 is hereby amended to read as follows:

366.375 1. If the amount of any excise tax for any reporting period is not paid to the State on or before the ~~[day the payment is due pursuant to this~~

~~chapter,} *date due*, the payment becomes delinquent at the close of business on that day. ~~[A special fuel supplier, special fuel dealer or special fuel user may have up to 15 additional days to make the payment if he makes written application to the Department on or before the day the payment is due and the Department finds good cause for the extension.]~~~~

2. The proceeds from any penalty levied for the delinquent payment of an excise tax must be deposited with the State Treasurer to the credit of the State Highway Fund.

Sec. 40. NRS 366.380 is hereby amended to read as follows:

366.380 1. ~~[Except as otherwise provided in subsection 2, on]~~ ***On*** or before the last day of January, April, July and October in each year, each special fuel user ***registered under the Interstate Highway User Fee Apportionment Act*** shall file with the Department a quarterly tax return for the preceding quarter, regardless of the amount of excise tax due, on a form prescribed by the Department. ***The special fuel user shall include with the tax return payment of any excise tax due. If the due date falls on a Saturday, Sunday or legal holiday, the next business day is the final due date.***

2. ~~[A special fuel user may, upon the issuance or renewal of a special fuel license, request to file a tax return annually with the Department. If the request is approved by the Department, the special fuel user shall file with the Department a tax return for the preceding year on or before the last day of January of each year, regardless of the amount of excise tax due, on a form prescribed by the Department.]~~

3. The return must show such information as the Department may reasonably require for the proper administration and enforcement of this chapter.

Sec. 41. NRS 366.395 is hereby amended to read as follows:

366.395 1. Any special fuel user who fails to ***file a tax return or*** pay any excise tax ~~[within the time prescribed by this chapter]~~ ***by the date due*** shall pay, in addition to ~~[the tax, a penalty]~~ ***any tax that may be due, a delinquent filing fee*** of \$50 ~~[or]~~ ***and a penalty of*** 10 percent of the amount ***of tax*** owed, ~~[whichever is greater,]~~ plus interest on the amount of ~~[the]~~ ***any tax that may be due*** at the rate of 1 percent per month or fraction thereof, from the date the tax ~~[became finally]~~ ***was*** due until the date of payment.

2. A tax return, ~~[or]~~ statement ***or payment*** is considered delinquent ~~[when it has not been]~~ ***if it is not*** received by the Department ~~[by]~~ ***on or before*** the date the tax return, ~~[or]~~ statement ***or payment*** is due, as prescribed by the provisions of this chapter.

3. ***A tax return, statement or payment shall be deemed received on the date shown by the cancellation mark stamped by the United States Postal Service or the postal service of any country upon an envelope containing the tax return, statement or payment.***

Sec. 42. NRS 366.540 is hereby amended to read as follows:

366.540 1. The tax provided for by this chapter must be paid by special fuel suppliers, special fuel dealers and special fuel users. A special fuel supplier or special fuel dealer shall pay to the Department the excise tax he collects from purchasers of special fuel with the return filed pursuant to NRS 366.383 or 366.386, respectively. The tax paid by a special fuel user must be computed by multiplying the tax rate per gallon provided in this chapter by the amount that the number of gallons of special fuel consumed by the special fuel user in the propulsion of motor vehicles on the highways of this State exceeds the number of gallons of special fuel purchases by him.

2. ~~{Except as otherwise provided in subsection 3, in computing the amount of tax on special fuel a special fuel supplier owes to the Department, the special fuel supplier may deduct from the amount due pursuant to subsection 1 any amount which is due but has not been paid by a purchaser who is authorized by the Department to defer payment of the tax pursuant to NRS 366.397. If such a deduction is claimed, the claim must identify the purchaser and the amount of taxes that he failed to pay.~~

3. ~~A special fuel supplier shall not deduct from the amount he owes the Department pursuant to subsection 1 any amount which has not been paid by a person whose permit to defer the payment of the tax has been revoked pursuant to subsection 4 of NRS 366.397 if, before the special fuel was purchased, the special fuel supplier had been notified by the Department pursuant to subsection 5 of NRS 366.397 that it had revoked the purchaser's permit.~~

4. ~~If the Department determines that a special fuel supplier or special fuel dealer, or any unlicensed person who collects an excise tax, has failed to submit a tax return when due pursuant to this chapter or failed to pay the tax when due pursuant to this chapter, the Department may order the special fuel supplier, ~~or~~ special fuel dealer or unlicensed person to hold the amount of all taxes collected pursuant to this chapter in a separate account in trust for the State. The special fuel supplier, ~~or~~ special fuel dealer or unlicensed person shall comply with the order immediately upon receiving notification of the order from the Department.~~

3. ***A retailer who receives or sells special fuel for which the taxes imposed pursuant to this chapter have not been paid is liable for the taxes and any applicable penalty or interest if the retailer knew or should have known that the applicable taxes on the special fuel had not been paid.***

Sec. 43. NRS 366.650 is hereby amended to read as follows:

366.650 1. If illegally or through error the Department collects or receives any excise tax, penalty or interest imposed pursuant to this chapter, the excise tax, penalty or interest must be refunded to the person who paid the tax, penalty or interest. A written application for a refund, ***including, without limitation, a request for a refund that is submitted on an amended tax return***, stating the specific grounds therefor, must be made within 12 months after the date of payment, whether or not the excise tax, penalty or interest was paid voluntarily or under protest.

2. Refunds must be made to a successor, assignee, estate or heir of the person if written application is made within the time limit.

3. Any amount determined to be refundable by the Department must be refunded or credited to any amounts then due from the special fuel supplier or special fuel dealer.

4. All amounts refunded pursuant to the provisions of this chapter must be paid from the State Highway Fund on claims presented by the Department, approved by the State Board of Examiners, and allowed and paid as other claims against the State are allowed and paid.

5. A licensed special fuel user operating interstate or off road, or both, who can prove to the satisfaction of the Department that his special fuel purchases in Nevada exceed his use of the special fuel over the highways of this State for a certain quarter must apply credit to any excise taxes, penalties or interest required by this chapter or fees, taxes, penalties or interest applicable pursuant to chapter 371, 482 or 706 of NRS and any balance may be refunded or credited to succeeding reports.

6. A person who wishes to apply for a refund of the tax on special fuel paid by him pursuant to subsection 5 of NRS 366.207 must:

(a) Submit an application for the refund on a form prescribed by the Department; and

(b) Establish to the satisfaction of the Department that within a period of 6 months he purchased not less than 200 gallons of special fuel in this State which was used for a purpose that is exempt from the tax on special fuel pursuant to NRS 366.200.

↪ The Department shall refund to an applicant who complies with the provisions of this subsection a refund in an amount equal to the tax paid by the applicant less the percentage allowed the special fuel supplier pursuant to NRS 366.390.

7. To establish the validity of any claim for a refund, the Department may, upon demand, examine the books and records of the claimant. The failure of the claimant to accede to such a demand constitutes a waiver of all rights to the refund claimed on account of the transactions questioned.

8. No refund of special fuel taxes may be made for off-highway use of special fuel consumed in watercraft in this State for recreational purposes.

Sec. 44. NRS 366.695 is hereby amended to read as follows:

366.695 1. Every special fuel transporter, except a wholesale distributor transporting the products of a special fuel supplier licensed pursuant to this chapter, who transports special fuel in interstate commerce to or from any point within this State, or solely within this State, shall report all of those deliveries to the Department.

2. A report must be made for each calendar month and must be filed ~~[within 25 days after the end of the month for which the report is made.]~~ ***not later than the last day of each month for the deliveries made during the preceding month.*** The report must show:

(a) The name and address of every consignor and consignee and of every person other than the designated consignee to whom delivery has actually been made;

(b) The date of each delivery;

(c) The number of gallons of special fuel delivered for each delivery; and

(d) Such other information as the Department may require.

Sec. 45. NRS 366.715 is hereby amended to read as follows:

366.715 1. The Department may seal a special fuel pump of a *retailer or* special fuel dealer, or the metered pipes and hoses of a rack *of a special fuel dealer or special fuel supplier*, if the *retailer*, special fuel dealer or special fuel supplier:

(a) Becomes delinquent in payment of any amount due pursuant to the provisions of this chapter;

(b) Operates without the license required by the provisions of this chapter; or

(c) Operates without the bond or cash deposit required by the provisions of this chapter.

2. A special fuel pump of a *retailer or* special fuel dealer, or the metered pipes and hoses of the rack *of a special fuel dealer or special fuel supplier*, may be sealed until all required reports are filed, the tax, penalties and interest are paid in full, the required license is obtained and the bond or cash deposit is provided.

3. Before sealing ~~the~~ a fuel pump or *the* metered pipes and hoses of a rack, the Department must send a notice by registered or certified mail to the ~~licensed~~ *retailer*, special fuel ~~supplier~~ *dealer* or special fuel ~~dealer~~ *supplier* at his last known address ordering him to appear before the Department at a time not less than 10 days after the mailing of the notice and show cause why the fuel pump or the metered pipes and hoses of the rack should not be sealed.

Sec. 46. NRS 366.720 is hereby amended to read as follows:

366.720 1. Any person who:

~~1-~~ (a) Fails or refuses to pay the tax imposed by this chapter;

~~2-~~ (b) Engages in business in this State as a special fuel user, special fuel exporter, special fuel dealer or special fuel supplier, or acts in this State as a special fuel transporter, without being the holder of a license to engage in that business or to act in that capacity;

~~3-~~ (c) Fails to make any of the reports required by this chapter;

~~4-~~ (d) Makes any false statement in any application, report or statement required by this chapter;

~~5-~~ (e) Refuses to permit the Department or any authorized agent to examine records as provided by this chapter;

~~6-~~ (f) Fails to keep proper records of quantities of special fuel received, produced, refined, manufactured, compounded, used or delivered in this State as required by this chapter;

~~{7.}~~ (g) Makes any false statement in connection with an application for the refund of any money or taxes provided in this chapter;

~~{8.}~~ (h) Violates the provisions of NRS 366.265;

~~{9.}~~ (i) Fails or refuses to stop his motor vehicle for an inspection to determine if all excise taxes due pursuant to the provisions of this chapter are being properly reported and paid; or

~~{10.}~~ (j) Refuses to allow the Department or an authorized agent to inspect a motor vehicle to determine whether all excise taxes due pursuant to the provisions of this chapter are being properly reported and paid,

↪ is guilty of a misdemeanor.

2. Each day or part thereof during which any person engages in business as a special fuel dealer, special fuel supplier or special fuel exporter or acts as a special fuel transporter without being the holder of a license authorizing him to engage in that business or to act in that capacity constitutes a separate offense within the meaning of this section.

Sec. 46.5. NRS 244A.637 is hereby amended to read as follows:

244A.637 1. For the acquisition of any recreational facilities authorized in NRS 244A.597 to 244A.655, inclusive, **for the purposes described in subsection 3, or for any combination thereof,** the county fair and recreation board, at any time or from time to time may:

(a) In the name of and on behalf of the county, issue:

(1) General obligation bonds, payable from taxes; and

(2) General obligation bonds, payable from taxes, which payment is additionally secured by a pledge of gross or net revenues derived from the operation of such recreational facilities, and, if so determined by the board, further secured by a pledge of such other gross or net revenues as may be derived from any other income-producing project of the county or from any license or other excise taxes levied for revenue by the county, or otherwise, as may be legally made available for their payment;

(b) In the name of and on behalf of the county fair and recreation board, issue revenue bonds:

(1) Payable from the net revenues to be derived from the operation of such recreational facilities;

(2) Secured by a pledge of revenues from any tax on the rental of transient lodging levied for revenue by the county or a city;

(3) Secured by any other revenue that may be legally made available for their payment; or

(4) Payable or secured by any combination of subparagraph (1), (2) or (3); and

(c) Make a contract with the United States of America, or any agency or instrumentality thereof, or any other person or agency, public or private, creating an indebtedness if a question authorizing such contract is submitted to and approved by a majority of the qualified electors of the county in the manner provided in NRS 350.020 to 350.070, inclusive. This paragraph does not apply to contracts for the prepayment of rent or other similar obligations.

2. Revenue bonds issued pursuant to this section must be authorized by resolution of the county fair and recreation board, and no further approval by any person, board or commission is required.

3. In a county whose population is 400,000 or more, the county fair and recreation board shall, at the request of the Department of Transportation, use its commercially reasonable best efforts to issue bonds as provided in subsections 1 and 2 for the purpose of providing money to the Department of Transportation to assist in paying the cost of any project in the county for which bonds are authorized to be issued pursuant to NRS 408.273.

4. Bonds may be issued for the purposes described in subsection 3 only if:

(a) The county fair and recreation board determines that the provision of money for the purposes described in subsection 3 is essential to providing access to tourists to the recreational and tourism facilities of the county, including, without limitation, the recreational facilities of the county fair and recreation board;

(b) The bonds are issued in compliance with any contractual limitations set forth in the instruments authorizing any outstanding bonds issued as provided in subsections 1 and 2; and

(c) The aggregate principal amount of bonds issued for the purposes described in subsection 3, excluding any bonds issued to refund those bonds, does not exceed the lesser of:

(1) \$300,000,000; or

(2) An amount which the county fair and recreation board determines can be repaid, as to all principal and interest, over a period of not more than 30 years with the expenditure of not more than \$20,000,000 per year.

5. All determinations of the county fair and recreation board under this section shall be deemed to be conclusive, absent fraud or a gross abuse of discretion.

6. The issuance and payment of bonds issued pursuant to subsection 3 is hereby declared to be a use which is in fulfillment of the statutory requirements of NRS 244A.645 and of any requirements of any ordinance pursuant to which a tax is levied for the benefit of the county fair and recreation board or transferred thereto, and no such ordinance may be repealed or amended in any manner which would affect adversely the receipt and use by the county fair and recreation board of the revenues pledged to any bonds issued pursuant to this section, during the term of the bonds issued pursuant to this section or any bonds that refund those bonds.

7. Any money provided to the Department of Transportation pursuant to subsection 3 must be deposited in the State Highway Fund for administration pursuant to subsection 3 of NRS 408.235, except that the money must be expended for the purposes described in subsection 3 of this section.

Sec. 47. NRS 354.59815 is hereby amended to read as follows:

354.59815 1. In addition to the allowed revenue from taxes ad valorem determined pursuant to NRS 354.59811, the board of county commissioners may levy a tax ad valorem on all taxable property in the county at a rate not to exceed 5 cents per \$100 of the assessed valuation of the county.

2. ~~The~~ *If a tax is levied pursuant to subsection 1 in:*

(a) *A county whose population is less than ~~400,000~~ 100,000, the board of county commissioners shall direct the county treasurer to distribute quarterly the proceeds of ~~any tax levied pursuant to the provisions of subsection 1~~ the tax among the county and the cities and towns within that county in the proportion that the supplemental city-county relief tax distribution factor of each of those local governments for the 1990-1991 fiscal year bears to the sum of the supplemental city-county relief tax distribution factors of all of the local governments in the county for the 1990-1991 fiscal year.*

(b) *A county whose population is ~~400,000~~ 100,000 or more, the board of county commissioners shall direct the county treasurer to distribute quarterly ~~4~~*

~~(1) Forty percent of the proceeds of the tax among the county and the cities and towns within that county in the proportion that the supplemental city-county relief tax distribution factor of each of those local governments for the 1990-1991 Fiscal Year bears to the sum of the supplemental city-county relief tax distribution factors of all of the local governments in the county for the 1990-1991 Fiscal Year; and~~

~~(2) Sixty percent of the proceeds of the tax to the State Treasurer for deposit in a separate account in the State Highway Fund. The money deposited in the State Highway Fund pursuant to this subparagraph:~~

~~(I) Must be used exclusively for the construction, reconstruction, improvement and maintenance of public highways in the county; and~~

~~(II) May not be used for any costs of administration or to purchase any equipment.~~, *from the proceeds of the tax for:*

(1) The fiscal year beginning on July 1, 2008:

(I) Eighty-eight percent of those proceeds among the county and the cities and towns within that county in the proportion that the supplemental city-county relief tax distribution factor of each of those local governments for the 1990-1991 Fiscal Year bears to the sum of the supplemental city-county relief tax distribution factors of all of the local governments in the county for the 1990-1991 Fiscal Year; and

(II) Twelve percent of those proceeds to the State Treasurer for deposit in the State Highway Fund for administration pursuant to subsection 3 of NRS 408.235, except that the money must be allocated for expenditure in the county where the tax is levied.

(2) The fiscal year beginning on July 1, 2009:

(I) Seventy-six percent of those proceeds among the county and the cities and towns within that county in the proportion that the supplemental city-county relief tax distribution factor of each of those local governments

for the 1990-1991 Fiscal Year bears to the sum of the supplemental city-county relief tax distribution factors of all of the local governments in the county for the 1990-1991 Fiscal Year; and

(II) Twenty-four percent of those proceeds to the State Treasurer for deposit in the State Highway Fund for administration pursuant to subsection 3 of NRS 408.235, except that the money must be allocated for expenditure in the county where the tax is levied.

(3) The fiscal year beginning on July 1, 2010:

(I) Sixty-four percent of those proceeds among the county and the cities and towns within that county in the proportion that the supplemental city-county relief tax distribution factor of each of those local governments for the 1990-1991 Fiscal Year bears to the sum of the supplemental city-county relief tax distribution factors of all of the local governments in the county for the 1990-1991 Fiscal Year; and

(II) Thirty-six percent of those proceeds to the State Treasurer for deposit in the State Highway Fund for administration pursuant to subsection 3 of NRS 408.235, except that the money must be allocated for expenditure in the county where the tax is levied.

(4) The fiscal year beginning on July 1, 2011:

(I) Fifty-two percent of those proceeds among the county and the cities and towns within that county in the proportion that the supplemental city-county relief tax distribution factor of each of those local governments for the 1990-1991 Fiscal Year bears to the sum of the supplemental city-county relief tax distribution factors of all of the local governments in the county for the 1990-1991 Fiscal Year; and

(II) Forty-eight percent of those proceeds to the State Treasurer for deposit in the State Highway Fund for administration pursuant to subsection 3 of NRS 408.235, except that the money must be allocated for expenditure in the county where the tax is levied.

(5) Each fiscal year beginning on or after July 1, 2012:

(I) Forty percent of those proceeds among the county and the cities and towns within that county in the proportion that the supplemental city-county relief tax distribution factor of each of those local governments for the 1990-1991 Fiscal Year bears to the sum of the supplemental city-county relief tax distribution factors of all of the local governments in the county for the 1990-1991 Fiscal Year; and

(II) Sixty percent of those proceeds to the State Treasurer for deposit in the State Highway Fund for administration pursuant to subsection 3 of NRS 408.235, except that the money must be allocated for expenditure in the county where the tax is levied.

3. The board of county commissioners shall not reduce the rate of any tax levied pursuant to the provisions of subsection 1 without the approval of each of the local governments that receives a portion of the tax, except that, if a local government declines to receive its portion of the tax in a particular

year the levy may be reduced by the amount that local government would have received.

Sec. 47.1. Chapter 408 of NRS is hereby amended by adding thereto the provisions set forth as sections 47.2 and 47.3 of this act.

Sec. 47.2. 1. The Board shall adopt a plan for measuring the performance of the Department, which must include separate sets of performance measurements for each division of the Department and for the Department as a whole.

2. The Director shall, not later than December 31 of each year:

(a) Prepare a report, based upon the relevant performance measurements adopted pursuant to subsection 1, on the level of achievement of each division of the Department and of the Department as a whole during the immediately preceding fiscal year. The report must include a discussion of:

(1) The goals and objectives of the Department, and the current status of the Department in relation to meeting those goals and objectives;

(2) Any applicable directives from the Board or Legislature since the most recent report prepared pursuant to this section;

(3) The scheduling, scope, cost and progress of any current or proposed highway projects;

(4) The sources, amount and expenditure of any funding received during the immediately preceding fiscal year;

(5) The rationale used to establish priorities for the completion of highway projects; and

(6) Any recommendations for amendments to the plan adopted pursuant to subsection 1.

(b) Submit the report to:

(1) The Board; and

(2) The Director of the Legislative Counsel Bureau for transmittal to the Interim Finance Committee.

Sec. 47.3. 1. Before the Department submits a proposal for a highway project to the Board for approval, the Department shall prepare a written analysis of the costs and benefits of the project. The analysis must state, for each highway district in which the project is proposed:

(a) The limits of the project;

(b) The period of analysis;

(c) The discount rate used in the analysis;

(d) The initial costs of the Department for the project, including any costs for design, engineering, the acquisition of land and construction;

(e) The future costs of the Department to preserve and maintain the project, discounted to present value;

(f) Any other costs of the Department for any other construction or any mitigation associated with the project;

(g) The costs to highway users for any loss of safety, delays in the time of travel and costs for the operation of vehicles that are associated with the project;

(h) The costs of any environmental impacts, including vehicle emissions and noise, that are associated with the project; and

(i) The value of the benefits of the project, including the value of any:

(1) Savings in the time of travel;

(2) Improvements to safety; and

(3) Savings in the cost of operating vehicles.

2. The analysis required by this section:

(a) Must include a discussion of any additional increases in costs that would result from any delays in the performance of any routine maintenance scheduled under the maintenance program of the Department;

(b) May include a discussion of:

(1) The costs of the project for any other persons and governmental agencies;

(2) The value of any other social, economic or environmental benefits or costs of the project; and

(3) Any costs or benefits which may result from the use of any alternative design, construction or financing practices; and

(c) Must be prepared in a format that allows for the comparison of proposed highway projects.

3. The analysis required by this section must be made available to the Board and the public when the agenda is posted for the meeting at which the proposal will be submitted to the Board for its approval.

4. As used in this section, "highway project" means a project that is expected to increase the capacity of the state highway system and cost at least \$25 million.

Sec. 47.4. NRS 408.235 is hereby amended to read as follows:

408.235 1. There is hereby created the State Highway Fund.

2. Except as otherwise provided ~~in subsection 6 of NRS 482.180 and NRS 482.1805,~~ by a specific statute, the proceeds from the imposition of any:

(a) License or registration fee and other charges with respect to the operation of any motor vehicle upon any public highway, city, town or county road, street, alley or highway in this State; and

(b) Excise tax on gasoline or other motor vehicle fuel,

↪ must be deposited in the State Highway Fund and must, except for the costs of administering the collection thereof, be used exclusively for the administration, construction, reconstruction, improvement and maintenance of highways as provided for in this chapter.

3. The money deposited in the State Highway Fund pursuant to NRS 244A.637 must be maintained in a separate account. The interest and income on the money in the account, after deducting any applicable

charges, must be credited to the account. Any money remaining in the account at the end of each fiscal year does not revert to the State Highway Fund but must be carried over into the next fiscal year. The money in the account:

(a) Must be used exclusively for the construction, reconstruction, improvement and maintenance of highways as provided for in this chapter; and

(b) May not be used for any costs of administration or to purchase any equipment.

4. The interest and income earned on the money in the State Highway Fund, after deducting any applicable charges, must be credited to the Fund.

~~4.~~ 5. Costs of administration for the collection of the proceeds for any license or registration fees and other charges with respect to the operation of any motor vehicle must be limited to a sum not to exceed 22 percent of the total proceeds so collected.

~~5.~~ 6. Costs of administration for the collection of any excise tax on gasoline or other motor vehicle fuel must be limited to a sum not to exceed 1 percent of the total proceeds so collected.

~~6.~~ 7. All bills and charges against the State Highway Fund for administration, construction, reconstruction, improvement and maintenance of highways under the provisions of this chapter must be certified by the Director and must be presented to and examined by the State Board of Examiners. When allowed by the State Board of Examiners and upon being audited by the State Controller, the State Controller shall draw his warrant therefor upon the State Treasurer.

Sec. 47.5. NRS 408.235 is hereby amended to read as follows:

408.235 1. There is hereby created the State Highway Fund.

2. Except as otherwise provided by a specific statute, the proceeds from the imposition of any:

(a) License or registration fee and other charges with respect to the operation of any motor vehicle upon any public highway, city, town or county road, street, alley or highway in this State; and

(b) Excise tax on gasoline or other motor vehicle fuel,

↪ must be deposited in the State Highway Fund and must, except for the costs of administering the collection thereof, be used exclusively for the administration, construction, reconstruction, improvement and maintenance of highways as provided for in this chapter.

3. The money deposited in the State Highway Fund pursuant to NRS 244A.637 and 482.313 of this act must be maintained in a separate account. The interest and income on the money in the account, after deducting any applicable charges, must be credited to the account. Any money remaining in the account at the end of each fiscal year does not revert to the State Highway Fund but must be carried over into the next fiscal year. The money in the account:

(a) Must be used exclusively for the construction, reconstruction, improvement and maintenance of highways as provided for in this chapter; and

(b) May not be used for any costs of administration or to purchase any equipment.

4. The interest and income earned on the money in the State Highway Fund, after deducting any applicable charges, must be credited to the Fund.

5. Costs of administration for the collection of the proceeds for any license or registration fees and other charges with respect to the operation of any motor vehicle must be limited to a sum not to exceed 22 percent of the total proceeds so collected.

6. Costs of administration for the collection of any excise tax on gasoline or other motor vehicle fuel must be limited to a sum not to exceed 1 percent of the total proceeds so collected.

7. All bills and charges against the State Highway Fund for administration, construction, reconstruction, improvement and maintenance of highways under the provisions of this chapter must be certified by the Director and must be presented to and examined by the State Board of Examiners. When allowed by the State Board of Examiners and upon being audited by the State Controller, the State Controller shall draw his warrant therefor upon the State Treasurer.

Sec. 47.6. NRS 408.235 is hereby amended to read as follows:

408.235 1. There is hereby created the State Highway Fund.

2. Except as otherwise provided by a specific statute, the proceeds from the imposition of any:

(a) License or registration fee and other charges with respect to the operation of any motor vehicle upon any public highway, city, town or county road, street, alley or highway in this State; and

(b) Excise tax on gasoline or other motor vehicle fuel,

↪ must be deposited in the State Highway Fund and must, except for the costs of administering the collection thereof, be used exclusively for the administration, construction, reconstruction, improvement and maintenance of highways as provided for in this chapter.

3. The money deposited in the State Highway Fund pursuant to NRS 244A.637, 354.59815 and 482.313 must be maintained in a separate account. The interest and income on the money in the account, after deducting any applicable charges, must be credited to the account. Any money remaining in the account at the end of each fiscal year does not revert to the State Highway Fund but must be carried over into the next fiscal year. The money in the account:

(a) Must be used exclusively for the construction, reconstruction, improvement and maintenance of highways as provided for in this chapter; and

(b) May not be used for any costs of administration or to purchase any equipment.

4. The interest and income earned on the money in the State Highway Fund, after deducting any applicable charges, must be credited to the Fund.

5. Costs of administration for the collection of the proceeds for any license or registration fees and other charges with respect to the operation of any motor vehicle must be limited to a sum not to exceed 22 percent of the total proceeds so collected.

6. Costs of administration for the collection of any excise tax on gasoline or other motor vehicle fuel must be limited to a sum not to exceed 1 percent of the total proceeds so collected.

7. All bills and charges against the State Highway Fund for administration, construction, reconstruction, improvement and maintenance of highways under the provisions of this chapter must be certified by the Director and must be presented to and examined by the State Board of Examiners. When allowed by the State Board of Examiners and upon being audited by the State Controller, the State Controller shall draw his warrant therefor upon the State Treasurer.

Sec. 48. ~~[NRS 408.273 is hereby amended to read as follows:~~

~~408.273 1. The State Board of Finance shall, when so requested by the Board, issue special obligation bonds of the State of Nevada to provide money to enable the Department to complete pending and currently projected highway construction projects, in an amount specified in the request. The bonds may be issued at one time or from time to time, and must be issued in accordance with the State Securities Law. These bonds must be secured by:~~

~~(a) A pledge of the appropriate federal highway grants payable to the State; or~~

~~(b) The appropriate federal highway grants payable to the State and taxes which are credited to the State Highway Fund, and must mature within not more than [20] 30 years from their date.~~

~~2. The Department shall cooperate with the State Treasurer in the issuance of the bonds.~~

~~3. The State Treasurer may employ any necessary legal, financial or other professional services in connection with the issuance of the bonds.]~~

(Deleted by amendment.)

Sec. 49. NRS 482.313 is hereby amended to read as follows:

482.313 1. Upon the lease of a passenger car by a short-term lessor in this State, the short-term lessor ~~is~~

~~(a) Shall~~ **shall** charge and collect from the short-term lessee:

~~{ (1) }~~ **(a)** A governmental services fee of 6 percent of the total amount for which the passenger car was leased, excluding the items described in subsection 7; ~~and~~

~~{ (2) }~~ **(b)** Any fee required pursuant to NRS 244A.810 or 244A.860; and

~~{ (b) May charge and collect from the short-term lessee a }~~

(c) A recovery surcharge ~~[not to exceed]~~ **fee of** 4 percent of the total amount for which the passenger car was leased, excluding the items

described in subsection 8, as reimbursement for vehicle licensing fees and taxes paid by the short-term lessor.

↪ The amount of ~~any~~ **each** fee charged pursuant to this subsection must be indicated in the lease agreement.

2. The fees due from a short-term lessor to the Department of Taxation pursuant to subsection 1 are due on the last day of each calendar quarter. On or before the last day of the month following each calendar quarter, the short-term lessor shall:

(a) File with the Department of Taxation, on a form prescribed by the Department of Taxation, a report indicating the total amount of:

(1) Each of the fees collected by the short-term lessor pursuant to ~~paragraph (a) of~~ subsection 1 during the immediately preceding calendar quarter; **and**

(2) ~~Recovery surcharges, if any, collected by the short-term lessor pursuant to paragraph (b) of subsection 1 during the immediately preceding calendar quarter; and~~

~~(3) Vehicle licensing fees and taxes paid by the short-term lessor pursuant to this chapter during the immediately preceding calendar quarter.~~

(b) Remit to the Department of Taxation ~~the~~ :

(1) **The** fees collected by the short-term lessor pursuant to ~~paragraph~~ **paragraphs (a) and (b)** of subsection 1 during the immediately preceding calendar quarter ~~;~~ **and**

(2) ~~Half~~ **One-quarter of the fees collected by the short-term lessor pursuant to paragraph (c) of subsection 1 during the immediately preceding calendar quarter.**

3. Except as otherwise provided in a contract made pursuant to NRS 244A.820 or 244A.870, the Department of Taxation shall deposit all money received from short-term lessors pursuant to the provisions of ~~this section~~ :

(a) **Subparagraph (1) of paragraph (b) of subsection 2** with the State Treasurer for credit to the State General Fund ~~;~~ **and**

(b) **Subparagraph (2) of paragraph (b) of subsection 2 with the State Treasurer for credit to the State Highway Fund** ~~+. The money deposited in the State Highway Fund pursuant to this paragraph:~~

~~(1) Must be used exclusively for the construction, reconstruction, improvement and maintenance of public highways; and~~

~~(2) May not be used for any costs of administration or to purchase any equipment.~~ **for administration pursuant to subsection 3 of NRS 408.235.**

4. To ensure compliance with this section, the Department of Taxation may audit the records of a short-term lessor.

5. The provisions of this section do not limit or affect the payment of any taxes or fees imposed pursuant to the provisions of this chapter.

6. The Department of Motor Vehicles shall, upon request, provide to the Department of Taxation any information in its records relating to a short-term lessor that the Department of Taxation considers necessary to collect the fees described in subsection 1.

7. For the purposes of charging and collecting the governmental services fee described in ~~subparagraph (1) of~~ paragraph (a) of subsection 1, the following items must not be included in the total amount for which the passenger car was leased:

- (a) The amount of ~~any recovery surcharge~~ **the fees** charged and collected pursuant to ~~paragraph~~ **paragraphs (b) and (c)** of subsection 1;
- (b) The amount of any charge for fuel used to operate the passenger car;
- (c) The amount of any fee or charge for the delivery, transportation or other handling of the passenger car;
- (d) The amount of any fee or charge for insurance, including, without limitation, personal accident insurance, extended coverage or insurance coverage for personal property; **and**
- (e) The amount of any charges assessed against a short-term lessee for damages for which the short-term lessee is held responsible .

8. For the purposes of charging and collecting the recovery surcharge **fee** described in paragraph ~~(b)~~ (c) of subsection 1, the following items must not be included in the total amount for which the passenger car was leased:

- (a) The amount of the fees charged and collected pursuant to ~~paragraph~~ **paragraphs (a) and (b)** of subsection 1;
- (b) The amount of any charge for a collision damage waiver or a similar instrument that acts as a waiver of the short-term lessor's right to collect from the short-term lessee for any damage to the passenger car;
- (c) The amount of any charge for fuel used to operate the passenger car;
- (d) The amount of any fee or charge for the delivery, transportation or other handling of the passenger car;
- (e) The amount of any fee or charge for insurance, including, without limitation, personal accident insurance, extended coverage or insurance coverage for personal property;
- (f) The amount of any charges assessed against a short-term lessee for damages for which the short-term lessee is held responsible; and
- (g) The amount of any concession fee or charge that the short-term lessor:
 - (1) Is required to pay to do business at an airport, if applicable; and
 - (2) Passes on to the short-term lessee of the passenger car.

9. The Executive Director of the Department of Taxation shall:

- (a) Adopt such regulations as he determines are necessary to carry out the provisions of this section; and
- (b) Upon the request of the Director of the Department of Motor Vehicles, provide to the Director of the Department of Motor Vehicles a copy of any record or report described in this section.

10. As used in this section, "vehicle licensing fees and taxes" means:

- (a) The fees paid by a short-term lessor for the registration of, and the issuance of certificates of title for, the passenger cars leased by him; and
- (b) The basic and supplemental governmental services taxes paid by the short-term lessor with regard to those passenger cars.

Sec. 49.5. NRS 482.31565 is hereby amended to read as follows:

482.31565 1. A short-term lessor shall not require the purchase of a waiver of damages, optional insurance or any other optional good or service as a condition for the lease of a passenger car.

2. ~~1A~~ **Except as otherwise provided in this subsection, a** short-term lessor may sell a waiver of damages but shall not charge more than ~~15~~ **\$22** per full or partial rental day or 24-hour rental period, as appropriate, for the waiver. **The monetary amount in set forth in this subsection must be adjusted for each fiscal year that begins on or after July 1, 2008, by adding to that amount the product of that amount multiplied by the percentage increase in the Consumer Price Index West Urban for All Urban Consumers (All Items) between the calendar year ending on December 31, 2005, and the calendar year immediately preceding the fiscal year for which the adjustment is made. The Department shall, on or before March 1 of each year, publish the adjusted amount for the next fiscal year on its website or otherwise make that information available to short-term lessors.**

3. A short-term lessor who disseminates an advertisement in the State of Nevada that contains a rate for the lease of a passenger car shall include in the advertisement a clearly readable statement of the charge for a waiver of damages and a statement that the waiver is optional.

4. A short-term lessor shall not engage in any unfair, deceptive or coercive conduct to induce a short-term lessee to purchase a waiver of damages, optional insurance or any other optional good or service, including, but not limited to, refusing to honor the lessee's reservation, limiting the availability of cars, requiring a deposit or debiting or blocking the lessee's credit card account for a sum equivalent to a deposit if the lessee declines to purchase a waiver, optional insurance or any other optional good or service.

Sec. 49.7. NRS 482.3158 is hereby amended to read as follows:

482.3158 1. The short-term lessor of a passenger car may impose an additional charge:

- (a) Based on reasonable age criteria established by the lessor.
- (b) For any item or a service provided if the short-term lessee could have avoided incurring the charge by choosing not to obtain or utilize the optional item or service.
- (c) For insurance and accessories requested by the lessee.
- (d) For service incident to the lessee's optional return of the car to a location other than the location where the car was leased.
- (e) For refueling the car at the conclusion of the lease if the lessee did not return the car with as much fuel as was in the fuel tank at the beginning of the lease.

(f) For any authorized driver in addition to the short-term lessee ~~and one other authorized driver~~ but shall not, **except as otherwise provided in this paragraph,** charge more than ~~5~~ **\$10** per full or partial 24-hour period for such an additional authorized driver. **The monetary amount in set forth in this paragraph must be adjusted for each fiscal year that begins on or after July 1, 2008, by adding to that amount the product of that amount**

multiplied by the percentage increase in the Consumer Price Index West Urban for All Urban Consumers (All Items) between the calendar year ending on December 31, 2005, and the calendar year immediately preceding the fiscal year for which the adjustment is made. The Department shall, on or before March 1 of each year, publish the adjusted amount for the next fiscal year on its website or otherwise make that information available to short-term lessors.

2. A short-term lessor shall not charge a short-term lessee, as a condition of leasing a passenger car, an additional fee for:

- (a) Any surcharges required for fuel.
- (b) Transporting the lessee to the location where the car will be delivered to the lessee.

~~[(c) One other authorized driver.]~~

3. If a short-term lessor:

(a) Delivers a passenger car to a short-term lessee at a location other than the location where the lessor normally carries on its business, the lessor shall not charge the lessee any amount for the period before the delivery of the car.

(b) Takes possession of a passenger car from a short-term lessee at a location other than the location where the lessor normally carries on its business, the lessor shall not charge the lessee any amount for the period after the lessee notifies the lessor to take possession of the car.

Sec. 50. ~~[Chapter 706 of NRS is hereby amended by adding thereto a new section to read as follows:~~

~~1. In addition to any other applicable licensing fees, each common, contract or private motor carrier who operates a motor vehicle with a declared gross weight in excess of 55,000 pounds in this State shall pay a licensing fee of 15 cents for each mile traveled by that motor vehicle within this State during each calendar quarter.~~

~~2. Each common, contract or private motor carrier who operates a motor vehicle with a declared gross weight in excess of 55,000 pounds in this State during a calendar quarter shall, on or before the last day of the calendar month immediately following that calendar quarter:~~

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

~~(b) Remit to the Department the licensing fee due pursuant to this section for that calendar quarter.~~

~~3. Any person who fails to:~~

~~(a) File a return as required pursuant to this section shall, in addition to any other applicable penalties, pay a penalty of \$25 for each delinquent return.~~

~~(b) Remit a licensing fee as required pursuant to this section shall, in addition to any other applicable penalties, pay a penalty of 10 percent of the amount of the fee plus interest on the amount of the fee at the rate of 1 percent per month or fraction of a month from the last day of the calendar~~

~~month immediately following the calendar quarter for which the fee is due until the date of payment.] (Deleted by amendment.)~~

Sec. 51. ~~[NRS 706.011 is hereby amended to read as follows:~~

~~706.011—As used in NRS 706.011 to 706.791, inclusive, and section 50 of this act, unless the context otherwise requires, the words and terms defined in NRS 706.013 to 706.146, inclusive, have the meanings ascribed to them in those sections.] (Deleted by amendment.)~~

Sec. 52. ~~[NRS 706.521 is hereby amended to read as follows:~~

~~706.521—1. Any person has the option, in lieu of causing a motor vehicle which has a declared gross weight in excess of 26,000 pounds to be licensed pursuant to the provisions of NRS 482.482 or 706.841, of purchasing a temporary permit and paying [a]:~~

~~(a) A permit fee of \$5 plus 15 cents for each mile the Department estimates the vehicle will travel within the State of Nevada during the effective period of the temporary permit[.]; and~~

~~(b) If the person and vehicle are subject to the licensing fee required by section 50 of this act, an additional sum of 15 cents for each mile the Department estimates the vehicle will travel within the State of Nevada during the effective period of the temporary permit. Any money collected pursuant to this paragraph must be credited against the licensing fee required by section 50 of this act.~~

~~2.—Except as otherwise provided in subsection 3, a temporary permit authorizes operation over the highways of this State from point of entry to point of exit for not more than 24 consecutive hours.~~

~~3.—The Department may issue to the owner or operator of a common motor carrier of passengers a temporary permit which authorizes operation for not more than 120 consecutive hours.~~

~~4.—If a person is issued a temporary permit pursuant to the provisions of this section, the Department shall credit the cost of the permit fee for that permit against the cost of any license subsequently issued to that person pursuant to the provisions of either NRS 482.482 or 706.841 whose effective dates include the effective dates of the temporary permit, or if that license fee has been satisfied, against any fee owed to the Department pursuant to the provisions of chapter 366 of NRS.] (Deleted by amendment.)~~

Sec. 53. ~~[NRS 706.546 is hereby amended to read as follows:~~

~~706.546—Where credit is allowed against any subsequent fee for a permit fee paid pursuant to the provisions of paragraph (a) of subsection 1 of NRS 706.521, there is a nonrefundable charge of \$5.] (Deleted by amendment.)~~

Sec. 54. ~~[NRS 706.756 is hereby amended to read as follows:~~

~~706.756—1. Except as otherwise provided in subsection 2, any person who:~~

~~(a) Operates a vehicle or causes it to be operated in any carriage to which the provisions of NRS 706.011 to 706.861, inclusive, and section 50 of this act apply without first obtaining a certificate, permit or license, or in violation of the terms thereof;~~

~~(b) Fails to make any return or report required by the provisions of NRS 706.011 to 706.861, inclusive, and section 50 of this act or by the Authority or the Department pursuant to the provisions of NRS 706.011 to 706.861, inclusive [;], and section 50 of this act;~~

~~(c) Violates, or procures, aids or abets the violating of, any provision of NRS 706.011 to 706.861, inclusive [;], and section 50 of this act;~~

~~(d) Fails to obey any order, decision or regulation of the Authority or the Department;~~

~~(e) Procures, aids or abets any person in his failure to obey such an order, decision or regulation of the Authority or the Department;~~

~~(f) Advertises, solicits, proffers bids or otherwise holds himself out to perform transportation as a common or contract carrier in violation of any of the provisions of NRS 706.011 to 706.861, inclusive [;], and section 50 of this act;~~

~~(g) Advertises as providing:~~

~~(1) The services of a fully regulated carrier; or~~

~~(2) Towing services;~~

~~→ without including the number of his certificate of public convenience and necessity or contract carrier's permit in each advertisement;~~

~~(h) Knowingly offers, gives, solicits or accepts any rebate, concession or discrimination in violation of the provisions of this chapter;~~

~~(i) Knowingly, willfully and fraudulently seeks to evade or defeat the purposes of this chapter;~~

~~(j) Operates or causes to be operated a vehicle which does not have the proper identifying device;~~

~~(k) Displays or causes or permits to be displayed a certificate, permit, license or identifying device, knowing it to be fictitious or to have been cancelled, revoked, suspended or altered;~~

~~(l) Lends or knowingly permits the use of by one not entitled thereto any certificate, permit, license or identifying device issued to the person so lending or permitting the use thereof; or~~

~~(m) Refuses or fails to surrender to the Authority or Department any certificate, permit, license or identifying device which has been suspended, cancelled or revoked pursuant to the provisions of this chapter;~~

~~→ is guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than \$100 nor more than \$1,000, or by imprisonment in the county jail for not more than 6 months, or by both fine and imprisonment.~~

~~2. Any person who, in violation of the provisions of NRS 706.386, operates as a fully regulated common motor carrier without first obtaining a certificate of public convenience and necessity or any person who, in violation of the provisions of NRS 706.421, operates as a contract motor carrier without first obtaining a permit is guilty of a misdemeanor and shall be punished:~~

~~(a) For a first offense within a period of 12 consecutive months, by a fine of not less than \$500 nor more than \$1,000. In addition to the fine, the person~~

~~may be punished by imprisonment in the county jail for not more than 6 months.~~

~~(b) For a second offense within a period of 12 consecutive months and for each subsequent offense that is committed within a period of 12 consecutive months of any prior offense under this subsection, by a fine of \$1,000. In addition to the fine, the person may be punished by imprisonment in the county jail for not more than 6 months.~~

~~3. Any person who, in violation of the provisions of NRS 706.386, operates or permits the operation of a vehicle in passenger service without first obtaining a certificate of public convenience and necessity is guilty of a gross misdemeanor.~~

~~4. If a law enforcement officer witnesses a violation of any provision of subsection 2 or 3, the law enforcement officer may cause the vehicle to be towed immediately from the scene and impounded in accordance with NRS 706.476.~~

~~5. The fines provided in this section are mandatory and must not be reduced under any circumstances by the court.~~

~~6. Any bail allowed must not be less than the appropriate fine provided for by this section. (Deleted by amendment.)~~

Sec. 55. NRS 365.326, 365.328, 366.360 and 366.397 are hereby repealed.

Sec. 55.3. The Department of Transportation shall, not later than December 31 of each year:

1. Prepare an annual report on all the projects undertaken with the money deposited in the State Highway Fund pursuant to NRS 244A.637. The report must include:

(a) For each of those projects:

- (1) The amount of that funding expended on the project.**
- (2) The amount of any other funding expended on the project.**
- (3) The timeline for the completion of the project.**
- (4) Specific information regarding any delays in the project as a result of any variances from the Department's projections of scheduling and costs.**
- (5) The status of:**
 - (I) The definition of the project.**
 - (II) The preliminary engineering for the project.**
 - (III) The environmental documentation for the project.**
 - (IV) The acquisition of required rights-of-way for the project.**
 - (V) The date of advertisement for bids on the project.**
 - (VI) The date of operational completion of the project.**

(b) The total number of those projects that have been completed and, for each completed project:

- (1) Whether the project was completed early or on time.**
- (2) Whether the project remained within its planned scope.**

(3) Whether the project was completed for less than or for the amount of its budgeted expenses.

(4) Any specific measures of transportation improvement resulting from the project.

2. Submit the annual report to:

(a) The Governor.

(b) The Director of the Legislative Counsel Bureau for transmittal to the Interim Finance Committee.

Sec. 55.5. 1. The Director of the Department of Transportation shall, each calendar quarter, prepare a report to supplement the annual reports required pursuant to section 47.2 of this act, and submit the quarterly report to the Board of Directors of the Department of Transportation and the Director of the Legislative Counsel Bureau for transmittal to the Interim Finance Committee. The quarterly report must contain the following information with respect to the highway projects that the Blue Ribbon Task Force, as created by the Board of Directors of the Nevada Department of Transportation, identified in its report dated December 5, 2006, and any proposed super and mega highway projects:

(a) For each of those projects:

(1) The amount of funding expended on the project.

(2) The timeline for the completion of the project.

(3) Specific information regarding any delays in the project as a result of any variances from the Department's projections of scheduling and costs.

(4) The status of:

(I) The definition of the project.

(II) The preliminary engineering for the project.

(III) The environmental documentation for the project.

(IV) The acquisition of required rights-of-way for the project.

(V) The date of advertisement for bids on the project.

(VI) The date of operational completion of the project.

(b) The total number of those projects that have been completed and, for each completed project:

(1) Whether the project was completed early or on time.

(2) Whether the project remained within its planned scope.

(3) Whether the project was completed for less than or for the amount of its budgeted expenses.

(4) Any specific measures of transportation improvement resulting from the project.

2. The Director shall cause a copy of each report prepared pursuant to this section to be posted on the Internet website of the Department when the report is submitted pursuant to subsection 1.

Sec. 56. 1. **This act does not require the payment of any principal or interest on any bonds described in subsection 3 of NRS 244A.637, as amended by this act, before July 1, 2008.**

2. The amendatory provisions of section 47 of this act:

~~(a) Do not apply to the distribution of the proceeds of any taxes imposed for any period ending on or before June 30, 2007; and~~

~~(b) Must~~ **must** not be applied to modify, directly or indirectly, any taxes levied or revenues pledged in such a manner as to impair adversely any outstanding obligations of any county, city or town, including, without limitation, bonds, medium-term financing, letters of credit and any other financial obligation, until all such obligations have been discharged in full or provision for their payment and redemption has been fully made.

~~2.~~ 3. The amendatory provisions of section 49 of this act do not apply to the lease of a passenger car before ~~July~~ **October** 1, 2007.

~~3. The provisions of section 50 of this act do not apply to the operation of a vehicle before January 1, 2008.~~

Sec. 57. 1. This section and sections 1 to 46, inclusive, **49.5, 49.7, 55** and 56 of this act become effective upon passage and approval.

2. ~~Sections 50 to 54, inclusive, of this act become effective upon passage and approval for the purpose of adopting regulations and conducting any preliminary activities necessary to carry out the provisions of this act in a timely manner, and on January 1, 2008, for all other purposes.~~

~~3.~~ Sections ~~47, 48~~ **46.5, 47.1 to 47.4, inclusive, 55.3** and ~~49~~ **55.5** of this act become effective on July 1, 2007.

3. Sections 47.5 and 49 of this act become effective on October 1, 2007.

4. Sections 47 and 47.6 of this act become effective on July 1, 2008.

5. Section 55.5 of this act expires by limitation on December 31, 2015.

TEXT OF REPEALED SECTIONS

365.326 Calculation of amount due from supplier: Deduction of amount due from purchaser who is authorized to defer payment.

1. Except as otherwise provided in subsection 2, in calculating the amount of tax on motor vehicle fuel, other than aviation fuel, a supplier owes to the Department, the supplier may deduct from the amount due pursuant to NRS 365.175 to 365.192, inclusive, any amount that is due but has not been paid by a purchaser who is authorized by the Department to defer payment of the tax pursuant to NRS 365.328. If such a deduction is claimed, the claim must identify the purchaser and the amount of the taxes that he failed to pay.

2. A supplier shall not deduct from the amount he owes the Department pursuant to subsection 1 any amount that has not been paid by a person whose permit to defer the payment of the tax has been revoked pursuant to subsection 4 of NRS 365.328 if, before the motor vehicle fuel, other than aviation fuel, was purchased, the supplier was notified by the Department

pursuant to subsection 5 of NRS 365.328 that it had revoked the permit of the purchaser.

365.328 Deferral of payment by purchaser of certain motor vehicle fuel: Permit; bond; time and method of payment; failure to pay; regulations.

1. A purchaser of motor vehicle fuel, other than aviation fuel, who wishes to defer payment to the supplier of the taxes imposed pursuant to NRS 365.175 to 365.192, inclusive, until 20 days after the end of the month in which the fuel is purchased must apply for a permit to defer payment of the taxes.

2. The Department may require an applicant for a permit to defer payment of the taxes imposed pursuant to NRS 365.175 to 365.192, inclusive, to provide a bond executed by him as principal, and by a corporation qualified pursuant to the laws of this State as surety, payable to this State. The bond must indemnify the Department against any deduction claimed pursuant to NRS 365.326 by a supplier because of the failure of the principal to pay the taxes as required by this chapter.

3. If a purchaser of motor vehicle fuel, other than aviation fuel:

(a) Has been issued a permit to defer the payment of the taxes imposed pursuant to NRS 365.175 to 365.192, inclusive; and

(b) Elects to defer payment of the taxes,

he shall, not later than 25 days after the end of the month in which the fuel is purchased, pay the taxes to the supplier by electronic transfer of money.

4. If a purchaser fails to make a payment to a supplier as required by this section, the Department may:

(a) Revoke the permit of the purchaser;

(b) If the purchaser was required to provide a bond pursuant to subsection 2, require the purchaser to increase the amount of the bond; or

(c) Take any other action to ensure that the taxes imposed pursuant to NRS 365.175 to 365.192, inclusive, are paid.

5. The Department shall notify each supplier in this State when it revokes a permit issued pursuant to this section.

6. The Department shall adopt regulations to carry out the provisions of this section.

7. As used in this section, "electronic transfer of money" means any transfer of money, other than a transaction initiated by a check, draft or other similar instrument, that is initiated through an electronic terminal, telephone, computer or magnetic tape to order, instruct or authorize a financial institution or person holding an account on behalf of a purchaser of motor vehicle fuel to debit an account.

366.360 Cancellation of license.

1. The Department shall cancel any license to act as a special fuel supplier, special fuel dealer, special fuel exporter, special fuel transporter or special fuel user immediately upon the surrender thereof by the holder.

2. If a surety has lodged with the Department a written request to be released and discharged of liability, the Department shall immediately notify

the special fuel supplier or special fuel dealer who furnished the bond, and unless he files a new bond as required by the Department within 30 days or makes a deposit in lieu thereof as provided in NRS 366.235, the Department may cancel his license.

3. If a special fuel supplier or special fuel dealer becomes delinquent in the payment of excise taxes as prescribed by this chapter to the extent that his liability exceeds the total amount of bond furnished by him, the Department may cancel his license immediately.

366.397 Permit to defer payment of tax: Application; bond; payment of tax by electronic transfer; effect of failure to pay tax; notice of revocation; regulations.

1. A purchaser of special fuel who wishes to defer payment of the tax imposed pursuant to NRS 366.190 to the special fuel supplier until 25 days after the end of the month in which the fuel is purchased must apply for a permit to defer payment of the tax.

2. The Department may require an applicant for a permit to defer payment of the tax imposed pursuant to NRS 366.190 to provide a bond executed by him as principal, and by a corporation qualified pursuant to the laws of this State as surety, payable to this State. The bond must indemnify the Department against any deduction claimed pursuant to subsection 2 of NRS 366.540 by a special fuel supplier because of the principal's failure to pay the tax as required by this chapter.

3. If a purchaser of special fuel:

(a) Has been issued a permit to defer the payment of the tax imposed pursuant to NRS 366.190; and

(b) Elects to defer payment of the tax,

he shall, not later than 25 days after the end of the month in which the fuel is purchased, pay the tax to the special fuel supplier by electronic transfer of money.

4. If a purchaser fails to make a payment to a special fuel supplier as required by this section, the Department may:

(a) Revoke the purchaser's permit;

(b) If the purchaser was required to provide a bond pursuant to subsection 2, require the purchaser to increase the amount of the bond; or

(c) Take any other action to ensure that the tax imposed pursuant to NRS 366.190 is paid.

5. The Department shall notify each special fuel supplier in this State when it revokes a permit issued pursuant to this section.

6. The Department shall adopt regulations to carry out the provisions of this section.

7. As used in this section, "electronic transfer of money" means any transfer of money, other than a transaction initiated by a check, draft or other similar instrument, that is initiated through an electronic terminal, telephone, computer or magnetic tape to order, instruct or authorize a financial

institution or person holding an account on behalf of a purchaser of special fuel to debit an account.

Assemblyman Atkinson moved the adoption of the amendment.

Amendment adopted.

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

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Ocegüera moved that Assembly Bill No. 144 be taken from its position on the General File and placed at the bottom of the General File.

Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 280.

Bill read third time.

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

Amendment No. 1093.

SUMMARY—[~~Makes appropriations relating to education and~~ Revises provisions governing licensed educational personnel. (BDR ~~{S-1051}~~) 34-1051)

AN ACT [~~making appropriations to the State Distributive School Account to provide a salary increase to teachers and to provide certain days in each school year and to the Department of Education for distribution of grants of money for programs of performance pay for licensed educational personnel;~~ relating to education; creating the Pay-for-Performance Fund in the State Treasury; prescribing the requirements for distribution of grants of money from the Fund to school districts that adopt a program of performance pay and compensation for the enhanced recruitment and retention of licensed educational personnel; making an appropriation; and providing other matters properly relating thereto.

Legislative Counsel Digest:

Section 1.5 of this bill creates the Pay-for-Performance Fund in the State Treasury. Section 1.5 also provides that, within the limits of money available in the Fund, the board of trustees of a school district may submit an application for a grant of money from the Fund to provide a program of performance pay and compensation for the enhanced recruitment and retention of licensed educational personnel.

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 State Distributive School Account the following sums:~~

~~For the Fiscal Year 2007-2008 \$62,631,119~~

~~For the Fiscal Year 2008-2009 \$68,010,158~~

~~2. The money appropriated by subsection 1 must be used to:~~

~~(a) Provide a salary increase of \$2,000 to each licensed teacher in this State;~~

~~(b) Provide 2 days designated for parent teacher conferences for the 2007-2008 school year and 2 days designated for parent teacher conferences for the 2008-2009 school year;~~

~~(c) Provide 1 instructional day to the 2007-2008 school year and 1 instructional day to the 2008-2009 school year that is in addition to the 180 days otherwise required by NRS 388.090; and~~

~~(d) Provide 1 day for the professional development of teachers for the 2007-2008 school year and 1 day for the professional development of teachers for the 2008-2009 school year.~~

~~3. The sums appropriated by subsection 1 are available for either fiscal year. Any remaining balance of those sums must not be committed for expenditure after June 30, 2009, by the entity to which the appropriation is made or any entity to which money from the appropriation is granted or otherwise transferred in any manner, and any portion of the appropriated money remaining must not be spent for any purpose after September 18, 2009, by either the entity to which the money was appropriated or the entity to which the money was subsequently granted or transferred, and must be reverted to the State General Fund on or before September 18, 2009. (Deleted by amendment.)~~

Sec. 1.5. Chapter 391 of NRS is hereby amended by adding thereto a new section to read as follows:

1. There is hereby created in the State Treasury a Pay-for-Performance Fund to be administered by the Department. The Department may accept gifts, grants and donations from any source for deposit in the Fund.

2. Within the limits of available money in the Pay-for-Performance Fund, the Department shall provide grants of money to school districts based upon the number of pupils enrolled in each school district. Each school district shall use the money to provide a program of performance pay and compensation for the enhanced recruitment and retention of licensed educational personnel employed by the school district.

3. Any interest and income earned on the sum of:

(a) The money in the Pay-for-Performance Fund; and

(b) Unexpended appropriations made to the Pay-for-Performance Fund from the State General Fund,

↪ must be credited to the Pay-for-Performance Fund.

4. The money remaining in the Pay-for-Performance Fund at the end of any fiscal year does not revert to the State General Fund and must be carried forward to the next fiscal year.

Sec. 2. 1. There is hereby appropriated from the State General Fund to the ~~{Department of Education for the Fiscal Year 2008-2009 the sum of \$30,000,000 for grants of money to school districts that adopt}~~ Pay-for-Performance Fund created by section 1.5 of this act for the Clark County School District, Lyon County School District and Washoe

County School District to carry out a pilot program of performance pay and ~~enhanced~~ compensation for the **enhanced** recruitment and retention of licensed educational personnel ~~and~~:

For the Fiscal Year 2007-2008 \$5,000,000

For the Fiscal Year 2008-2009 \$5,000,000

2. To receive a grant of money, the ~~board of trustees of a school district may~~ **Board of Trustees of the Clark County School District, the Board of Trustees of the Lyon County School District and the Board of Trustees of the Washoe County School District shall each** submit an application to the Department of Education that sets forth ~~the~~ **a pilot** program of performance pay and ~~enhanced~~ compensation for the **enhanced** recruitment and retention of licensed educational personnel adopted by the school district and negotiated pursuant to chapter 288 of NRS. **Each application must be submitted on or before March 1, 2008.** The **pilot** program must include a component that is based upon the achievement of pupils. **Each pilot program must be developed in consultation with an advisory board established by the school district which consists of, without limitation:**

- (a) **Representatives of businesses;**
- (b) **Parents of pupils enrolled in the school district;**
- (c) **Licensed educational personnel; and**
- (d) **Other persons and representatives as the board of trustees determines appropriate.**

↪ **The total number of licensed educational personnel on the advisory board must not exceed the total number of other members on the advisory board.**

3. ~~For the extent that money is available from the appropriation made by subsection 1, the Department of Education shall provide grants of money to school districts with approved applications based upon the amount of money that is necessary to carry out each program. If an insufficient amount of money is available to pay for each program, the money from the appropriation must be distributed.~~ **The Department of Education shall distribute the money appropriated by subsection 1 among the three school districts pro rata based upon the number of pupils enrolled in each school district .** ~~whose application is approved.~~

4. The board of trustees of each school district that receives a grant of money pursuant to this section shall evaluate the effectiveness of the **pilot** program for which the grant of money was awarded. The evaluation must include, without limitation, an evaluation of whether the **pilot** program is effective in recruiting and retaining qualified licensed educational personnel. On or before February 1, 2009, the board of trustees of each school district shall submit a report of its evaluation and any recommendations to the:

- (a) State Board of Education; and
- (b) Director of the Legislative Counsel Bureau for transmittal to the 75th Session of the Nevada Legislature.

5. Any remaining balance of the appropriation made by subsection 1 must not be ~~committed for expenditure after June 30, 2009, by the entity to which the appropriation is made or any entity to which money from the appropriation is granted or otherwise transferred in any manner, and any portion of the appropriated money remaining must not be spent for any purpose after September 18, 2009, by either the entity to which the money was appropriated or the entity to which the money was subsequently granted or transferred, and must be reverted to the State General Fund on or before September 18, 2009.~~ **reverted to the State General Fund and must remain in the Pay-for-Performance Fund created by section 1.5 of this act.**

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

Assemblywoman Smith moved the adoption of the amendment.

Remarks by Assemblywoman Smith.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 565.

Bill read third time.

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

Amendment No. 1097.

AN ACT relating to education; ~~revising provisions governing the required minimum expenditures of school districts for certain items;~~ revising the requirements for the biennial budgetary request for the State Distributive School Account; creating the Grant Fund for Incentives for Licensed Educational Personnel; ~~making appropriations;~~ **repealing the provision requiring the purchase of retirement service for certain teachers and school psychologists; providing for the transfer of certain money to the Grant Fund;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

~~Existing law requires each school district to expend a required minimum amount of money each fiscal year, as determined by the Department of Education, for textbooks, instructional supplies and instructional hardware. (NRS 387.206) Section 1 of this bill adds library books, software for computers and equipment relating to instruction to the list of required annual expenditures.~~

Existing law requires the board of trustees of each school district to submit to the Superintendent of Public Instruction and to the Department of Taxation a written report of the annual budget of the school district. The Superintendent of Public Instruction is required to compile the reports of the annual budgets and submit the written compilation to the Department of Administration and to the Fiscal Analysis Division of the Legislative Counsel Bureau. (NRS 387.303) Section 3 of this bill requires the Superintendent of Public Instruction to include certain information in the

biennial budget request for the State Distributive School Account for submission to the Department of Administration based upon the annual budgets submitted by the school districts.

Section 4 of this bill creates the Grant Fund for Incentives for Licensed Educational Personnel and requires the board of trustees of each school district to establish a program of incentive pay for licensed educational personnel.

~~f Under existing law, the board of trustees of each school district that employs a speech pathologist who is licensed and certified by certain boards and associations is required to add 5 percent to the salary of the speech pathologist. (NRS 391.160) Section 5 of this bill makes an appropriation to assist the school districts with paying the 5 percent increase.~~

~~Section 6 of this bill makes an appropriation for distribution as grants to school districts that establish a pilot program for programs of alternative education for disruptive pupils.]~~

Under existing law, the board of trustees of a school district is required to purchase one-fifth of a year of retirement service for certain teachers and school psychologists. (NRS 391.165) Section 8 of this bill repeals that section of NRS. Section 9 of this bill authorizes teachers and school psychologists who are currently receiving the retirement service to elect to continue in that program for a certain period. Section 10 of this bill provides that certain money specifically designated by the Legislature from the State Distributive School Account for the 2007-2009 biennium to assist the school districts with the purchase of retirement service must be transferred to the Grant Fund for Incentives for Licensed Educational Personnel.

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

Section 1. ~~[NRS 387.206 is hereby amended to read as follows:~~

~~387.206 1. On or before July 1 of each year, the Department, in consultation with the Budget Division of the Department of Administration and the Fiscal Analysis Division of the Legislative Counsel Bureau, shall develop or revise, as applicable, a formula for determining the minimum amount of money that each school district is required to expend each fiscal year for textbooks, instructional supplies, [and] instructional hardware [.] library books, software for computers and equipment relating to instruction, including, without limitation, equipment for telecommunications. The formula must be used only to develop expenditure requirements and must not be used to alter the [distribution of money for] basic support [to school districts.] amount per pupil established by the Legislature for a fiscal year.~~

~~2. Upon approval of the formula pursuant to subsection 1, the Department shall provide written notice to each school district within the first [30] 10 days of each fiscal year that sets forth the required minimum combined amount of money that the school district must expend for~~

~~[textbooks, instructional supplies and instructional hardware for] the purposes set forth in subsection 1 in that fiscal year.~~

~~3.—On or before January 1 of each year, the Department shall determine whether each school district has expended, during the immediately preceding fiscal year, the required minimum amount of money set forth in the notice provided pursuant to subsection 2. In making this determination, the Department shall use the report submitted by the school district pursuant to NRS 387.303.~~

~~4.—Except as otherwise provided in subsection 5, if the Department determines that a school district has not expended the required minimum amount of money set forth in the notice provided pursuant to subsection 2, a reduction must be made from the basic support allocation otherwise payable to that school district in an amount that is equal to the difference between the actual combined expenditure for textbooks, instructional supplies, [and] instructional hardware, library books, software for computers and equipment relating to instruction, including, without limitation, equipment for telecommunications and the minimum required combined expenditure set forth in the notice provided pursuant to subsection 2. A reduction in the amount of the basic support allocation pursuant to this subsection:~~

~~(a) Does not reduce the amount that the school district is required to expend on textbooks, instructional supplies, [and] instructional hardware, library books, software for computers and equipment relating to instruction, including, without limitation, equipment for telecommunications in the current fiscal year; and~~

~~(b) Must not exceed the amount of basic support that was provided to the school district for the fiscal year in which the minimum expenditure amount was not satisfied.~~

~~5.—If the actual enrollment of pupils in a school district is less than the enrollment included in the projections used in the school district's biennial budget submitted pursuant to NRS 387.303, the required expenditure for textbooks, instructional supplies, [and] instructional hardware, library books, software for computers and equipment relating to instruction, including, without limitation, equipment for telecommunications pursuant to this section must be reduced proportionately.~~

~~6.—As used in this section, "library books" includes, without limitation, instructional materials for libraries.] (Deleted by amendment.)~~

Sec. 2. ~~[NRS 387.207 is hereby amended to read as follows:~~

~~387.207—1.—[Except as otherwise provided in this section, in each school year a school district shall spend for library books and software for computers an amount of money, expressed as an amount per pupil, that is at least equal to the average of the total amount of money that was expended per year by the school district for those items in the immediately preceding 3 years.~~

~~2.—Except as otherwise provided in this section, in each school year a school district shall spend for the purchase of equipment relating to~~

instruction, including, without limitation, equipment for telecommunications and for the purchase of equipment relating to the transportation of pupils, an amount of money, expressed as an amount per pupil, that is at least equal to the average of the total amount of money that was expended per year by the school district for those items in the immediately preceding 3 years.

~~3.] Except as otherwise provided in this section, in each school year a school district shall spend for the maintenance and repair of equipment, vehicles, [and] buildings and facilities and for the purchase of equipment relating to the transportation of pupils an amount of money, expressed as an amount per pupil, that is at least equal to the average of the total amount of money that was expended per year by the school district for those items in the immediately preceding 3 years, excluding any amount of money derived from the proceeds of bonds.~~

~~{4.} 2. A school district may satisfy the expenditures required by [subsections 1, 2 and 3] subsection 1 if the school district spends an aggregate amount of money for all the items identified in [those subsections] that subsection which is at least equal to the average of the total amount of money expended by the school district per year for all those items in the immediately preceding 3 years.~~

~~{5.} 3. A school district is not required to satisfy the expenditures required by this section for a school year in which:~~

~~(a) The total number of pupils who are enrolled in public schools within the school district has declined from the immediately preceding school year; or~~

~~(b) The total revenue available in the general fund of the school district has declined from the immediately preceding school year.] (Deleted by amendment.)~~

Sec. 3. NRS 387.303 is hereby amended to read as follows:

387.303 1. Not later than November 10 of each year, the board of trustees of each school district shall submit to the Superintendent of Public Instruction and the Department of Taxation a report which includes the following information:

(a) For each fund within the school district, including, without limitation, the school district's general fund and any special revenue fund which receives state money, the total number and salaries of licensed and nonlicensed persons whose salaries are paid from the fund and who are employed by the school district in full-time positions or in part-time positions added together to represent full-time positions. Information must be provided for the current school year based upon the school district's final budget, including any amendments and augmentations thereto, and for the preceding school year. An employee must be categorized as filling an instructional, administrative, instructional support or other position.

(b) The count of pupils computed pursuant to paragraph (a) of subsection 1 of NRS 387.1233.

(c) The school district's actual expenditures in the fiscal year immediately preceding the report.

(d) The school district's proposed expenditures for the current fiscal year.

(e) The schedule of salaries for licensed employees in the current school year and a statement of whether the negotiations regarding salaries for the current school year have been completed. If the negotiations have not been completed at the time the schedule of salaries is submitted, the board of trustees shall submit a supplemental report to the Superintendent of Public Instruction upon completion of negotiations or the determination of an arbitrator concerning the negotiations that includes the schedule of salaries agreed to or required by the arbitrator.

(f) The number of teachers who received an increase in salary pursuant to subsection 2 of NRS 391.160 for the current and preceding fiscal years. If the board of trustees is required to pay an increase in salary retroactively pursuant to subsection 2 of NRS 391.160, the board of trustees shall submit a supplemental report to the Superintendent of Public Instruction not later than February 15 of the year in which the retroactive payment was made that includes the number of teachers to whom an increase in salary was paid retroactively.

(g) The number of employees eligible for health insurance within the school district for the current and preceding fiscal years and the amount paid for health insurance for each such employee during those years.

(h) The rates for fringe benefits, excluding health insurance, paid by the school district for its licensed employees in the preceding and current fiscal years.

(i) The amount paid for extra duties, supervision of extracurricular activities and supplemental pay and the number of employees receiving that pay in the preceding and current fiscal years.

(j) The expenditures from the account created pursuant to subsection 3 of NRS 179.1187. The report must indicate the total amount received by the district in the preceding fiscal year, and the specific amount spent on books and computer hardware and software for each grade level in the district.

2. On or before November 25 of each year, the Superintendent of Public Instruction shall submit to the Department of Administration and the Fiscal Analysis Division of the Legislative Counsel Bureau, in a format approved by the Director of the Department of Administration, a compilation of the reports made by each school district pursuant to subsection 1.

3. *In preparing the agency biennial budget request for the State Distributive School Account for submission to the Department of Administration, the Superintendent of Public Instruction shall:*

(a) Compile the information from the most recent ~~report~~ compilation of reports submitted pursuant to subsection 2;

(b) Increase the line items of expenditure or revenue based on merit salary ~~increases~~ increases and cost of living adjustments or inflation, as

deemed credible and reliable based upon published indexes and research relevant to the specific line item of expenditure or revenue;

(c) Adjust expenditures and revenues pursuant to paragraph (b) for any year remaining before the biennium for which the budget is being prepared and for the 2 years of the biennium covered by the biennial budget request to project the cost of expenditures or the receipt of revenues for the specific line items;

(d) Consider the cost of enhancements to existing programs or the projected cost of proposed new educational programs, regardless of whether those enhancements or new programs are included in the per pupil basic support guarantee for inclusion in the biennial budget request to the Department of Administration; and

(e) Obtain approval from the State Board for any inflationary increase, enhancement to an existing program or addition of a new program included in the agency biennial budget request.

4. The Superintendent of Public Instruction shall, in the compilation required by subsection 2, reconcile the revenues ~~and expenditures~~ of the school districts with the apportionment received by those districts from the State Distributive School Account for the preceding year.

5. *The request prepared pursuant to subsection 3 must:*

(a) Be presented by the Superintendent of Public Instruction to such standing committees of the Legislature as the Superintendent determines appropriate for the purpose of developing educational programs and providing appropriations for those programs; and

(b) Provide for a direct comparison of appropriations to the proposed budget of the Governor submitted pursuant to subsection 4 of NRS 353.230.

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

1. *There is hereby created a Grant Fund for Incentives for Licensed Educational Personnel to be administered by the Department. The Department may accept gifts and grants from any source for deposit in the Grant Fund.*

2. *The board of trustees of each school district shall establish a program of incentive pay for licensed educational personnel which must be negotiated pursuant to chapter 288 of NRS and must be designed to attract and retain educational personnel. The program may include, without limitation, the attraction and retention of:*

(a) ~~Teachers who teach~~ Licensed educational personnel in schools with a specified percentage of pupils who are at risk;

(b) Teachers who hold an endorsement in the field of mathematics, science, special education, English as a second language or other area of need within the school district ~~+~~, as determined by the Superintendent of Public Instruction; and

(c) School psychologists.

3. *A program of incentive pay established by a school district must specify the type of financial incentives offered to the licensed educational personnel.*

4. *If the board of trustees of a school district wishes to receive a grant of money from the Grant Fund, the board of trustees shall submit to the Department an application on a form prescribed by the Department. The application must include a description of the program of incentive pay established by the school district.*

5. *Within the limits of money available in the Grant Fund, the Department shall provide grants of money to each school district that submits an application pursuant to subsection 4 based upon the amount of money that is necessary to carry out each program. If an insufficient amount of money is available to pay for each program submitted to the Department, the amount of money available must be distributed pro rata based upon the number of licensed employees who are estimated to be eligible to participate in the program in each school district who submitted an application.*

6. *The board of trustees of each school district that receives a grant of money pursuant to this section shall evaluate the effectiveness of the program for which the grant was awarded. The evaluation must include, without limitation, an evaluation of whether the program is effective in recruiting and retaining licensed educational personnel. On or before December 1 of each year, the board of trustees shall submit a report of its evaluation to the:*

(a) *Governor;*

(b) *State Board;*

(c) *If the report is submitted in an even-numbered year, Director of the Legislative Counsel Bureau for transmittal to the next regular session of the Legislature; and*

(d) *If the report is submitted in an odd-numbered year, Legislative Committee on Education.*

Sec. 5. ~~1. There is hereby appropriated from the State General Fund to the Department of Education for a 5 percent increase to the salary of certain speech pathologists:~~

~~For the Fiscal Year 2007-2008 \$597,268~~

~~For the Fiscal Year 2008-2009 \$706,444~~

~~2. The Department shall distribute the money appropriated to the school districts to assist the school districts with paying the 5 percent increase to the salary of certain speech pathologists pursuant to subsection 3 of NRS 391.160. If the money from the appropriation is insufficient to pay the total costs of the increase, the school district shall pay the difference.~~

~~3. The sums appropriated by subsection 1 are available for either fiscal year. Any remaining balance of those sums must not be committed for expenditure after June 30, 2009, by the entity to which the appropriation is made or any entity to which money from the appropriation is granted or~~

~~otherwise transferred in any manner, and any portion of the appropriated money remaining must not be spent for any purpose after September 18, 2009, by either the entity to which the money was appropriated or the entity to which the money was subsequently granted or transferred, and must be reverted to the State General Fund on or before September 18, 2009.]~~

(Deleted by amendment.)

Sec. 6. ~~[1.—There is hereby appropriated from the State General Fund to the Department of Education for pilot programs for alternative programs of education for disruptive pupils established pursuant to this section:~~

~~For the Fiscal Year 2007-2008 \$500,000~~

~~For the Fiscal Year 2008-2009 \$500,000~~

~~2.—The Superintendent of Public Instruction shall prescribe:~~

~~(a) The form for an application to establish a pilot program for an alternative program of education for disruptive pupils; and~~

~~(b) Criteria for the selection of schools to establish such a pilot program.~~

~~3.—A public school in this State may submit an application to the Department to establish a pilot program pursuant to this section. Such an application must include an estimate of the costs of establishing a program. If a school is selected to establish a pilot program, the school will receive a grant of money from the appropriation made by subsection 1 to carry out a program in an amount based upon the estimated costs of establishing the program.~~

~~4.—A pilot program established pursuant to this section must:~~

~~(a) Comply with NRS 392.4642 to 392.4648, inclusive;~~

~~(b) Be provided in a setting outside the regular classroom of the pupil;~~

~~(c) Ensure that pupils who are participating in the program are separated from pupils who are not participating in the program;~~

~~(d) Provide supervision of and counseling to pupils who participate in the program;~~

~~(e) Provide and emphasize instruction in English language arts, mathematics, science and history, as appropriate to the grade level of the pupils participating in the program;~~

~~(f) Provide and emphasize training in self-discipline;~~

~~(g) Provide for a transitional stage between in-school or in-home suspension and regular school activities; and~~

~~(h) Include an evaluation phase based on the collection of data to measure the effectiveness of the program.~~

~~5.—A pilot program established pursuant to this section may:~~

~~(a) Be located on the grounds of the school or at another location.~~

~~(b) Include programs that:~~

~~(1) Use innovative instructional, counseling or disciplinary concepts;~~

~~(2) Encourage the effective involvement of the parents and legal guardians of pupils who are participating in the program.~~

~~(c) Provide instructional and other services to pupils through the existing staff at a public school or from other personnel, or any combination thereof.~~

~~6.—On or before October 1, 2008, the schools that establish a pilot program pursuant to this section shall submit a report to the Department for the period ending September 1, 2008, that includes:~~

- ~~(a) The manner in which the pilot program was carried out;~~
- ~~(b) The number of pupils who participated in the program;~~
- ~~(c) The expenditures made by the school for the program;~~
- ~~(d) The number of disciplinary referrals, suspensions and expulsions that occurred at the school before and after the establishment of the program; and~~
- ~~(e) An analysis of the academic achievement and performance of the pupils before and after the pupils participated in the program.~~

~~7.—The Department shall evaluate the effectiveness of the pilot programs established pursuant to this section based on the reports submitted by the schools pursuant to subsection 6. In addition, the Department shall solicit and analyze data from schools that did not establish pilot programs pursuant to this section but have established alternative programs of education for disruptive pupils. The Department may spend not more than \$10,000 of the amount appropriated by subsection 1 during the Fiscal Years 2007-2009 to hire a contractor to assist with the evaluation.~~

~~8.—On or before December 1, 2008, the Department shall submit a report of its findings to the Legislative Committee on Education.~~

~~9.—On or before February 1, 2009, the Department shall submit a final report of its findings to the Director of the Legislative Counsel Bureau for transmission to the 75th Session of the Nevada Legislature.~~

~~10.—The sums appropriated by subsection 1 are available for either fiscal year. Any remaining balance of those sums must not be committed for expenditure after June 30, 2009, by the entity to which the appropriation is made or any entity to which money from the appropriation is granted or otherwise transferred in any manner, and any portion of the appropriated money remaining must not be spent for any purpose after September 18, 2009, by either the entity to which the money was appropriated or the entity to which the money was subsequently granted or transferred, and must be reverted to the State General Fund on or before September 18, 2009.]~~
(Deleted by amendment.)

Sec. 7. NRS 286.3005 is hereby amended to read as follows:

286.3005 A state agency may purchase credit for service on behalf of a member only as provided in NRS 286.3007. Except as otherwise required as a result of NRS 286.537, ~~for 391.165,~~ any other public employer may pay any portion of the cost to purchase credit for service under NRS 286.300, but is not required to do so. No credit may be validated unless the cost of purchasing credit has been paid.

Sec. 8. NRS 391.165 is hereby repealed.

Sec. 9. 1. If a teacher or school psychologist entered into a contract or other agreement of employment with a school district before July 1, 2007, the board of trustees of the school district shall purchase one-fifth of a year of service for that employee pursuant to subsection 2 of NRS

286.300 if the employee qualified under the provisions of NRS 391.165. On or before August 1, 2007, the board of trustees of each school district shall notify each such employee that he may elect to participate in the program of incentive pay for licensed educational personnel established pursuant to section 4 of this act if he otherwise qualifies for participation in the program in lieu of the purchase of retirement service on behalf of the employee pursuant to NRS 391.165.

2. On or before October 1, 2007, each employee who was given notice pursuant to subsection 1 shall notify the school district whether he will participate in the program of incentive pay for licensed educational personnel in lieu of the purchase of retirement service on behalf of the employee pursuant to NRS 391.165, as that section existed on June 30, 2007.

3. If an employee elects to continue to receive the one-fifth of a year of service, the employee's participation in that program ceases when the employee has received, after his election, one full year of retirement service credit pursuant to that program. An employee's election to continue to receive the one-fifth of a year of service does not preclude the employee from participating in the program of incentive pay for licensed educational personnel established pursuant to section 4 of this act by the school district which employs him:

(a) After the employee's participation in the purchase of the retirement service credit program ceases; and

(b) If the employee is otherwise eligible to participate in the program established by the school district pursuant to section 4 of this act.

Sec. 10. Notwithstanding any other provision of law to the contrary, the money that is specifically designated for expenditure from the State Distributive School Account by the Legislature for the 2007-2009 biennium pursuant to section 14 of Assembly Bill No. 627 of this Session, if enacted, to assist school districts with the purchase of service on behalf of employees of the school district pursuant to NRS 391.165, as that section existed on June 30, 2007, must be transferred to the Grant Fund for Incentives for Licensed Educational Personnel created by section 4 of this act.

~~{Sec. 7.}~~ *Sec. 11.* This act becomes effective on July 1, 2007.

TEXT OF REPEALED SECTION

391.165 Purchase of retirement credit for certain teachers and school psychologists.

1. Except as otherwise provided in subsection 3 and except as otherwise required as a result of NRS 286.537, the board of trustees of a school district shall pay the cost for a licensed teacher or licensed school psychologist to purchase one-fifth of a year of service pursuant to subsection 2 of NRS 286.300 if:

(a) The teacher or school psychologist is a member of the Public Employees' Retirement System and has at least 5 years of service;

(b) The teacher or school psychologist has been employed as a licensed teacher or licensed school psychologist in this State for at least 5 consecutive school years, regardless of whether the employment was with one or more school districts in this State;

(c) Each evaluation of the teacher or school psychologist conducted pursuant to NRS 391.3125 is at least satisfactory for the years of employment required by paragraph (b); and

(d) In addition to the years of employment required by paragraph (b):

(1) The teacher has been employed as a licensed teacher for 2 school years at a school within the school district during his employment at the school:

(I) Which carried the designation of demonstrating need for improvement; or

(II) At which at least 65 percent of the pupils who are enrolled in the school are children who are at risk;

(2) The teacher holds an endorsement in the field of mathematics, science, special education or English as a second language and has been employed for at least 1 school year to teach in the subject area for which he holds an endorsement; or

(3) The school psychologist has been employed as a licensed school psychologist for at least 1 school year.

↪ The provisions of this paragraph do not require consecutive years of employment or employment at the same school within the school district.

2. Except as otherwise provided in subsection 3, the board of trustees of a school district shall pay the cost for a licensed teacher or school psychologist to purchase one-fifth of a year of service for each year that a teacher or school psychologist satisfies the requirements of subsection 1. If, in 1 school year, a teacher satisfies the criteria set forth in both subparagraphs (1) and (2) of paragraph (d) of subsection 1, the school district in which the teacher is employed is not required to pay for more than one-fifth of a year of service pursuant to subsection 2 of NRS 286.300 for that school year.

3. In no event may the years of service purchased by a licensed teacher or school psychologist as a result of subsection 2 of NRS 286.300 exceed 5 years.

4. The board of trustees of a school district shall not:

(a) Assign or reassign a licensed teacher or school psychologist to circumvent the requirements of this section.

(b) Include as part of a teacher's or school psychologist's salary the costs of paying the teacher or school psychologist to purchase service pursuant to this section.

5. As used in this section:

(a) **A child is “at risk” if he is eligible for free or reduced-price lunches pursuant to 42 U.S.C. §§ 1751 et seq.**

(b) **”Service” has the meaning ascribed to it in NRS 286.078.**

Assemblywoman Smith moved the adoption of the amendment.

Remarks by Assemblywoman Smith.

Amendment adopted.

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

Senate Bill No. 342.

Bill read third time.

Roll call on Senate Bill No. 342:

YEAS—42.

NAYS—None.

Senate Bill No. 342 having received a constitutional majority,

Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

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

Motion carried.

Assembly in recess at 11:44 a.m.

ASSEMBLY IN SESSION

At 11:48 a.m.

Madam Speaker presiding.

Quorum present.

Senate Bill No. 393.

Bill read third time.

The following amendment was proposed by the Committee on Transportation:

Amendment No. 1095.

AN ACT relating to transportation; ~~requiring employees of the Nevada Transportation Authority to carry identification and wear specified clothing;~~ requiring certain employees of the **Nevada Transportation Authority** to receive certain training; changing the name of the “Transportation Services Authority” to the “Nevada Transportation Authority”; requiring the Authority to appoint a Deputy Commissioner; providing the qualifications and duties of the Deputy Commissioner; ~~prohibiting a member of the Authority from taking a position within a regulated industry or business for 1 year after service on the Authority;~~ and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Under existing law, the Transportation Services Authority regulates fully regulated carriers, operators of tow cars and brokers of regulated services as provided for in chapter 706 of NRS. (NRS 706.151) Sections 11-13 and 16 of

this bill change the name of the Transportation Services Authority to the Nevada Transportation Authority.

~~[Section 5 of this bill requires employees of the Authority to carry proper identification and wear clothing specified by the Deputy Commissioner of the Authority.]~~ Section 6 of this bill requires the Authority to adopt regulations specifying the training which its compliance enforcement officers must receive.

Existing law allows the Authority to appoint a Deputy and employ other persons as needed. (NRS 706.176) Section 15 of this bill requires the Authority to appoint a Deputy Commissioner and sets forth the qualifications and duties for the position. Section 15 also requires the Authority to employ compliance enforcement officers and sets forth the duties for those positions.

~~[Existing law prohibits certain persons who have worked for certain agencies of the State from being employed in certain fields or businesses for 1 year after they cease working for the State. (NRS 281.236) Section 17 of this bill expands that prohibition to members of the Authority.]~~

Existing law provides that an employee designated as an inspector or as Manager of Transportation by the Authority is a peace officer and has police powers. (NRS 289.320) Section 18 of this bill amends this provision to apply only to inspectors.

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

Section 1. Chapter 706 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 7, inclusive, of this act.

Sec. 2. ***"Chairman" means the person designated as Chairman of the Authority by the Governor pursuant to NRS 706.1512.***

Sec. 3. ***"Compliance enforcement officer" means a person employed pursuant to NRS 706.176 whose duties include enforcing certain state statutes and regulations pertaining to motor carriers.***

Sec. 4. ***"Deputy Commissioner" means the person appointed as Deputy Commissioner of the Authority pursuant to NRS 706.176.***

Sec. 5. ~~[An employee of the Authority who enforces any provision of this chapter or regulations adopted pursuant thereto while on duty shall carry on his person proper identification and wear clothing that identifies him as an employee of the Authority as determined by the Deputy Commissioner.]~~
(Deleted by amendment.)

Sec. 6. ***The Authority shall adopt regulations setting forth the training which a compliance enforcement officer employed by the Authority pursuant to NRS 706.176 must complete, including, without limitation, training in commercial vehicle safety inspections provided by the Nevada Highway Patrol.***

Sec. 7. (Deleted by amendment.)

Sec. 8. NRS 706.011 is hereby amended to read as follows:

706.011 As used in NRS 706.011 to 706.791, inclusive, **and sections 2 to 7, inclusive, of this act**, unless the context otherwise requires, the words and terms defined in NRS 706.013 to 706.146, inclusive, **and sections 2, 3 and 4 of this act** have the meanings ascribed to them in those sections.

Sec. 9. NRS 706.018 is hereby amended to read as follows:

706.018 "Authority" means the *Nevada* Transportation ~~{Services}~~ Authority created pursuant to NRS 706.1511.

Sec. 10. NRS 706.151 is hereby amended to read as follows:

706.151 1. It is hereby declared to be the purpose and policy of the Legislature in enacting this chapter:

(a) Except to the extent otherwise provided in NRS 706.881 to 706.885, inclusive, **and sections 2 to 7, inclusive, of this act**, to confer upon the Authority the power and to make it the duty of the Authority to regulate fully regulated carriers, operators of tow cars and brokers of regulated services to the extent provided in this chapter and to confer upon the Department of Motor Vehicles the power to license all motor carriers and to make it the duty of the Department of Motor Vehicles and the Department of Public Safety to enforce the provisions of this chapter and the regulations adopted by the Authority pursuant to it, to relieve the undue burdens on the highways arising by reason of the use of the highways by vehicles in a gainful occupation thereon.

(b) To provide for reasonable compensation for the use of the highways in gainful occupations, and enable the State of Nevada, by using license fees, to provide for the proper construction, maintenance and repair thereof, and thereby protect the safety and welfare of the traveling and shipping public in their use of the highways.

(c) To provide for fair and impartial regulation, to promote safe, adequate, economical and efficient service and to foster sound economic conditions in motor transportation.

(d) To encourage the establishment and maintenance of reasonable charges for:

(1) Intrastate transportation by fully regulated carriers; and

(2) Towing services performed without the prior consent of the owner of the vehicle or the person authorized by the owner to operate the vehicle,
↳ without unjust discriminations against or undue preferences or advantages being given to any motor carrier or applicant for a certificate of public convenience and necessity.

(e) To discourage any practices which would tend to increase or create competition that may be detrimental to the traveling and shipping public or the motor carrier business within this State.

2. All of the provisions of this chapter must be administered and enforced with a view to carrying out the declaration of policy contained in this section.

Sec. 11. NRS 706.1511 is hereby amended to read as follows:

706.1511 1. The *Nevada* Transportation ~~{Services}~~ Authority is hereby created.

2. The Authority consists of three members appointed by the Governor. After the initial term each member shall serve a term of 4 years.

3. The Governor shall appoint to the Authority members who have at least 2 years of experience in one or more of the following fields:

- (a) Accounting.
- (b) Business administration.
- (c) Economics.
- (d) Administrative law.
- (e) Transportation.
- (f) Professional engineering.

↳ At least one but not more than two of the members appointed must be residents of Clark County.

4. Not more than two of the members may be:

- (a) Members of the same political party.
- (b) From the same field of experience.

5. All of the members must be persons who are independent of the industries regulated by the Authority. No elected officer of this State or any political subdivision is eligible for appointment.

6. The members of the Authority shall give their entire time to the business of the Authority and shall not pursue any other business or vocation or hold any other office of profit.

7. Each member of the Authority serves at the pleasure of the Governor.

Sec. 12. NRS 706.1513 is hereby amended to read as follows:

706.1513 The Authority may sue and be sued in the name of the *Nevada* Transportation ~~{Services}~~ Authority.

Sec. 13. NRS 706.1516 is hereby amended to read as follows:

706.1516 1. The *Nevada* Transportation ~~{Services}~~ Authority Regulatory Fund is hereby created as a special revenue fund. All money collected by the Authority pursuant to law must be deposited in the State Treasury for credit to the Fund.

2. Money in the Fund may be used only to defray the costs of:

- (a) Maintaining staff and equipment needed to regulate adequately persons subject to the jurisdiction of the Authority.
- (b) Participating in all proceedings relevant to the jurisdiction of the Authority.
- (c) Audits, inspections, investigations, publication of notices, reports and retaining consultants connected with that maintenance and participation.
- (d) The salaries, travel expenses and subsistence allowances of the members of the Authority.

3. All claims against the Fund must be paid as other claims against the State are paid.

4. The Authority must furnish upon request a statement showing the balance remaining in the Fund as of the close of the preceding fiscal year.

Sec. 14. NRS 706.1715 is hereby amended to read as follows:

706.1715 1. The Attorney General shall:

(a) Act as counsel and attorney for the Authority in all actions, proceedings and hearings.

(b) Prosecute in the name of the *Nevada* Transportation ~~{Services}~~ Authority all civil actions for the enforcement of this chapter and for the recovery of any penalty or forfeiture provided for therein.

(c) Generally aid the Authority in the performance of its duties and the enforcement of this chapter.

2. The Attorney General or any district attorney may prosecute any violation of this chapter or chapter 712 of NRS for which a criminal penalty is provided.

Sec. 15. NRS 706.176 is hereby amended to read as follows:

706.176 *I.* The Authority ~~may:~~

~~1. Appoint a Deputy who serves in the unclassified service of the State.~~

~~2. Employ} shall appoint a Deputy Commissioner who:~~

(a) *Must be knowledgeable and experienced in public administration and fiscal management;*

(b) *Must be knowledgeable in the areas of motor carrier regulation by the Authority; and*

(c) *Must be independent of and have no pecuniary interest in any entity regulated by the Authority.*

2. *The Deputy Commissioner shall:*

(a) *Serve as Chief Financial Officer for the Authority and is responsible for directing the daily operation of the Authority, including, without limitation:*

(1) *Budget preparation;*

(2) *Administration;*

(3) *Human resources;*

(4) *Purchases and acquisitions made by the Authority; and*

(5) *Contracts and leases entered into by the Authority;*

(b) *Develop and implement policies and procedures to ensure the efficient operation of the Authority;*

(c) *Oversee:*

(1) *The review of applications for certificates, permits and modifications of tariffs;*

(2) *The maintenance of a hearing calendar of all matters pending before the Authority; and*

(3) *Compliance with and enforcement of State statutes and regulations pertaining to motor carriers which are regulated by the Authority; and*

(d) *Authenticate documents and serve as custodian of all agency records.*

3. *The Deputy Commissioner is in the unclassified service of the State.*

4. The Authority shall employ compliance enforcement officers whose duties shall include, without limitation, enforcement activities to ensure motor carriers are operating in compliance with State statutes and regulations, conducting operational inspections of motor carriers and investigating complaints against motor carriers.

5. The Authority may employ such other personnel as may be necessary.

Sec. 16. NRS 232.510 is hereby amended to read as follows:

232.510 1. The Department of Business and Industry is hereby created.

2. The Department consists of a Director and the following:

- (a) Consumer Affairs Division.
- (b) Division of Financial Institutions.
- (c) Housing Division.
- (d) Manufactured Housing Division.
- (e) Real Estate Division.
- (f) Division of Insurance.
- (g) Division of Industrial Relations.
- (h) Office of Labor Commissioner.
- (i) Taxicab Authority.
- (j) Nevada Athletic Commission.
- (k) Office of the Nevada Attorney for Injured Workers.
- (l) *Nevada* Transportation [Services] Authority.
- (m) Division of Mortgage Lending.

(n) Any other office, commission, board, agency or entity created or placed within the Department pursuant to a specific statute, the budget approved by the Legislature or an executive order, or an entity whose budget or activities have been placed within the control of the Department by a specific statute.

Sec. 17. ~~[NRS 281.236 is hereby amended to read as follows:~~

~~281.236 1. A public utility or parent organization or subsidiary of a public utility shall not employ a former member of the Public Utilities Commission of Nevada for 1 year after the termination of his service on the Commission.~~

~~2. A person who holds a license issued pursuant to chapter 463 or 464 of NRS or who is required to register with the Nevada Gaming Commission pursuant to chapter 463 of NRS shall not employ a former member of the State Gaming Control Board or the Nevada Gaming Commission for 1 year after the termination of the member's service on the Board or Commission.~~

~~3. A business or industry governed by chapter 706 or 712 of NRS or regulations adopted pursuant thereto shall not employ a former member of the Nevada Transportation Authority, appointed pursuant to NRS 706.1511, for 1 year after the termination of the member's service on the Authority.~~

~~4. In addition to the prohibitions set forth in subsections 1 and 2, a business or industry whose activities are governed by regulations adopted by a department, division or other agency of the Executive Branch of government shall not, except as otherwise provided in subsection [4,] 5,~~

~~employ a former public officer or employee of the agency, except a clerical employee, for 1 year after the termination of his service or period of employment if:~~

~~(a) His principal duties included the formulation of policy contained in the regulations governing the business or industry;~~

~~(b) During the immediately preceding year he directly performed activities, or controlled or influenced an audit, decision, investigation or other action, which significantly affected the business or industry which might, but for this section, employ him; or~~

~~(c) As a result of his governmental service or employment, he possesses knowledge of the trade secrets of a direct business competitor.~~

~~[4.] 5. A public officer or employee may request the Commission on Ethics to apply the relevant facts in his case to the provisions of subsection [3] 4 and determine whether relief from the strict application of the provisions is proper. If the Commission on Ethics determines that relief from the strict application of the provisions of subsection [3] 4 is not contrary to:~~

~~(a) The best interests of the public;~~

~~(b) The continued integrity of State Government; and~~

~~(c) The code of ethical standards prescribed in NRS 281.481,~~

~~it may issue an opinion to that effect and grant such relief. The opinion of the Commission on Ethics in such a case is subject to judicial review.~~

~~[5.] 6. As used in this section, "regulation" has the meaning ascribed to it in NRS 233B.038. (Deleted by amendment.)~~

Sec. 18. NRS 289.320 is hereby amended to read as follows:

289.320 An employee of the *Nevada* Transportation [Services] Authority whom it designates as an inspector [or as Manager of Transportation] is a peace officer and has police power for the enforcement of the provisions of:

1. Chapters 706 and 712 of NRS and all regulations of the *Nevada* Transportation [Services] Authority or the Department of Motor Vehicles pertaining thereto; and

2. Chapter 482 of NRS and NRS 483.230, 483.350 and 483.530 to 483.620, inclusive, for the purposes of carrying out the provisions of chapter 706 of NRS.

Sec. 19. On October 1, 2007, the State Controller shall transfer all assets and liabilities from the Transportation Services Authority Regulatory Fund to the Nevada Transportation Authority Regulatory Fund created pursuant to section 11 of this act.

Sec. 20. The Legislative Counsel shall:

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

2. In preparing supplements to the Nevada Administrative Code, appropriately change any references to an officer, agency or other entity

whose name is changed or whose responsibilities are transferred pursuant to the provisions of this act to refer to the appropriate officer, agency or other entity.

Sec. 21. This act becomes effective upon passage and approval for the purpose of adopting regulations and conducting any preliminary activities necessary to ensure that the provisions of this act are carried out in an orderly fashion and on October 1, 2007, for all other purposes.

Assemblyman Atkinson moved the adoption of the amendment.

Amendment adopted.

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

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Ocegüera moved that upon return from the printer Senate Bill No. 393 be rereferred to the Committee on Ways and Means.

Motion carried.

GENERAL FILE AND THIRD READING

Senate Bill No. 404.

Bill read third time.

The following amendment was proposed by the Committee on Education:

Amendment No. 1082.

AN ACT relating to education; revising provisions governing homeschooled children; **requiring the board of trustees of each school district to post certain information concerning examinations on its Internet website and ensure that homeschooled children have notice of the website;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, compulsory attendance in public school is required of children between the ages of 7 and 17 years. (NRS 392.040) Compulsory attendance is excused if satisfactory written evidence is presented to the board of trustees of the school district in which the child resides that the child is receiving at home or in some other school equivalent instruction of the kind and amount approved by the State Board of Education. (NRS 392.070) Sections 3 and 5 of this bill excuse compulsory attendance if a child is enrolled in a private school or if a notice of intent to homeschool the child is filed with the superintendent of schools of the school district in which the child resides. Sections 1 and 5 of this bill authorize the board of trustees of a school district or the governing body of a charter school, as applicable, to require a birth certificate or other documentation to prove the identity of the homeschooled child who wishes to participate in certain activities and classes offered by the public schools in this State and requires such proof under certain circumstances.

Section 3 of this bill sets forth requirements concerning a notice of intent to homeschool and establishes certain rights for a child that is being homeschooled and the parents of that child.

Under existing law, the State Board of Education is required to prescribe the courses of study required for promotion to high school. (NRS 392.033) Section 4 of this bill prescribes the information that must be provided by a homeschooled child who wishes to enroll in a public high school to demonstrate competency in those courses of study or successful completion of those courses.

Section 2.5 of this bill requires the board of trustees of each school district to maintain on its Internet website pertinent information concerning the examinations available to children in the school district. Section 3 of this bill requires each school district to ensure that homeschooled children who reside in the school district have adequate notice of the availability of the website.

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

Section 1. NRS 386.580 is hereby amended to read as follows:

386.580 1. An application for enrollment in a charter school may be submitted to the governing body of the charter school by the parent or legal guardian of any child who resides in this State. Except as otherwise provided in this subsection and subsection 2, a charter school shall enroll pupils who are eligible for enrollment in the order in which the applications are received. If the board of trustees of the school district in which the charter school is located has established zones of attendance pursuant to NRS 388.040, the charter school shall, if practicable, ensure that the racial composition of pupils enrolled in the charter school does not differ by more than 10 percent from the racial composition of pupils who attend public schools in the zone in which the charter school is located. If a charter school is sponsored by the board of trustees of a school district located in a county whose population is 100,000 or more, except for a program of distance education provided by the charter school, the charter school shall enroll pupils who are eligible for enrollment who reside in the school district in which the charter school is located before enrolling pupils who reside outside the school district. Except as otherwise provided in subsection 2, if more pupils who are eligible for enrollment apply for enrollment in the charter school than the number of spaces which are available, the charter school shall determine which applicants to enroll pursuant to this subsection on the basis of a lottery system.

2. Before a charter school enrolls pupils who are eligible for enrollment, a charter school that is dedicated to providing educational programs and opportunities to pupils who are at risk may enroll a child who:

(a) Is a sibling of a pupil who is currently enrolled in the charter school; or
(b) Resides within the school district and within 2 miles of the charter school if the charter school is located in an area that the sponsor of the charter school determines includes a high percentage of children who are at risk. If space is available after the charter school enrolls pupils pursuant to

this paragraph, the charter school may enroll children who reside outside the school district but within 2 miles of the charter school if the charter school is located within an area that the sponsor determines includes a high percentage of children who are at risk.

↪ If more pupils described in this subsection who are eligible apply for enrollment than the number of spaces available, the charter school shall determine which applicants to enroll pursuant to this subsection on the basis of a lottery system.

3. Except as otherwise provided in subsection 7, a charter school shall not accept applications for enrollment in the charter school or otherwise discriminate based on the:

- (a) Race;
- (b) Gender;
- (c) Religion;
- (d) Ethnicity; or
- (e) Disability,

↪ of a pupil.

4. If the governing body of a charter school determines that the charter school is unable to provide an appropriate special education program and related services for a particular disability of a pupil who is enrolled in the charter school, the governing body may request that the board of trustees of the school district of the county in which the pupil resides transfer that pupil to an appropriate school.

5. Except as otherwise provided in this subsection, upon the request of a parent or legal guardian of a child who is enrolled in a public school of a school district or a private school, or a parent or legal guardian of a homeschooled child, the governing body of the charter school shall authorize the child to participate in a class that is not otherwise available to the child at his school or home school or participate in an extracurricular activity at the charter school if:

(a) Space for the child in the class or extracurricular activity is available; and

(b) The parent or legal guardian demonstrates to the satisfaction of the governing body that the child is qualified to participate in the class or extracurricular activity.

↪ If the governing body of a charter school authorizes a child to participate in a class or extracurricular activity pursuant to this subsection, the governing body is not required to provide transportation for the child to attend the class or activity. A charter school shall not authorize such a child to participate in a class or activity through a program of distance education provided by the charter school pursuant to NRS 388.820 to 388.874, inclusive.

6. The governing body of a charter school may revoke its approval for a child to participate in a class or extracurricular activity at a charter school pursuant to subsection 5 if the governing body determines that the child has failed to comply with applicable statutes, or applicable rules and regulations.

If the governing body so revokes its approval, neither the governing body nor the charter school is liable for any damages relating to the denial of services to the child.

7. *The governing body of a charter school may, before authorizing a homeschooled child to participate in a class or extracurricular activity pursuant to subsection 5, require proof of the identity of the child, including, without limitation, the birth certificate of the child or other documentation sufficient to establish the identity of the child.*

8. This section does not preclude the formation of a charter school that is dedicated to provide educational services exclusively to pupils:

(a) With disabilities;

(b) Who pose such severe disciplinary problems that they warrant a specific educational program, including, without limitation, a charter school specifically designed to serve a single gender that emphasizes personal responsibility and rehabilitation; or

(c) Who are at risk.

↪ If more eligible pupils apply for enrollment in such a charter school than the number of spaces which are available, the charter school shall determine which applicants to enroll pursuant to this subsection on the basis of a lottery system.

Sec. 2. NRS 388.850 is hereby amended to read as follows:

388.850 1. A pupil may enroll in a program of distance education only if the pupil satisfies the requirements of any other applicable statute and the pupil:

(a) Is participating in a program for pupils at risk of dropping out of high school pursuant to NRS 388.537;

(b) Is participating in a program of independent study pursuant to NRS 389.155;

(c) Is enrolled in a public school that does not offer certain advanced or specialized courses that the pupil desires to attend;

(d) Has a physical or mental condition that would otherwise require an excuse from compulsory attendance pursuant to NRS 392.050;

(e) Would otherwise be excused from compulsory attendance pursuant to NRS 392.080;

(f) Is otherwise prohibited from attending public school pursuant to NRS 392.264, 392.4642 to 392.4648, inclusive, 392.466, 392.467 or 392.4675;

(g) Is otherwise permitted to enroll in a program of distance education provided by the board of trustees of a school district if the board of trustees determines that the circumstances warrant enrollment for the pupil; or

(h) Is otherwise permitted to enroll in a program of distance education provided by the governing body of a charter school if the governing body of the charter school determines that the circumstances warrant enrollment for the pupil.

2. In addition to the eligibility for enrollment set forth in subsection 1, a pupil must satisfy the qualifications and conditions for enrollment in a

program of distance education adopted by the State Board pursuant to NRS 388.874.

3. A child who is exempt from compulsory attendance and ~~receiving equivalent instruction authorized by the State Board pursuant to subsection 1 of NRS 392.070~~ ***is enrolled in a private school pursuant to chapter 394 of NRS or is being homeschooled*** is not eligible to enroll in or otherwise attend a program of distance education, regardless of whether he is otherwise eligible for enrollment pursuant to subsection 1.

4. If a pupil who is prohibited from attending public school pursuant to NRS 392.264 enrolls in a program of distance education, the enrollment and attendance of that pupil must comply with all requirements of NRS 62F.100 to 62F.140, inclusive, and 392.251 to 392.271, inclusive.

5. If a pupil is eligible for enrollment in a program of distance education pursuant to paragraph (c) of subsection 1, he may enroll in the program of distance education only to take those advanced or specialized courses that are not offered at the public school he otherwise attends.

Sec. 2.5. Chapter 389 of NRS is hereby amended by adding thereto a new section to read as follows:

The board of trustees of each school district shall maintain on its Internet website, and shall post in a timely manner, all pertinent information concerning the examinations available to children who reside in the school district, including, without limitation, the dates and times of, and contact information concerning, such examinations. The examinations posted must include, without limitation:

1. The high school proficiency examination administered pursuant to NRS 389.015; and

2. All college entrance examinations offered in this State, including, without limitation, the Scholastic Aptitude Test, the American College Test, the Preliminary Scholastic Aptitude Test and the National Merit Scholarship Qualifying Test.

Sec. 3. Chapter 392 of NRS is hereby amended by adding thereto a new section to read as follows:

1. If the parent of a child who is subject to compulsory attendance wishes to homeschool the child, the parent must file with the superintendent of schools of the school district in which the child resides a written ~~for electronic~~ notice of intent to homeschool the child. The Department shall develop a standard form for the notice of intent to homeschool. The form must not require any information or assurances that are not otherwise required by this section or other specific statute. The board of trustees of each school district shall, in a timely manner, make only the form developed by the Department available to parents who wish to homeschool their child.

2. The initial notice of intent to homeschool must be filed before beginning to homeschool the child or:

(a) Not later than 10 days after the child has been formally withdrawn from enrollment in public school; or

(b) Not later than 30 days after establishing residency in this State.

~~2.~~ 3. The purpose of the notice of intent to homeschool is to inform the school district in which the child resides that the child is exempt from the requirement of compulsory attendance. ~~A notice of intent to homeschool that is filed with a school district remains valid in that school district without renewal until:~~

~~(a) The child is no longer subject to compulsory attendance; or~~

~~(b) The child is enrolled in a public or private school in this State.~~

~~3.~~ 4. A subsequent notice of intent to homeschool must be filed annually with the school district, beginning with the school year immediately following the school year in which the initial notice of intent to homeschool was filed. If the name or address of the parent or child as indicated on a notice of intent to homeschool changes, the parent must, not later than 30 days after the change, file a new notice of intent to homeschool with the superintendent of schools of the school district in which the child resides.

~~4.~~ 5. A notice of intent to homeschool must include only the following:

(a) The full name, age and gender of the child;

(b) The name and address of each parent filing the notice of intent to homeschool;

(c) A statement signed and dated by each such parent declaring that the parent has control or charge of the child and the legal right to direct the education of the child, and assumes full responsibility for the education of the child while the child is being homeschooled;

(d) If the notice is the initial notice of intent to homeschool, an educational plan for the child that is prepared pursuant to subsection 12;

(e) If applicable, the name of the public school in this State which the child most recently attended; and

~~(e)~~ (f) An optional statement that the parent may sign which provides: I expressly prohibit the release of any information contained in this document, including, without limitation, directory information as defined in 20 U.S.C. § 1232g(a)(5)(A), without my prior written consent.

~~5.~~ 6. Each superintendent of schools of a school district shall accept ~~any~~ a notice of intent to homeschool that is filed with him pursuant to this section and meets the requirements of subsection ~~4.~~ 5. and shall not require or request any additional information or assurances from the parent who filed the notice.

7. The school district shall provide to a parent who files a notice a written acknowledgment which clearly indicates that the parent has provided notification required by law and that the child is being homeschooled for the duration of the school year. The written acknowledgment shall be deemed proof of compliance with Nevada's

compulsory school attendance law. A written acknowledgment that a child is being homeschooled is effective for 1 school year. The school district shall provide a written acknowledgment that a child is being homeschooled for every school year for the which the parent demonstrates compliance with this section.

~~¶ 6. The superintendent of schools of a school district with whom a notice of intent to homeschool is filed shall:~~

~~(a) Upon receipt, indicate on the notice the date of receipt; and~~

~~(b) Retain a copy of the notice for not less than 15 years. The copy of the notice may be retained in an electronic format.~~

~~¶ 7.~~ 8. The superintendent of schools of a school district shall process a written request for a copy of the records of the school district, or any information contained therein, relating to a child who is being or has been homeschooled not later than 5 days after receiving the request. The superintendent of schools may only release such records or information:

(a) To a person or entity specified by the parent of the child, or by the child if he is at least 18 years of age, upon suitable proof of identity of the parent or child; or

(b) If required by specific statute.

~~¶ 8.~~ 9. If a child who is or was homeschooled seeks admittance or entrance to any school in this State, the school may use only commonly used practices in determining the academic ability, placement or eligibility of the child. A homeschooled child seeking admittance to public high school must comply with NRS 392.033.

~~¶ 9.~~ 10. A school or organization shall not discriminate in any manner against a child who is or was homeschooled.

~~¶ 10.~~ 11. Each school district shall allow homeschooled children to participate in the high school proficiency examination administered pursuant to NRS 389.015 and all college entrance examinations offered in this State, including, without limitation, the Scholastic Aptitude Test, the American College Test, the Preliminary Scholastic Aptitude Test and the National Merit Scholarship Qualifying Test. Each school district shall ~~maintain on its Internet website a tab for homeschooling, and shall post in a timely manner all pertinent information concerning such examinations available to homeschooled children within the school district, including, without limitation, the dates and times of, and contact information concerning, such examinations.~~

~~¶ 11.~~ ensure that the homeschooled children who reside in the school district have adequate notice of the availability of information concerning such examinations on the Internet website of the school district maintained pursuant to section 2.5 of this act.

12. The parent of a child who is being homeschooled shall prepare an educational plan of instruction for the child in the subject areas of English, including reading, composition and writing, mathematics, science and social studies, including history, geography, economics and government, as

appropriate for the age and level of skill of the child as determined by the parent. The educational plan must be included in the initial notice of intent to homeschool filed pursuant to this section. If the educational plan contains the requirements of this section, the educational plan must not be used in any manner as a basis for denial of an initial notice of intent to homeschool that is otherwise complete. The parent must be prepared to present the educational plan of instruction and proof of the identity of the child to a court of law if required by the court. This subsection does not require a parent to ensure that each subject area is taught each year that the child is homeschooled.

~~1227~~ **13.** *No regulation or policy of the State Board, any school district or any other governmental entity may infringe upon the right of a parent to educate his child based on religious preference unless it is:*

- (a) Essential to further a compelling governmental interest; and*
- (b) The least restrictive means of furthering that compelling governmental interest.*

~~137~~ **14.** *As used in this section, "parent" means the parent, custodial parent, legal guardian or other person in this State who has control or charge of a child and the legal right to direct the education of the child.*

Sec. 4. NRS 392.033 is hereby amended to read as follows:

392.033 1. The State Board shall adopt regulations which prescribe the courses of study required for promotion to high school, which may include the credits to be earned.

2. The board of trustees of a school district shall not promote a pupil to high school if the pupil does not complete the course of study or credits required for promotion. The board of trustees of the school district in which the pupil is enrolled may provide programs to complete the courses of study required for promotion to high school.

3. The board of trustees of each school district shall adopt a procedure for evaluating the course of study or credits completed by a pupil who transfers to a junior high or middle school from a junior high or middle school in this State or from a school outside of this State.

4. A homeschooled child who enrolls in a public high school shall, upon initial enrollment:

(a) Provide documentation sufficient to prove that the child has successfully completed the courses of study required for promotion to high school through an accredited program of homeschool study recognized by the board of trustees of the school district;

(b) Demonstrate proficiency in the courses of study required for promotion to high school through an examination prescribed by the board of trustees of the school district; or

(c) Provide other proof satisfactory to the board of trustees of the school district demonstrating competency in the courses of study required for promotion to high school.

Sec. 5. NRS 392.070 is hereby amended to read as follows:

392.070 1. Attendance *of a child* required by the provisions of NRS 392.040 must be excused when ~~[satisfactory written evidence is presented to the board of trustees of the school district in which the child resides that the child is receiving at home or in some other school equivalent instruction of the kind and amount approved by the State Board.] :~~

(a) *The child is enrolled in a private school pursuant to chapter 394 of NRS; or*

(b) *A parent of the child chooses to provide education to the child and files a notice of intent to homeschool the child with the superintendent of schools of the school district in which the child resides in accordance with section 3 of this act.*

2. The board of trustees of each school district shall provide programs of special education and related services for homeschooled children. The programs of special education and related services required by this section must be made available:

(a) Only if a child would otherwise be eligible for participation in programs of special education and related services pursuant to NRS 388.440 to 388.520, inclusive;

(b) In the same manner that the board of trustees provides, as required by 20 U.S.C. § 1412, for the participation of pupils with disabilities who are enrolled in private schools within the school district voluntarily by their parents or legal guardians; and

(c) In accordance with the same requirements set forth in 20 U.S.C. § 1412 which relate to the participation of pupils with disabilities who are enrolled in private schools within the school district voluntarily by their parents or legal guardians.

3. Except as otherwise provided in subsection 2 for programs of special education and related services, upon the request of a parent or legal guardian of a child who is enrolled in a private school or a parent or legal guardian of a homeschooled child, the board of trustees of the school district in which the child resides shall authorize the child to participate in ~~[a class that is not available to the child at the private school or home school or to participate in an extracurricular activity.]~~ **any classes and extracurricular activities**, excluding sports, at a public school within the school district if:

(a) Space for the child in the class or extracurricular activity is available; and

(b) The parent or legal guardian demonstrates to the satisfaction of the board of trustees that the child is qualified to participate in the class or extracurricular activity.

➔ If the board of trustees of a school district authorizes a child to participate in a class or extracurricular activity, excluding sports, pursuant to this subsection, the board of trustees is not required to provide transportation for the child to attend the class or activity. A homeschooled child must be allowed to participate in interscholastic activities and events governed by ~~[an association]~~ **the Nevada Interscholastic Activities Association** pursuant to

NRS 386.420 to 386.470, inclusive, and interscholastic activities and events, including sports, pursuant to subsection 5.

4. The board of trustees of a school district may revoke its approval for a pupil to participate in a class or extracurricular activity at a public school pursuant to subsection 3 if the board of trustees or the public school determines that the pupil has failed to comply with applicable statutes, or applicable rules and regulations of the board of trustees. If the board of trustees revokes its approval, neither the board of trustees nor the public school is liable for any damages relating to the denial of services to the pupil.

5. In addition to those interscholastic activities and events governed by ~~an association~~ **the Nevada Interscholastic Activities Association** pursuant to NRS 386.420 to 386.470, inclusive, homeschooled children must be allowed to participate in interscholastic activities and events, including sports. A homeschooled child who participates in interscholastic activities and events at a public school pursuant to this subsection must participate within the school district of the child's residence through the public school which the child is otherwise zoned to attend. Any rules or regulations that apply to pupils enrolled in public schools who participate in interscholastic activities and events, including sports, apply in the same manner to homeschooled children who participate in interscholastic activities and events, including, without limitation, provisions governing:

- (a) Eligibility and qualifications for participation;
- (b) Fees for participation;
- (c) Insurance;
- (d) Transportation;
- (e) Requirements of physical examination;
- (f) Responsibilities of participants;
- (g) Schedules of events;
- (h) Safety and welfare of participants;
- (i) Eligibility for awards, trophies and medals;
- (j) Conduct of behavior and performance of participants; and
- (k) Disciplinary procedures.

6. If a homeschooled child participates in interscholastic activities and events pursuant to subsection 5:

(a) No challenge may be brought by ~~an association,~~ **the Association**, a school district, a public school or a private school, a parent or guardian of a pupil enrolled in a public school or a private school, a pupil enrolled in a public school or a private school, or any other entity or person claiming that an interscholastic activity or event is invalid because the homeschooled child is allowed to participate.

(b) Neither the school district nor a public school may prescribe any regulations, rules, policies, procedures or requirements governing the eligibility or participation of the homeschooled child that are more restrictive than the provisions governing the eligibility and participation of pupils enrolled in public schools.

7. The programs of special education and related services required by subsection 2 may be offered at a public school or another location that is appropriate.

8. *The board of trustees of a school district:*

(a) *May, before providing programs of special education and related services to a homeschooled child pursuant to subsection 2, require proof of the identity of the child, including, without limitation, the birth certificate of the child or other documentation sufficient to establish the identity of the child.*

(b) *May, before authorizing a homeschooled child to participate in a class or extracurricular activity, excluding sports, pursuant to subsection 3, require proof of the identity of the child, including, without limitation, the birth certificate of the child or other documentation sufficient to establish the identity of the child.*

(c) *Shall, before allowing a homeschooled child to participate in interscholastic activities and events governed by the Nevada Interscholastic Activities Association pursuant to NRS 386.420 to 386.470, inclusive, and interscholastic activities and events pursuant to subsection 5, require proof of the identity of the child, including, without limitation, the birth certificate of the child or other documentation sufficient to establish the identity of the child.*

9. The Department ~~{may}~~ *shall* adopt such regulations as are necessary for the boards of trustees of school districts to provide the programs of special education and related services required by subsection 2.

~~{9-}~~ 10. As used in this section, “related services” has the meaning ascribed to it in 20 U.S.C. § ~~{1401(22)-}~~ **1401**.

Sec. 6. NRS 392.466 is hereby amended to read as follows:

392.466 1. Except as otherwise provided in this section, any pupil who commits a battery which results in the bodily injury of an employee of the school or who sells or distributes any controlled substance while on the premises of any public school, at an activity sponsored by a public school or on any school bus must, for the first occurrence, be suspended or expelled from that school, although he may be placed in another kind of school, for at least a period equal to one semester for that school. For a second occurrence, the pupil must be permanently expelled from that school and:

(a) ~~{Receive equivalent instruction authorized by the State Board pursuant to subsection 1 of NRS 392.070;}~~ **Enroll in a private school pursuant to chapter 394 of NRS or be homeschooled;** or

(b) Enroll in a program of independent study provided pursuant to paragraph (b) of subsection 3 of NRS 389.155 or a program of distance education provided pursuant to NRS 388.820 to 388.874, inclusive, if he qualifies for enrollment and is accepted for enrollment in accordance with the applicable requirements.

2. Except as otherwise provided in this section, any pupil who is found in possession of a firearm or a dangerous weapon while on the premises of any

public school, at an activity sponsored by a public school or on any school bus must, for the first occurrence, be expelled from the school for a period of not less than 1 year, although he may be placed in another kind of school for a period not to exceed the period of the expulsion. For a second occurrence, the pupil must be permanently expelled from the school and:

(a) ~~Receive equivalent instruction authorized by the State Board pursuant to subsection 1 of NRS 392.070;~~ **Enroll in a private school pursuant to chapter 394 of NRS or be homeschooled;** or

(b) Enroll in a program of independent study provided pursuant to paragraph (b) of subsection 3 of NRS 389.155 or a program of distance education provided pursuant to NRS 388.820 to 388.874, inclusive, if he qualifies for enrollment and is accepted for enrollment in accordance with the applicable requirements.

↪ The superintendent of schools of a school district may, for good cause shown in a particular case in that school district, allow a modification to the expulsion requirement of this subsection if such modification is set forth in writing.

3. Except as otherwise provided in this section, if a pupil is deemed a habitual disciplinary problem pursuant to NRS 392.4655, the pupil must be suspended or expelled from the school for a period equal to at least one semester for that school. For the period of his suspension or expulsion, the pupil must:

(a) ~~Receive equivalent instruction authorized by the State Board pursuant to subsection 1 of NRS 392.070;~~ **Enroll in a private school pursuant to chapter 394 of NRS or be homeschooled;** or

(b) Enroll in a program of independent study provided pursuant to paragraph (b) of subsection 3 of NRS 389.155 or a program of distance education provided pursuant to NRS 388.820 to 388.874, inclusive, if he qualifies for enrollment and is accepted for enrollment in accordance with the applicable requirements.

4. This section does not prohibit a pupil from having in his possession a knife or firearm with the approval of the principal of the school. A principal may grant such approval only in accordance with the policies or regulations adopted by the board of trustees of the school district.

5. Any pupil in grades 1 to 6, inclusive, except a pupil who has been found to have possessed a firearm in violation of subsection 2, may be suspended from school or permanently expelled from school pursuant to this section only after the board of trustees of the school district has reviewed the circumstances and approved this action in accordance with the procedural policy adopted by the board for such issues.

6. A pupil who is participating in a program of special education pursuant to NRS 388.520, other than a pupil who is gifted and talented, may, in accordance with the procedural policy adopted by the board of trustees of the school district for such matters, be:

(a) Suspended from school pursuant to this section for not more than 10 days. Such a suspension may be imposed pursuant to this paragraph for each occurrence of conduct proscribed by subsection 1.

(b) Suspended from school for more than 10 days or permanently expelled from school pursuant to this section only after the board of trustees of the school district has reviewed the circumstances and determined that the action is in compliance with the Individuals with Disabilities Education Act, 20 U.S.C. §§ 1400 et seq.

7. As used in this section:

(a) "Battery" has the meaning ascribed to it in paragraph (a) of subsection 1 of NRS 200.481.

(b) "Dangerous weapon" includes, without limitation, a blackjack, slungshot, billy, sand-club, sandbag, metal knuckles, dirk or dagger, a nunchaku, switchblade knife or trefoil, as defined in NRS 202.350, a butterfly knife or any other knife described in NRS 202.350, or any other object which is used, or threatened to be used, in such a manner and under such circumstances as to pose a threat of, or cause, bodily injury to a person.

(c) "Firearm" includes, without limitation, any pistol, revolver, shotgun, explosive substance or device, and any other item included within the definition of a "firearm" in 18 U.S.C. § 921, as that section existed on July 1, 1995.

8. The provisions of this section do not prohibit a pupil who is suspended or expelled from enrolling in a charter school that is designed exclusively for the enrollment of pupils with disciplinary problems if he is accepted for enrollment by the charter school pursuant to NRS 386.580. Upon request, the governing body of a charter school must be provided with access to the records of the pupil relating to his suspension or expulsion in accordance with applicable federal and state law before the governing body makes a decision concerning the enrollment of the pupil.

Sec. 7. The regulations adopted by the State Board of Education which are codified as NAC 392.011 to 392.065, inclusive, are hereby declared void. In preparing the supplements to the Nevada Administrative Code on or after July 1, 2007, the Legislative Counsel shall remove those regulations.

Sec. 8. This act becomes effective on July 1, 2007.

Assemblywoman Parnell moved the adoption of the amendment.

Remarks by Assemblymen Parnell and Settlemeyer.

Assemblyman Ocegüera requested that the following remarks be entered in the Journal.

ASSEMBLYWOMAN PARNELL:

Assembly Amendment 1082 requires that the Department of Education develop a standard form for use by parents to file their annual notice of intent to homeschool. The school district must acknowledge in writing that the form has been received and that it indicates that the parent is in compliance with compulsory attendance laws for the school year. It also provides that parents must provide an educational plan only with their initial notice of intent to homeschool.

ASSEMBLYMAN SETTELMEYER:

I have a question for the Committee. I was wondering what the reason was to have to fill out an annual report. With my daughters in regular school, I do not have to enter her into school every single year, so I am not sure what the benefit is of having an annual report.

ASSEMBLYWOMAN PARNELL:

To my colleague from Douglas County, currently that is the standard. *Nevada Administrative Code* requires a one-page form submitted annually to inform the school district that a child is continuing to be homeschooled. It also currently allows a child to take a course at the local elementary school and participate in extracurricular activities after they file that intent to homeschool. It is just a way to communicate with a given school district.

Amendment adopted.

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

Senate Bill No. 499.

Bill read third time.

Remarks by Assemblymen Bobzien and Carpenter.

Roll call on Senate Bill No. 499:

YEAS—42.

NAYS—None.

Senate Bill No. 499 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 595.

Bill read third time.

Remarks by Assemblymen Atkinson, Mabey, Gansert, Allen, Ocegüera, Kirkpatrick, and Hardy.

Assemblyman Ocegüera requested that the following remarks be entered in the Journal.

ASSEMBLYMAN ATKINSON:

Assembly Bill 595 concerns taxes and fuels and provides funding for highway projects. It is also a clean-up bill for the Department of Motor Vehicles regarding special fuels. This bill has the Las Vegas Convention and Visitors Authority (LVCVA) contribution of \$20 million to the highway fund. It also has a redirection of the ad valorem tax for capital projects to the highway fund for Clark and Washoe Counties. Also, it has a recovery surcharge fee of 1 percent to the highway fund from the car rental companies. Also, it contains a section that requires the Department of Transportation to adopt regulations and rules whereby they will report their progress on projects to our body.

We have been here 117 days now, and traffic and roads have become a very hot topic around here. I am happy to say that through weeks and months of negotiations and discussions with the various houses and leaders, we have landed on something I believe will keep our roads and our traffic flowing.

After every major event in the south, and particularly in the City of Las Vegas, we hear how individuals are not able to get to and from in a timely manner. We have heard all session how 100 cars are added to our roads daily. We have also heard that if we do nothing, Interstate 15 and Interstate 95 will be at level F for congestion by the year 2009.

This proposal keeps us on track to improve our roads. Madam Speaker and body of this House, we must remain flexible in government. Things change and sometimes we have to make tough decisions, and we have to change with them. Important issues and situations dictate that we remain flexible.

Some will ask, “Will this take away from parks?” I will say this from my conversations with local government: Monies that we are using for these projects were not bonded for parks, they were never dedicated to those efforts.

It may seem like a tough decision for a lot of us, but the choice becomes easy when we hear that our constituents are stuck in traffic for hours and hours at a time. We must do all we can to provide them with relief from congestion.

This is probably not the perfect plan, but it does keep our traffic flowing and it does allow our constituents some relief from congestion.

Madam Speaker and body of this house, I urge your passage.

ASSEMBLYMAN MABEY:

I rise in opposition to Assembly Bill 595. I appreciate the efforts of the Transportation Chairman and all those who worked so hard to help solve this issue. Unfortunately, in my opinion, this bill falls short of the mark and sets the wrong policy.

I understand the first part of the diversion that deals with the LVCVA, and I can support that. It stays at \$20 million over the life of this bill, so as time goes, that percentage declines.

I can also understand and support the part about the rental car companies. In exchange for this redirection, they were able to raise some of their fees, so for them it is a wash.

The final part of this three-legged stool is the part that concerns me. This is the diversion of our property tax that was set aside for capital improvements for highway construction. Under the provisions that apply, the counties will pay over \$77 million per year over the last years. These funds are used to build parks, soccer fields, baseball fields, football fields, swimming pools, skating rinks, jails, and other projects that make our communities better places to live.

While Washoe County may not suffer from a lack of parks, Clark County and Las Vegas have a dearth of these facilities. This diversion will only worsen the condition. When you add this to the recent tax abatements that we passed last Saturday, it further worsens the condition. When Little Johnnie asks, “Can we go to the park to swing?” or Jacob wonders why there is no baseball diamond, or Mary has to play in the sprinklers in her backyard instead of going to the swimming pool, we can tell them that the funds went to Interstate 15 to help the biggest corporations in Nevada.

In my opinion, we are helping the major corporations in this state at the expense of our families that are already struggling to make it. The families in my district are willing to sacrifice to have better roads; however, the LVCVA and rental car companies do not sacrifice anything. Why should the families in Nevada be the only ones in Nevada to sacrifice their parks, baseball fields, swimming pools, and other projects that improve the qualities of their neighborhoods, when no one else does? Like I said when I started, in my opinion, this is a bad policy and the families in my district elected me because they felt I could correctly represent them. For them, for the reasons I have explained, and more, I will be voting against the bill.

ASSEMBLYWOMAN GANSERT:

I rise in support of Assembly Bill 595. I have been following the evolution of this bill, and I have seen many people come to the table and collaborate to get the best solution possible at this time. I recognize that local governments will be participating, and I also recognize that it is important that they do so. I appreciate the rental car industry stepping up, and I think it is important to recognize as well that gaming came to the table, stayed at the table, and have been part of the solution. Again, I urge support of this bill. I think it is a good one.

ASSEMBLYWOMAN ALLEN:

I rise in respectful opposition to Assembly Bill 595. I appreciate all the hard work that this body has done in conjunction with all the industries in play, but I am not fully convinced that this is a comprehensive solution to our transportation problems. I would like to see us return to this discussion again in the future and perhaps come up with a more comprehensive package that will help the folks in suburban Las Vegas.

ASSEMBLYMAN OCEGUERA:

I rise in support of Assembly Bill 595. In response to the Minority Leader’s suggestion that children will not be able to go to the park, I do not believe that is correct. I think parks are

generally funded by impact fees. The maintenance of parks are funded by fees such as those listed in this bill. In fact, the county managers of the counties affected in this bill came to us and offered this as a solution. I just want to make sure that is clear for the record.

ASSEMBLYWOMAN KIRKPATRICK:

I rise in support of Assembly Bill 595. We can talk about quality of life issues all day long, but when somebody's parents are sitting on the freeway for an hour everyday, losing time that they could be spending with their children, that also affects the quality of life. For myself, it take 45 minutes to drive 17 miles every day. That is 45 minutes that I could be spending with my children at their school, helping them with homework, or having a decent dinnertime. I am really frustrated that we stand here today with something that helps us move forward. We are not fixing it, but at least we are putting a dent in it. I am not going back home to tell my constituents that a park is more important than being at home having dinner with their children. I urge your support.

ASSEMBLYMAN HARDY:

I rise in support of Assembly Bill 595. I was privileged to have the opportunity to be in every group that I could insert myself into working with the involved industries, local governments, various branches of government, and trying to develop something that would pass. Working within the parameters of that box, and trying to think outside of the box that we have boxed ourselves into in regards to traffic, we came up with what I consider the best that we could do.

My hat is literally off to those who have stepped forward to do such, and I appreciate the Transportation Chair and the bipartisan effort that has gone into this. I shared my concept and feelings with other comments that were made regarding spending a half hour going to work and coming from work. That is an hour that I would like to be home, and so the family concept is important—the time that I have, that we have, that we are going to protect for families to have at home.

I do not think that any of us are so naïve to think that we have solved all of the traffic problems with this bill, but this is the start. This allows us to do preservation of payment so we save money. This allows us to do bonding so we can get roads down now. This allows us to do zoning so we can pay for the roads where we live. This allows us to do those kinds of things that the Executive Branch suggested in its first rendition as well taking into account the good input that we have had from the Legislative Branch. I am definitely in support of this, and I appreciate the efforts that everybody put forth coming to the many tables that were involved.

Assemblymen Beers, Marvel, and Goicoechea moved the previous question.

The question being on the passage of Assembly Bill No. 595.

Roll call on Assembly Bill No. 595:

YEAS—40.

NAYS—Allen, Mabey—2.

Assembly Bill No. 595 having received a two-thirds majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 144.

Bill read third time.

Roll call on Assembly Bill No. 144:

YEAS—42.

NAYS—None.

Assembly Bill No. 144 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Assembly Bill No. 280.

Bill read third time.

Remarks by Assemblywoman Smith.

Roll call on Assembly Bill No. 280:

YEAS—42.

NAYS—None.

Assembly Bill No. 280 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 565.

Bill read third time.

Remarks by Assemblywoman Smith.

Roll call on Assembly Bill No. 565:

YEAS—42.

NAYS—None.

Assembly Bill No. 565 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Senate Bill No. 404.

Bill read third time.

Remarks by Assemblymen Parnell, Hardy, and Denis.

Assemblyman Ocegüera requested that the following remarks be entered in the Journal.

ASSEMBLYWOMAN PARNELL:

Thank you, Madam Speaker. Assembly Bill 404 requires the Department of Education to develop a standard form for use by parents when filing their annual notice of intent. That notice of intent remains, as in the amended form, a yearly notice with each school district. The district then, in turn, must acknowledge in writing that the form has been received so the parents can use it to excuse their children from compulsory attendance. Parents must include an education plan only with the initial notice of intent to homeschool. Homeschooled children seeking admittance to high school must comply with the requirements for promotion from eighth to ninth grade. School districts must establish and maintain information on a website about standardized testing available for homeschooled children.

ASSEMBLYMAN HARDY:

Thank you, Madam Speaker. I rise in support of Senate Bill 404, as amended. When I consider homeschooled children having the advantage of being able to participate in extracurricular activities, like sports, I think that is a wise thing that we have made available to them. What I consider the “get out of jail free” card for truancy is when a homeschooler is registered as a homeschooler and will have the opportunity to have a piece of paper that says they don’t have to be in school. The parents, under legal means, will no longer have difficulties with that because the form will be generated. The form has been filled out by the homeschooler’s parent.

Some of the homeschoolers have the ability to take high school courses or take special courses not otherwise available in homeschooling. The amended bill will look at the one-page renewal form that the homeschooling parent can fill out in order for the school district to be aware of who the homeschooled person is. The school district will have some fiduciary responsibility looking at the potential for the homeschooler to enter back into the public school system. Thank you, Madam Speaker. I am in support.

ASSEMBLYMAN DENIS:

Thank you, Madam Speaker. I, too, rise in support of Senate Bill 404. As we heard the testimony on this bill, it became apparent that this is a good thing for those who homeschool. They work very hard. Homeschoolers worked very hard to craft this legislation. We have received a lot of emails about it recently. I think what has been said previously is correct. This legislation is good and will be an update to our laws concerning homeschooling. It gives those parents who choose to homeschool better options than they had before. I urge your support.

Roll call on Senate Bill No. 404:

YEAS—42.

NAYS—None.

Senate Bill No. 404 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

UNFINISHED BUSINESS

APPOINTMENT OF CONFERENCE COMMITTEES

Madam Speaker appointed Assemblymen Anderson, Smith, and Beers as a first Conference Committee to meet with a like committee of the Senate for the further consideration of Assembly Bill No. 127.

Madam Speaker appointed Assemblymen Anderson, Segerblom, and Mabey as a first Conference Committee to meet with a like committee of the Senate for the further consideration of Assembly Bill No. 521.

CONSIDERATION OF SENATE AMENDMENTS

Assembly Bill No. 624.

The following Senate amendment was read:

Amendment No. 1070.

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.

Assemblyman Atkinson moved that the Assembly concur in the Senate amendment to Assembly Bill No. 624.

Remarks by Assemblyman Atkinson.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

RECEDE FROM ASSEMBLY AMENDMENTS

Assemblywoman Kirkpatrick moved that the Assembly do not recede from its actions on Senate Bill No. 274, that a conference be requested, and that Madam Speaker appoint a first Conference Committee consisting of three members to meet with a like committee of the Senate.

Remarks by Assemblywoman Kirkpatrick.

Motion carried.

APPOINTMENT OF CONFERENCE COMMITTEES

Madam Speaker appointed Assemblymen Kirkpatrick, Bobzien, and Goicoechea as a first Conference Committee to meet with a like committee of the Senate for the further consideration of Senate Bill No. 274.

RECEDE FROM ASSEMBLY AMENDMENTS

Assemblywoman Kirkpatrick moved that the Assembly do not recede from its action on Senate Bill No. 509, that a conference be requested, and that Madam Speaker appoint a first Conference Committee consisting of three members to meet with a like committee of the Senate.

Remarks by Assemblywoman Kirkpatrick.

Motion carried.

APPOINTMENT OF CONFERENCE COMMITTEES

Madam Speaker appointed Assemblymen Smith, Kihuen, and Stewart as a first Conference Committee to meet with a like committee of the Senate for the further consideration of Senate Bill No. 509.

CONSIDERATION OF SENATE AMENDMENTS

Assembly Bill No. 428.

The following Senate amendment was read:

Amendment No. 695.

AN ACT relating to personal identifying information; prohibiting the use of certain personal identifying information of another to obtain any other personal identifying information of that person without the prior express

consent of the person; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law prohibits the use of the personal identifying information of another to harm that person or to obtain credit, a good, a service or anything of value in the name of that other person. (NRS 205.4617, 205.463, 205.464, 205.465) Section 1 of this bill provides that personal identifying information includes, without limitation, any information that can be used to identify the actions, communications or other activities or transactions of a person. (NRS 205.4617) Section 2 of this bill provides that a person who uses the personal identifying information of another, **with the intent to commit an unlawful act**, to: (1) represent or impersonate that other person to obtain access to any personal identifying information of that other person without the prior express consent of that **other** person, or (2) obtain access to any **nonpublic** record of the actions taken, communications made or received by, or other activities or transactions of that other person without the prior express consent of that **other** person is guilty of a category B felony. (NRS 205.463)

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

Section 1. NRS 205.4617 is hereby amended to read as follows:

205.4617 1. Except as otherwise provided in subsection 2, "personal identifying information" means any information designed, commonly used or capable of being used, alone or in conjunction with any other information, to identify a living or deceased person ~~to~~ **or to identify the actions taken, communications made or received by, or other activities or transactions of a living or deceased person**, including, without limitation:

(a) The current or former name, driver's license number, identification card number, social security number, checking account number, savings account number, credit card number, debit card number, financial services account number, date of birth, place of employment and maiden name of the mother of a person.

(b) The unique biometric data of a person, including, without limitation, the fingerprints, facial scan identifiers, voiceprint, retina image and iris image of a person.

(c) The electronic signature, unique electronic identification number, address or routing code, telecommunication identifying information or access device of a person.

(d) The personal identification number or password of a person.

(e) The alien registration number, government passport number, employer identification number, taxpayer identification number, Medicaid account number, food stamp account number, medical identification number or health insurance identification number of a person.

(f) The number of any professional, occupational, recreational or governmental license, certificate, permit or membership of a person.

(g) The number, code or other identifying information of a person who receives medical treatment as part of a confidential clinical trial or study, who participates in a confidential clinical trial or study involving the use of prescription drugs or who participates in any other confidential medical, psychological or behavioral experiment, study or trial.

(h) The utility account number of a person.

2. To the extent that any information listed in subsection 1 is designed, commonly used or capable of being used, alone or in conjunction with any other information, to identify an artificial person, "personal identifying information" includes information pertaining to an artificial person.

Sec. 2. NRS 205.463 is hereby amended to read as follows:

205.463 1. Except as otherwise provided in subsections 2 and 3, a person who knowingly:

(a) Obtains any personal identifying information of another person; and

(b) ~~Uses~~ **With the intent to commit an unlawful act, uses** the personal identifying information ~~for~~:

(1) ***To harm that other person;***

(2) ***To represent or impersonate that other person to obtain access to any personal identifying information of that other person without the prior express consent of that other person;***

(3) ***To obtain access to any nonpublic record of the actions taken, communications made or received by, or other activities or transactions of that other person without the prior express consent of that other person;*** or ~~for~~

(4) ***For any other unlawful purpose, including, without limitation, to obtain credit, a good, a service or anything of value in the name of that other person,***

↪ is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 20 years, and may be further punished by a fine of not more than \$100,000.

2. Except as otherwise provided in subsection 3, a person who knowingly:

(a) Obtains any personal identifying information of another person; and

(b) Uses the personal identifying information to avoid or delay being prosecuted for an unlawful act,

↪ is guilty of a category C felony and shall be punished as provided in NRS 193.130.

3. A person who violates:

(a) Subsection 1 or 2 by obtaining and using the personal identifying information of an older person or a vulnerable person; or

(b) Subsection 2 to avoid or delay being prosecuted for an unlawful act that is punishable as a category A felony or category B felony,

↪ is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 3 years and a maximum

term of not more than 20 years, and may be further punished by a fine of not more than \$100,000.

4. In addition to any other penalty, the court shall order a person convicted of violating subsection 1 to pay restitution, including, without limitation, any attorney's fees and costs incurred to:

(a) Repair the credit history or rating of the person whose personal identifying information he obtained and used in violation of subsection 1; and

(b) Satisfy a debt, lien or other obligation incurred by the person whose personal identifying information he obtained and used in violation of subsection 1.

Assemblyman Anderson moved that the Assembly concur in the Senate Amendment No. 695 to Assembly Bill No. 428.

Remarks by Assemblyman Anderson.

Motion carried.

The following Senate amendment was read:

Amendment No. 948.

SUMMARY—~~[Prohibits the use and acquisition of certain]~~ **Makes various changes relating to crimes involving the unlawful use of** personal identifying information of another ~~[without the prior consent of that]~~ person. (BDR 15-1334)

AN ACT relating to personal identifying information; prohibiting the use of certain personal identifying information of another to obtain any other personal identifying information of that person without the prior express consent of the person; **increasing the penalty for possessing, selling, transferring or obtaining and using the personal identifying information of another person under certain circumstances; creating a rebuttable inference of the intent to use the personal identifying information of another person unlawfully under certain circumstances; allowing a postal inspector of the United States Postal Inspection Service to make arrests without a warrant under certain circumstances;** providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law prohibits the use of the personal identifying information of another to harm that person or to obtain credit, a good, a service or anything of value in the name of that other person. (NRS 205.4617, 205.463, 205.464, 205.465) Section 1 of this bill provides that personal identifying information includes, without limitation, any information that can be used to identify the actions, communications or other activities or transactions of a person. (NRS 205.4617) Section 2 of this bill provides that a person who uses the personal identifying information of another, with the intent to commit an unlawful act, to: (1) represent or impersonate that other person to obtain access to any personal identifying information of that other person without the prior express consent of that other person, or (2) obtain access to any nonpublic record of the actions taken, communications made or received by, or other

activities or transactions of that other person without the prior express consent of that other person is guilty of a category B felony. (NRS 205.463)

Sections 2, 3 and 4 of the bill also: (1) increase the penalties for using the personal identifying information of another person if the violation involves the personal identifying information of five or more persons or if the violation causes the victim to suffer a financial loss of \$3,000 or more; and (2) create a rebuttable inference of the intent to use the personal identifying information of another person unlawfully if a person possesses the personal identifying information of five or more persons not in the ordinary course of his business or pursuant to a financial transaction entered into with an authorized user of a payment card.

Under existing law, arrests without a warrant may be made under certain circumstances by peace officers, officers of the Drug Enforcement Administration, agents of the Federal Bureau of Investigation or the Secret Service, officers of the Bureau of Indian Affairs or persons employed as police officers by an Indian tribe. (NRS 171.124, 171.1245, 171.1255) Section 5 of this bill allows a postal inspector of the United States Postal Inspection Service to also make arrests without a warrant under certain circumstances.

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

Section 1. NRS 205.4617 is hereby amended to read as follows:

205.4617 1. Except as otherwise provided in subsection 2, “personal identifying information” means any information designed, commonly used or capable of being used, alone or in conjunction with any other information, to identify a living or deceased person ~~or~~ ***or to identify the actions taken, communications made or received by, or other activities or transactions of a living or deceased person***, including, without limitation:

(a) The current or former name, driver’s license number, identification card number, social security number, checking account number, savings account number, credit card number, debit card number, financial services account number, date of birth, place of employment and maiden name of the mother of a person.

(b) The unique biometric data of a person, including, without limitation, the fingerprints, facial scan identifiers, voiceprint, retina image and iris image of a person.

(c) The electronic signature, unique electronic identification number, address or routing code, telecommunication identifying information or access device of a person.

(d) The personal identification number or password of a person.

(e) The alien registration number, government passport number, employer identification number, taxpayer identification number, Medicaid account

number, food stamp account number, medical identification number or health insurance identification number of a person.

(f) The number of any professional, occupational, recreational or governmental license, certificate, permit or membership of a person.

(g) The number, code or other identifying information of a person who receives medical treatment as part of a confidential clinical trial or study, who participates in a confidential clinical trial or study involving the use of prescription drugs or who participates in any other confidential medical, psychological or behavioral experiment, study or trial.

(h) The utility account number of a person.

2. To the extent that any information listed in subsection 1 is designed, commonly used or capable of being used, alone or in conjunction with any other information, to identify an artificial person, “personal identifying information” includes information pertaining to an artificial person.

Sec. 2. NRS 205.463 is hereby amended to read as follows:

205.463 1. Except as otherwise provided in subsections 2 and 3, a person who knowingly:

(a) Obtains any personal identifying information of another person; and

(b) ~~Uses~~ **With the intent to commit an unlawful act, uses** the personal identifying information ~~to~~ :

(1) **To** harm that other person ;

(2) **To represent or impersonate that other person to obtain access to any personal identifying information of that other person without the prior express consent of that other person;**

(3) **To obtain access to any nonpublic record of the actions taken, communications made or received by, or other activities or transactions of that other person without the prior express consent of that other person;** or ~~for~~

(4) **For** any *other* unlawful purpose, including, without limitation, to obtain credit, a good, a service or anything of value in the name of that *other* person,

↪ is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 20 years, and may be further punished by a fine of not more than \$100,000.

2. Except as otherwise provided in subsection 3, a person who knowingly:

(a) Obtains any personal identifying information of another person; and

(b) Uses the personal identifying information to avoid or delay being prosecuted for an unlawful act,

↪ is guilty of a category C felony and shall be punished as provided in NRS 193.130.

3. A person who violates:

(a) Subsection 1 or 2 by obtaining and using the personal identifying information of an older person or a vulnerable person; ~~for~~

(b) Subsection 1 or 2 by obtaining and using the personal identifying information of five or more persons;

(c) Subsection 1 or 2 by causing another person to suffer a financial loss or injury of \$3,000 or more as a result of the violation; or

(d) Subsection 2 to avoid or delay being prosecuted for an unlawful act that is punishable as a category A felony or category B felony,

↪ is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 3 years and a maximum term of not more than 20 years, and may be further punished by a fine of not more than \$100,000.

4. In addition to any other penalty, the court shall order a person convicted of violating subsection 1 to pay restitution, including, without limitation, any attorney's fees and costs incurred to:

(a) Repair the credit history or rating of the person whose personal identifying information he obtained and used in violation of subsection 1; and

(b) Satisfy a debt, lien or other obligation incurred by the person whose personal identifying information he obtained and used in violation of subsection 1.

5. Proof of possession of the personal identifying information of five or more persons in a manner not set forth in NRS 205.4655 permits a rebuttable inference that the possessor intended to use such information in violation of this section.

Sec. 3. NRS 205.464 is hereby amended to read as follows:

205.464 1. Except as otherwise provided in subsection 2, a public officer or public employee who knowingly:

(a) Obtains any personal identifying information of another person from any document, file, database, source or process used by a public body to collect, store, maintain, transfer, reproduce, manage or administer personal identifying information; and

(b) Uses the personal identifying information to harm that other person or for any unlawful purpose, including, without limitation, to obtain credit, a good, a service or anything of value in the name of that person,

↪ is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 5 years and a maximum term of not more than 20 years, and may be further punished by a fine of not more than \$100,000.

2. A public officer or public employee who violates subsection 1 by ~~obtaining~~:

(a) Obtaining and using the personal identifying information of an older person or a vulnerable person ;

(b) Obtaining and using the personal identifying information of five or more persons; or

(c) Causing another person to suffer a financial loss or injury of \$3,000 or more as a result of the violation,

↪ is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 7 years and a maximum term of not more than 20 years, and may be further punished by a fine of not more than \$100,000.

3. Except as otherwise provided in subsection 4, a public officer or public employee who knowingly:

(a) Obtains any personal identifying information of another person from any document, file, database, source or process used by a public body to collect, store, maintain, transfer, reproduce, manage or administer personal identifying information; and

(b) Possesses, sells or transfers the personal identifying information for the purpose of establishing a false status, occupation, membership, license or identity for himself or any other person,

↪ is guilty of a category C felony and shall be punished as provided in NRS 193.130.

4. A public officer or public employee who violates subsection 3 by ~~obtaining~~ :

(a) Obtaining and possessing, selling or transferring the personal identifying information of an older person or a vulnerable person ;

(b) Obtaining and possessing, selling or transferring the personal identifying information of five or more persons; or

(c) Causing another person to suffer a financial loss or injury of \$3,000 or more as a result of the violation.

↪ is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 20 years, and may be further punished by a fine of not more than \$100,000.

5. Except as otherwise provided in subsection 6, a public officer or public employee who knowingly aids another public officer or public employee to commit a violation of any provision of this section is guilty of a category C felony and shall be punished as provided in NRS 193.130.

6. A public officer or public employee who violates subsection 5 by knowingly aiding another public officer or public employee in committing a violation of this section by ~~obtaining~~ :

(a) Obtaining the personal identifying information of an older person or a vulnerable person ;

(b) Obtaining the personal identifying information of five or more persons; or

(c) Causing another person to suffer a financial loss or injury of \$3,000 or more as a result of the violation.

↪ is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 20 years, and may be further punished by a fine of not more than \$100,000.

7. The provisions of this section do not prohibit the possession or use of any personal identifying information by officers of local police, sheriff and metropolitan police departments and by agents of the Investigation Division of the Department of Public Safety while engaged in undercover investigations related to the lawful discharge of their duties.

8. In addition to any other penalty, the court shall order a public officer or public employee convicted of violating any provision of this section to pay restitution, including, without limitation, any attorney's fees and costs incurred, to:

(a) Repair the credit history or rating of the person whose personal identifying information the public officer or public employee obtained and used in violation of subsection 1; and

(b) Satisfy a debt, lien or other obligation incurred by the person whose personal identifying information the public officer or public employee obtained and used in violation of this section.

9. Proof of possession of the personal identifying information of five or more persons in a manner not set forth in NRS 205.4655 permits a rebuttable inference that the possessor intended to use such information in violation of this section.

Sec. 4. NRS 205.465 is hereby amended to read as follows:

205.465 1. It is unlawful for a person to possess, sell or transfer any document or personal identifying information for the purpose of establishing a false status, occupation, membership, license or identity for himself or any other person.

2. Except as otherwise provided in subsection 3, a person who:

(a) Sells or transfers any such document or personal identifying information in violation of subsection 1; or

(b) Possesses any such document or personal identifying information in violation of subsection 1 to commit any of the crimes set forth in NRS 205.085 to 205.217, inclusive, 205.473 to 205.513, inclusive, or 205.610 to 205.810, inclusive,

↪ is guilty of a category C felony and shall be punished as provided in NRS 193.130.

3. A person who violates subsection 2 by ~~selling~~ :

(a) Selling or transferring the personal identifying information of an older person or a vulnerable person ;

(b) Selling or transferring the personal identifying information of five or more persons; or

(c) Causing another person to suffer a financial loss or injury of \$3,000 or more as a result of the violation.

↪ is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 20 years, and may be further punished by a fine of not more than \$100,000.

4. Except as otherwise provided in this subsection and subsections 2 and 3, a person who possesses any such document or personal identifying information in violation of subsection 1 is guilty of a category E felony and shall be punished as provided in NRS 193.130. If a person possesses any such document or personal identifying information in violation of subsection 1 for the sole purpose of establishing false proof of age, including, without limitation, establishing false proof of age to game, purchase alcoholic beverages or purchase cigarettes or other tobacco products, the person is guilty of a misdemeanor.

5. Subsection 1 does not:

(a) Preclude the adoption by a city or county of an ordinance prohibiting the possession of any such document or personal identifying information; or

(b) Prohibit the possession or use of any such document or personal identifying information by officers of local police, sheriff and metropolitan police departments and by agents of the Investigation Division of the Department of Public Safety while engaged in undercover investigations related to the lawful discharge of their duties.

6. Proof of possession of the personal identifying information of five or more persons in a manner not set forth in NRS 205.4655 permits a rebuttable inference that the possessor intended to use such information in violation of this section.

Sec. 5. Chapter 171 of NRS is hereby amended by adding thereto a new section to read as follows:

A postal inspector of the United States Postal Inspection Service may, without a warrant, arrest a person:

1. For a public offense committed or attempted in his presence.

2. When the person arrested has committed a felony or gross misdemeanor, although not in his presence.

3. When a felony or gross misdemeanor has in fact been committed, and he has reasonable cause for believing the person arrested to have committed it.

4. On a charge made, upon a reasonable cause, of the commission of a felony or gross misdemeanor by the person arrested.

5. When a warrant has in fact been issued in this State for the arrest of a named or described person for a public offense, and he has reasonable cause to believe that the person arrested is the person so named or described.

Assemblyman Anderson moved that the Assembly do not concur in the Senate Amendment No. 948 to Assembly Bill No. 428.

Remarks by Assemblyman Anderson.

Motion carried.

Bill ordered transmitted to the Senate.

RECEDE FROM ASSEMBLY AMENDMENTS

Assemblyman Anderson moved that the Assembly do not recede from its action on Senate Bill No. 131, that a conference be requested, and that Madam Speaker appoint a first Conference Committee consisting of three members to meet with a like committee of the Senate.

Remarks by Assemblyman Anderson.

Motion carried.

APPOINTMENT OF CONFERENCE COMMITTEES

Madam Speaker appointed Assemblymen Horne, Ohrenschall, and Allen as a first Conference Committee to meet with a like committee of the Senate for the further consideration of Senate Bill No. 131.

RECEDE FROM ASSEMBLY AMENDMENTS

Assemblyman Anderson moved that the Assembly do not recede from its action on Senate Bill No. 303, that a conference be requested, and that Madam Speaker appoint a first Conference Committee consisting of three members to meet with a like committee of the Senate.

Remarks by Assemblyman Anderson.

Motion carried.

APPOINTMENT OF CONFERENCE COMMITTEES

Madam Speaker appointed Assemblymen Anderson, Manendo, and Carpenter as a first Conference Committee to meet with a like committee of the Senate for the further consideration of Senate Bill No. 303.

CONSIDERATION OF SENATE AMENDMENTS

Assembly Bill No. 182.

The following Senate amendment was read:

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

Section ~~6.71~~ 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}~~ ~~{, 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}~~ ~~{, 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 ~~1.5~~ percent of ~~the~~ *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.

~~[(4)]~~ (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~~ (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

~~{}~~, *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 ~~{}~~ *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~~ *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~~ *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~~ *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~~ *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 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 ~~and~~ ***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 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 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:

~~11~~ (a) Review and evaluate the quality and effectiveness of programs for the prevention of illness.

~~12~~ (b) Review and compare the costs of medical care among communities in Nevada with similar communities in other states.

~~13~~ (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.

~~14~~ (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.

~~15~~ (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.

~~16~~ (f) Examine medical malpractice.

~~17~~ (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.

~~18~~ (h) Review competitive mechanisms to aid in the reduction of the costs of medical care.

~~19~~ (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:

~~(1)~~ **(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;

~~(2)~~ **(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;

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

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

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

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

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

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

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

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

2. The Committee shall:

(a) Prioritize the needs for 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 ~~{;}~~ **or his designee;**
- (b) A director of a local agency ~~{providing}~~ **which provides** services for abused or neglected children ~~{;}~~
- ~~{(c)}~~ **A representative of a community organization involved with or his designee;**
- ~~{(c)}~~ **A member who 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)}~~ **Two members who possess knowledge, skill and experience in finance or in business generally;**
- ~~{(g)}~~ **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)}~~ **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)}~~ **A member who possesses knowledge, skill and experience in the provision of services to persons with disabilities;**
- ~~{(k)}~~ **A member who possesses knowledge, skill and experience in the provision of services relating to the cessation of the use of tobacco;**
- ~~{(l)}~~ **A member who possesses knowledge, skill and experience in the provision of health services to children; and**
- ~~{(m)}~~ **A representative who is a member of the Nevada Commission on Aging, created by NRS 427A.032, who must not be a Legislator.**

~~{ }~~ **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~~ 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~~ 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~~ 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.}~~
~~{ }~~ 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.}~~

~~(e)~~ 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.

Assemblywoman Leslie moved that the Assembly do not concur in the Senate amendment to Assembly Bill No. 182.

Remarks by Assemblywoman Leslie.

Motion carried.

Bill ordered transmitted to the Senate.

REPORTS OF CONFERENCE COMMITTEES

Madam Speaker:

The first Conference Committee concerning Assembly Bill No. 148, consisting of the undersigned members, has met and reports that:

It has agreed to recommend that the Amendment No. 669 of the Senate be concurred in.

It has agreed to recommend that the bill be further amended as set forth in Conference Amendment No. 4, which is attached to and hereby made a part of this report.

SHEILA LESLIE
BERNIE ANDERSON
JOE HARDY

Assembly Conference Committee

MAURICE WASHINGTON
JOYCE WOODHOUSE
JOSEPH HECK

Senate Conference Committee

Conference Amendment No. CA4.

SUMMARY—~~[Enacts provisions governing the sale of products containing materials that are used in the manufacture of]~~ **Makes various changes relating to methamphetamine and other controlled substances.** (BDR 40-512)

AN ACT relating to controlled substances; ~~[requiring entities that sell certain products that are precursors to methamphetamine to place such products in an area to which the public does not have direct access, to limit the quantity of such products sold or transferred to the same person during any calendar day, to maintain a list of sales of such products and to ensure that certain information is entered in that list; prohibiting a person from acquiring more than a certain amount of certain products that are]~~ **making various changes concerning the sale, transfer or acquisition of precursors to methamphetamine; making various changes relating to crimes relating to the use or manufacturing of methamphetamine and other controlled substances; revising various provisions relating to nuisances;** providing penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

This bill establishes restrictions on the sale and purchase of products that contain materials that can be used to manufacture methamphetamine ~~[]~~ **and makes other various changes pertaining to methamphetamine and other controlled substances.**

Section 6 of this bill requires sellers of a product that contains certain materials that can be used to manufacture methamphetamine to keep the product in a locked case or cabinet or behind a store counter so that the public does not have direct access to the product. Section 7 of this bill establishes limits on the quantity of certain chemicals that can be sold to the same person during a calendar day. Section 8 of this bill requires sellers of a product that contains materials that can be used to manufacture methamphetamine to maintain a logbook of sales and transfers of the product and to ensure that certain information is entered in the logbook.

If a seller of a product that contains materials that can be used to manufacture methamphetamine violates section 6, 7 or 8 of this bill, section 9 of this bill provides that the seller is subject to a civil penalty of not more than \$250,000 for each violation.

Section 10 of this bill prohibits a person from knowingly or intentionally purchasing or otherwise acquiring a certain amount of certain chemicals that can be used to manufacture methamphetamine. A person who violates this provision is subject to criminal penalties.

Section 11 of this bill prohibits a person from knowingly or intentionally entering false information in the logbook. A person who violates this provision is guilty of a category D felony.

Section 11.5 of this bill prohibits the possession or disposition of chemical waste or debris resulting from the manufacture of methamphetamine.

Existing law prohibits a person from possessing certain chemicals with the intent to manufacture or compound a controlled substance other than marijuana. (NRS 453.322) Section 11.7 of this bill adds lithium metal and sodium metal to the list of prohibited chemicals. Section 11.7 also prohibits a person from providing such a chemical to another person with the intent that it be used in the manufacturing or compounding of a controlled substance other than marijuana.

Existing law provides that a building or place used to unlawfully manufacture a controlled substance is a nuisance, which creates civil liability, and a public nuisance, which is a crime. (NRS 40.140, 202.450, 202.470) Sections 16 and 17 of this bill provide that a building or place that was used to unlawfully manufacture a controlled substance is both a nuisance and a public nuisance if certain activities relating to the decontamination of the building or place have not occurred within a certain period.

Section 25 of this bill prohibits a person from: (1) selling or transferring in the course of business a product that is a precursor to methamphetamine; or (2) engaging in the business of selling at retail a product that is a precursor to methamphetamine, unless the person is a pharmacy.

Section 26 of this bill requires a pharmacy that becomes aware of any unusual or excessive loss or disappearance of a product that is a precursor to methamphetamine to report the loss or disappearance to the Department of Public Safety.

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

Section 1. Chapter 453 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to ~~11~~ 11.5, inclusive, of this act.

Sec. 2. *As used in sections 2 to 11, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 3, 4 and 5 of this act have the meanings ascribed to them in those sections.*

Sec. 3. *"Logbook" means a written or electronic list of each sale or transfer of a product that is a precursor to methamphetamine.*

Sec. 4. *"Product that is a precursor to methamphetamine" means a product that contains ephedrine, pseudoephedrine or phenylpropanolamine or the salts, optical isomers or salts of optical isomers of such chemicals and may be marketed or distributed lawfully in the United States under the*

Federal Food, Drug and Cosmetic Act, 21 U.S.C. §§ 301 et seq., as a nonprescription drug.

Sec. 5. *"Retail distributor" means a grocery store, general merchandise store, drugstore, pharmacy or other entity or person whose activities as a distributor of a product that is a precursor to methamphetamine are limited exclusively or almost exclusively to sales for personal use by an ultimate user, both in number of sales and volume of sales, either directly to walk-in customers or in face-to-face transactions by direct sales.*

Sec. 6. *A retail distributor shall keep, store or place a product that is a precursor to methamphetamine in a locked case or cabinet or behind a counter so that the public does not have direct access to the product before a sale or transfer is made.*

Sec. 7. 1. *Except as otherwise provided in subsection 2, a retail distributor shall not:*

(a) Sell or transfer to the same person during any calendar day, without regard to the number of transactions, more than 3.6 grams of ephedrine base, pseudoephedrine base or phenylpropanolamine base or the salts, optical isomers or salts of optical isomers of such chemicals in a product that is a precursor to methamphetamine.

(b) Sell at retail and in nonliquid form a product that is a precursor to methamphetamine, including, without limitation, gel caps, unless:

(1) The product is packaged in blister packs, each blister containing not more than two dosage units; or

(2) If the use of blister packs is technically infeasible, the product is packaged in unit dosage packets or pouches.

2. *The provisions of subsection 1 do not apply if, pursuant to 21 U.S.C. § 830(e)(3), the Attorney General of the United States has determined that a product that is a precursor to methamphetamine cannot be used to manufacture methamphetamine and provided by regulation that the product is exempt from the provisions of 21 U.S.C. § 830(d).*

Sec. 8. 1. *A retail distributor shall maintain a logbook.*

2. *At the time of a sale or transfer of a product that is a precursor to methamphetamine, a retail distributor shall ensure that the following information is entered in the logbook:*

(a) The name of the product sold or transferred;

(b) The quantity of the product sold or transferred;

(c) The name and address of the purchaser or transferee; and

(d) The date and time of the sale or transfer.

3. *A retail distributor shall not sell or transfer a product that is a precursor to methamphetamine unless:*

(a) The prospective purchaser or transferee:

(1) Presents an identification card that provides a photograph and is issued by the Government of the United States or the government of this

State or any other state, or a document that, with respect to identification, is considered acceptable pursuant to 21 U.S.C. § 830(e)(1); and

(2) Signs his name in the logbook; and

(b) The retail distributor determines that the name entered in the logbook corresponds to the name provided on the identification presented by the prospective purchaser or transferee.

4. The retail distributor must include in the logbook or otherwise post or provide to a prospective purchaser or transferee a notice that entering a false statement or representation in the logbook may subject the prospective purchaser or transferee to criminal penalties under state law, as set forth in section 11 of this act, and under federal law, as set forth in 18 U.S.C. § 1001.

5. A retail distributor shall maintain each entry in the logbook for not less than 2 years after the date on which the entry is made.

6. A retail distributor shall not access, use or share the information in the logbook unless the accessing, using or sharing of the information is allowed by federal law or unless the purpose of accessing, using or sharing the information is to ensure compliance with this chapter or to facilitate a product recall to protect the health and safety of the public.

7. Upon a request, which is made for the purpose of enforcing the provisions of sections 2 to 11, inclusive, of this act, by a law enforcement agency of this State or a political subdivision thereof or a law enforcement agency of the Federal Government, a retail distributor shall disclose the information in the logbook to the law enforcement agency.

Sec. 9. If a retail distributor violates any provision of section 6, 7 or 8 of this act, the retail distributor is subject to a civil penalty pursuant to the provisions of NRS 453.553 to 453.5533, inclusive.

Sec. 10. 1. Except as otherwise provided in subsection 2, a person shall not knowingly or intentionally purchase, receive or otherwise acquire:

(a) During any calendar day more than 3.6 grams of ephedrine base, pseudoephedrine base or phenylpropanolamine base or the salts, optical isomers or salts of optical isomers of such chemicals in a product that is a precursor to methamphetamine; or

(b) During any 30-day period, more than 9 grams of ephedrine base, pseudoephedrine base or phenylpropanolamine base or the salts, optical isomers or salts of optical isomers of such chemicals in a product that is a precursor to methamphetamine.

2. The provisions of this section do not apply if the person purchasing, receiving or otherwise acquiring a product that is a precursor to methamphetamine is a pharmacy, practitioner, retail distributor, wholesale distributor or dispenser that is purchasing, receiving or otherwise acquiring the product for the purpose of administering, distributing or dispensing it in a lawful manner.

3. A person who violates any of the provisions of this section is guilty of a misdemeanor, except that:

(a) If the person violates any of the provisions of this section after a prior conviction under this chapter or the law of the United States or of any state, territory or district relating to a controlled substance has become final, the person is guilty of a gross misdemeanor; and

(b) If the person violates any of the provisions of this section after two or more prior convictions under this chapter or the law of the United States or of any state, territory or district relating to a controlled substance, or a combination of two or more such prior convictions, have become final, the person is guilty of a category D felony and shall be punished as provided in NRS 193.130.

Sec. 11. Any person who knowingly or intentionally enters a false statement or representation in a logbook is guilty of a category D felony and shall be punished as provided in NRS 193.130.

Sec. 11.5. 1. Except as otherwise provided in subsection 2, a person who knowingly possesses or disposes of methamphetamine manufacturing waste is guilty of a category C felony and shall be punished as provided in NRS 193.130.

2. A person does not violate subsection 1 if the person:

(a) Possesses or disposes of the methamphetamine manufacturing waste pursuant to state or federal laws regulating the storage, cleanup or disposal of waste products from unlawful methamphetamine manufacturing;

(b) Has notified a law enforcement agency of the existence of the methamphetamine manufacturing waste; or

(c) Possesses or disposes of methamphetamine manufacturing waste that had previously been disposed of by another person on the person's property in violation of subsection 1.

3. As used in this section:

(a) "Disposes of" means to discharge, deposit, inject, spill, leak or place methamphetamine manufacturing waste into or onto land or water.

(b) "Methamphetamine manufacturing waste" means chemical waste or debris, used in or resulting from:

(1) The manufacture of any material, compound, mixture or preparation which contains any quantity of methamphetamine; or

(2) The grinding, soaking or otherwise breaking down of a substance that is a precursor for the manufacture of any material, compound, mixture or preparation which contains any quantity of methamphetamine.

Sec. 11.7. NRS 453.322 is hereby amended to read as follows:

453.322 1. Except as authorized by the provisions of NRS 453.011 to 453.552, inclusive, and sections 2 to 11.5, inclusive, of this act, it is unlawful for a person to knowingly or intentionally:

(a) Manufacture or compound a controlled substance other than marijuana.

(b) Possess, with the intent to manufacture or compound a controlled substance other than marijuana ~~or~~, **or sell, exchange, barter, supply, prescribe, dispense or give away, with the intent that the chemical be used to manufacture or compound a controlled substance other than marijuana:**

(1) Any chemical identified in subsection 4; or

(2) Any other chemical which is proven by expert testimony to be commonly used in manufacturing or compounding a controlled substance other than marijuana. The district attorney may present expert testimony to provide a prima facie case that any chemical, whether or not it is a chemical identified in subsection 4, is commonly used in manufacturing or compounding such a controlled substance.

↪ The provisions of this paragraph do not apply to a person who, without the intent to commit an unlawful act, possesses any chemical at a laboratory that is licensed to store the chemical.

(c) Offer or attempt to do any act set forth in paragraph (a) or (b).

2. Unless a greater penalty is provided in NRS 453.3385 or 453.3395, a person who violates any provision of subsection 1 is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 3 years and a maximum term of not more than 15 years, and may be further punished by a fine of not more than \$100,000.

3. The court shall not grant probation to a person convicted pursuant to this section.

4. The following chemicals are identified for the purposes of subsection 1:

- (a) Acetic anhydride.
- (b) Acetone.
- (c) N-Acetylanthranilic acid, its esters and its salts.
- (d) Anthranilic acid, its esters and its salts.
- (e) Benzaldehyde, its salts, isomers and salts of isomers.
- (f) Benzyl chloride.
- (g) Benzyl cyanide.
- (h) 1,4-Butanediol.
- (i) 2-Butanone (or methyl ethyl ketone or MEK).
- (j) Ephedrine, its salts, isomers and salts of isomers.
- (k) Ergonovine and its salts.
- (l) Ergotamine and its salts.
- (m) Ethylamine, its salts, isomers and salts of isomers.
- (n) Ethyl ether.
- (o) Gamma butyrolactone.
- (p) Hydriodic acid, its salts, isomers and salts of isomers.
- (q) Hydrochloric gas.
- (r) Iodine.
- (s) Isosafrole, its salts, isomers and salts of isomers.
- (t) **Lithium metal.**
- (u) Methylamine, its salts, isomers and salts of isomers.

- ~~[(u)]~~ (v) 3,4-Methylenedioxy-phenyl-2-propanone.
- ~~[(v)]~~ (w) N-Methylephedrine, its salts, isomers and salts of isomers.
- ~~[(w)]~~ (x) Methyl isobutyl ketone (MIBK).
- ~~[(x)]~~ (y) N-Methylpseudoephedrine, its salts, isomers and salts of isomers.
- ~~[(y)]~~ (z) Nitroethane, its salts, isomers and salts of isomers.
- ~~[(z)]~~ (aa) Norpseudoephedrine, its salts, isomers and salts of isomers.
- ~~[(aa)]~~ (bb) Phenylacetic acid, its esters and its salts.
- ~~[(bb)]~~ (cc) Phenylpropanolamine, its salts, isomers and salts of isomers.
- ~~[(cc)]~~ (dd) Piperidine and its salts.
- ~~[(dd)]~~ (ee) Piperonal, its salts, isomers and salts of isomers.
- ~~[(ee)]~~ (ff) Potassium permanganate.
- ~~[(ff)]~~ (gg) Propionic anhydride, its salts, isomers and salts of isomers.
- ~~[(gg)]~~ (hh) Pseudoephedrine, its salts, isomers and salts of isomers.
- ~~[(hh)]~~ (ii) Red phosphorus.
- ~~[(ii)]~~ (jj) Safrole, its salts, isomers and salts of isomers.
- ~~[(jj)]~~ (kk) ***Sodium metal.***
- (ll) Sulfuric acid.
- ~~[(kk)]~~ (mm) Toluene.

Sec. 12. NRS 453.553 is hereby amended to read as follows:

453.553 1. In addition to any criminal penalty imposed for a violation of the provisions of NRS 453.011 to 453.552, inclusive, ***and sections 2 to ~~11.1~~ 11.5, inclusive, of this act***, any person who ***violates section 6, 7, ~~or~~ 8 or 11.5 of this act***, unlawfully sells, manufactures, delivers or brings into this State, possesses for sale or participates in any way in a sale of a controlled substance listed in schedule I, II or III or who engages in any act or transaction in violation of the provisions of NRS 453.3611 to 453.3648, inclusive, is subject to a civil penalty for each violation. This penalty must be recovered in a civil action, brought in the name of the State of Nevada by the Attorney General or by any district attorney in a court of competent jurisdiction.

2. As used in ~~[this section and NRS 453.5531, 453.5532 and 453.5533:]~~ ***NRS 453.553 to 453.5533, inclusive:***

(a) "Each violation" includes a continuous or repetitive violation arising out of the same act.

(b) "Sell" includes exchange, barter, solicitation or receipt of an order, transfer to another for sale or resale and any other transfer for any consideration or a promise obtained directly or indirectly.

(c) "Substitute" means a substance which:

(1) Was manufactured by a person who at the time was not currently registered with the Secretary of Health and Human Services; and

(2) Is an imitation of or intended for use as a substitute for a substance listed in schedule I, II or III.

Sec. 13. NRS 453.5531 is hereby amended to read as follows:

453.5531 1. The State of Nevada is entitled, in a civil action brought pursuant to NRS 453.553 involving marijuana, to a civil penalty in an amount:

(a) Not to exceed \$350,000, if the quantity involved is 100 pounds or more, but less than 2,000 pounds.

(b) Not to exceed \$700,000, if the quantity involved is 2,000 pounds or more, but less than 10,000 pounds.

(c) Not to exceed \$1,000,000, if the quantity involved is 10,000 pounds or more.

2. The State of Nevada is entitled, in a civil action brought pursuant to NRS 453.553 involving a controlled substance, except marijuana, which is listed in schedule I or a substitute therefor, to a civil penalty in an amount:

(a) Not to exceed \$350,000, if the quantity involved is 4 grams or more, but less than 14 grams.

(b) Not to exceed \$700,000, if the quantity involved is 14 grams or more, but less than 28 grams.

(c) Not to exceed \$1,000,000, if the quantity involved is 28 grams or more.

3. The State of Nevada is entitled, in a civil action brought pursuant to NRS 453.553 involving a controlled substance which is listed in schedule II or III or a substitute therefor, to a civil penalty in an amount:

(a) Not to exceed \$350,000, if the quantity involved is 28 grams or more, but less than 200 grams.

(b) Not to exceed \$700,000, if the quantity involved is 200 grams or more, but less than 400 grams.

(c) Not to exceed \$1,000,000, if the quantity involved is 400 grams or more.

4. Unless a greater civil penalty is authorized by another provision of this section, the State of Nevada is entitled, in a civil action brought pursuant to NRS 453.553 involving any act or transaction in violation of the provisions of NRS 453.3611 to 453.3648, inclusive, to a civil penalty in an amount not to exceed \$350,000.

5. *The State of Nevada is entitled, in a civil action brought pursuant to NRS 453.553 involving any act or transaction in violation of the provisions of section 6, 7, ~~7.5~~ 8 or 11.5 of this act, to a civil penalty in an amount not to exceed \$250,000 for each violation.*

Sec. 14. NRS 453.5533 is hereby amended to read as follows:

453.5533 1. A civil action brought pursuant to NRS 453.553 must be brought within 3 years after the conduct in violation of the provisions of NRS 453.011 to 453.552, inclusive, **and sections 2 to ~~11.5~~ 11.5, inclusive, of this act** occurs.

2. Such a civil action is not barred by a prior acquittal of the defendant in a criminal action arising out of the same act, transaction or occurrence. A final judgment or decree rendered in favor of the State in any criminal proceeding arising out of the same act, transaction or occurrence estops the

defendant in a subsequent civil action from denying the essential allegations of the criminal offense.

Sec. 15. [This act becomes effective on July 1, 2007.] **(Deleted by amendment.)**

Sec. 16. NRS 40.140 is hereby amended to read as follows:

40.140 1. Except as otherwise provided in this section ~~[, anything]~~ :

(a) Anything which is injurious to health, or indecent and offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property ~~[, including, without limitation, a]~~ :

(b) A building or place used for the purpose of unlawfully selling, serving, storing, keeping, manufacturing, using or giving away a controlled substance, immediate precursor ~~[as defined in NRS 453.086]~~ or controlled substance analog ~~[as defined in NRS 453.043,]~~ ; **or**

(c) A building or place which was used for the purpose of unlawfully manufacturing a controlled substance, immediate precursor or controlled substance analog and:

(1) Which has not been deemed safe for habitation by a governmental entity; or

(2) From which all materials or substances involving the controlled substance, immediate precursor or controlled substance analog have not been removed or remediated by an entity certified or licensed to do so within 180 days after the building or place is no longer used for the purpose of unlawfully manufacturing a controlled substance, immediate precursor or controlled substance analog,

↪ is a nuisance, and the subject of an action. The action may be brought by any person whose property is injuriously affected, or whose personal enjoyment is lessened by the nuisance, and by the judgment the nuisance may be enjoined or abated, as well as damages recovered.

2. It is presumed:

(a) That an agricultural activity conducted on farmland, consistent with good agricultural practice and established before surrounding nonagricultural activities is reasonable. Such activity does not constitute a nuisance unless the activity has a substantial adverse effect on the public health or safety.

(b) That an agricultural activity which does not violate a federal, state or local law, ordinance or regulation constitutes good agricultural practice.

3. A shooting range does not constitute a nuisance with respect to any noise attributable to the shooting range if the shooting range is in compliance with the provisions of all applicable statutes, ordinances and regulations concerning noise:

(a) As those provisions existed on October 1, 1997, for a shooting range in operation on or before October 1, 1997; or

(b) As those provisions exist on the date that the shooting range begins operation, for a shooting range that begins operation after October 1, 1997.

↪ A shooting range is not subject to any state or local law related to the control of noise that is adopted or amended after the date set forth in

paragraph (a) or (b), as applicable, and does not constitute a nuisance for failure to comply with any such law.

4. As used in this section ~~["shooting"]~~:

(a) "Controlled substance analog" has the meaning ascribed to it in NRS 453.043.

(b) "Immediate precursor" has the meaning ascribed to it in NRS 453.086.

(c) "Shooting range" means an area designed and used for archery or sport shooting, including, but not limited to, sport shooting that involves the use of rifles, shotguns, pistols, silhouettes, skeet, trap, black powder or other similar items.

Sec. 17. NRS 202.450 is hereby amended to read as follows:

202.450 1. A public nuisance is a crime against the order and economy of the State.

2. Every place:

(a) Wherein any gambling, bookmaking or pool selling is conducted without a license as provided by law, or wherein any swindling game or device, or bucket shop, or any agency therefor is conducted, or any article, apparatus or device useful therefor is kept;

(b) Wherein any fighting between animals or birds is conducted;

(c) Wherein any dog races are conducted as a gaming activity;

(d) Wherein any intoxicating liquors are kept for unlawful use, sale or distribution;

(e) Wherein a controlled substance, immediate precursor ~~as defined in NRS 453.086~~ or controlled substance analog ~~as defined in NRS 453.043~~ is unlawfully sold, served, stored, kept, manufactured, used or given away; or

(f) Where vagrants resort,

↪ is a public nuisance.

3. Every act unlawfully done and every omission to perform a duty, which act or omission:

(a) Annoys, injures or endangers the safety, health, comfort or repose of any considerable number of persons;

(b) Offends public decency;

(c) Unlawfully interferes with, befouls, obstructs or tends to obstruct, or renders dangerous for passage, a lake, navigable river, bay, stream, canal, ditch, millrace or basin, or a public park, square, street, alley, bridge, causeway or highway; or

(d) In any way renders a considerable number of persons insecure in life or the use of property,

↪ is a public nuisance.

4. A building or place which was used for the purpose of unlawfully manufacturing a controlled substance, immediate precursor or controlled substance analog is a public nuisance if the building or place has not been deemed safe for habitation by a governmental entity and:

(a) The owner of the building or place allows the building or place to be used for any purpose before all materials or substances involving the controlled substance, immediate precursor or controlled substance analog have been removed from or remediated on the building or place by an entity certified or licensed to do so; or

(b) The owner of the building or place fails to have all materials or substances involving the controlled substance, immediate precursor or controlled substance analog removed from or remediated on the building or place by an entity certified or licensed to do so within 180 days after the building or place is no longer used for the purpose of unlawfully manufacturing a controlled substance, immediate precursor or controlled substance analog.

5. Agricultural activity conducted on farmland consistent with good agricultural practice and established before surrounding nonagricultural activities is not a public nuisance unless it has a substantial adverse effect on the public health or safety. It is presumed that an agricultural activity which does not violate a federal, state or local law, ordinance or regulation constitutes good agricultural practice.

~~{5.}~~ 6. A shooting range is not a public nuisance with respect to any noise attributable to the shooting range if the shooting range is in compliance with the provisions of all applicable statutes, ordinances and regulations concerning noise:

(a) As those provisions existed on October 1, 1997, for a shooting range that begins operation on or before October 1, 1997; or

(b) As those provisions exist on the date that the shooting range begins operation, for a shooting range in operation after October 1, 1997.

↪ A shooting range is not subject to any state or local law related to the control of noise that is adopted or amended after the date set forth in paragraph (a) or (b), as applicable, and does not constitute a nuisance for failure to comply with any such law.

~~{6.}~~ 7. As used in this section ~~[-, "shooting"]~~ :

(a) "Controlled substance analog" has the meaning ascribed to it in NRS 453.043.

(b) "Immediate precursor" has the meaning ascribed to it in NRS 453.086.

(c) "Shooting range" has the meaning ascribed to it in NRS 40.140.

Sec. 18. NRS 244.3603 is hereby amended to read as follows:

244.3603 1. Each board of county commissioners may, by ordinance, to protect the public health, safety and welfare of the residents of the county, adopt procedures pursuant to which the district attorney may file an action in a court of competent jurisdiction to:

(a) Seek the abatement of a chronic nuisance that is located or occurring within the unincorporated area of the county;

(b) If applicable, seek the closure of the property where the chronic nuisance is located or occurring; and

(c) If applicable, seek penalties against the owner of the property within the unincorporated area of the county and any other appropriate relief.

2. An ordinance adopted pursuant to subsection 1 must:

(a) Contain procedures pursuant to which the owner of the property is:

(1) Sent a notice, by certified mail, return receipt requested, by the sheriff or other person authorized to issue a citation of the existence on his property of nuisance activities and the date by which he must abate the condition to prevent the matter from being submitted to the district attorney for legal action; and

(2) Afforded an opportunity for a hearing before a court of competent jurisdiction.

(b) Provide that the date specified in the notice by which the owner must abate the condition is tolled for the period during which the owner requests a hearing and receives a decision.

(c) Provide the manner in which the county will recover money expended to abate the condition on the property if the owner fails to abate the condition.

3. If the court finds that a chronic nuisance exists and action is necessary to avoid serious threat to the public welfare or the safety or health of the occupants of the property, the court may order the county to secure and close the property until the nuisance is abated and may:

(a) Impose a civil penalty of not more than \$500 per day for each day that the condition was not abated after the date specified in the notice by which the owner was required to abate the condition;

(b) Order the owner to pay the county for the cost incurred by the county in abating the condition; and

(c) Order any other appropriate relief.

4. In addition to any other reasonable means authorized by the court for the recovery of money expended by the county to abate the chronic nuisance, the board may make the expense a special assessment against the property upon which the chronic nuisance is located or occurring. The special assessment may be collected pursuant to the provisions set forth in subsection 4 of NRS 244.360.

5. As used in this section:

(a) A “chronic nuisance” exists:

(1) When three or more nuisance activities exist or have occurred during any 90-day period on the property. ~~(b)~~

(2) When a person associated with the property has engaged in three or more nuisance activities during any 90-day period on the property or within 100 feet of the property. ~~(b)~~

(3) When the property has been the subject of a search warrant based on probable cause of continuous or repeated violations of chapter 459 of NRS. ~~(b)~~

(4) When a building or place is used for the purpose of unlawfully selling, serving, storing, keeping, manufacturing, using or giving away a

controlled substance, immediate precursor ~~[as defined in NRS 453.086]~~ or controlled substance analog ~~[as defined in NRS 453.043.]~~

(5) When a building or place was used for the purpose of unlawfully manufacturing a controlled substance, immediate precursor or controlled substance analog and:

(I) The building or place has not been deemed safe for habitation by a governmental entity; or

(II) All materials or substances involving the controlled substance, immediate precursor or controlled substance analog have not been removed from or remediated on the building or place by an entity certified or licensed to do so within 180 days after the building or place is no longer used for the purpose of unlawfully manufacturing a controlled substance, immediate precursor or controlled substance analog.

(b) "Controlled substance analog" has the meaning ascribed to it in NRS 453.043.

(c) "Immediate precursor" has the meaning ascribed to it in NRS 453.086.

(d) "Nuisance activity" means:

- (1) Criminal activity;
- (2) The presence of debris, litter, garbage, rubble, abandoned or junk vehicles or junk appliances;
- (3) Violations of building codes, housing codes or any other codes regulating the health or safety of occupants of real property;
- (4) Excessive noise and violations of curfew; or
- (5) Any other activity, behavior or conduct defined by the board to constitute a public nuisance.

~~[(e)]~~ **(e)** "Person associated with the property" means:

- (1) The owner of the property;
 - (2) The manager or assistant manager of the property;
 - (3) The tenant of the property; or
 - (4) A person who, on the occasion of a nuisance activity, has:
 - (I) Entered, patronized or visited;
 - (II) Attempted to enter, patronize or visit; or
 - (III) Waited to enter, patronize or visit,
- ↳ the property or a person present on the property.

Sec. 19. NRS 244.363 is hereby amended to read as follows:

244.363 Except as otherwise provided in subsection 3 of NRS 40.140 and subsection ~~5~~ 6 of NRS 202.450, the boards of county commissioners in their respective counties may, by ordinance regularly enacted, regulate, control and prohibit, as a public nuisance, excessive noise which is injurious to health or which interferes unreasonably with the comfortable enjoyment of life or property within the boundaries of the county.

Sec. 20. NRS 266.335 is hereby amended to read as follows:

266.335 The city council may:

1. Except as otherwise provided in subsection 3 of NRS 40.140 and subsection ~~4~~ 6 of NRS 202.450, determine by ordinance what shall be deemed nuisances.

2. Provide for the abatement, prevention and removal of the nuisances at the expense of the person creating, causing or committing the nuisances.

3. Provide that the expense of removal is a lien upon the property upon which the nuisance is located. The lien must:

(a) Be perfected by recording with the county recorder a statement by the city clerk of the amount of expenses due and unpaid and describing the property subject to the lien.

(b) Be coequal with the latest lien thereon to secure the payment of general taxes.

(c) Not be subject to extinguishment by the sale of any property because of the nonpayment of general taxes.

(d) Be prior and superior to all liens, claims, encumbrances and titles other than the liens of assessments and general taxes.

4. Provide any other penalty or punishment of persons responsible for the nuisances.

Sec. 21. NRS 268.412 is hereby amended to read as follows:

268.412 Except as otherwise provided in subsection 3 of NRS 40.140 and subsection ~~4~~ 6 of NRS 202.450, the city council or other governing body of a city may, by ordinance regularly enacted, regulate, control and prohibit, as a public nuisance, excessive noise which is injurious to health or which interferes unreasonably with the comfortable enjoyment of life or property within the boundaries of the city.

Sec. 22. NRS 268.4124 is hereby amended to read as follows:

268.4124 1. The governing body of a city may, by ordinance, to protect the public health, safety and welfare of the residents of the city, adopt procedures pursuant to which the city attorney may file an action in a court of competent jurisdiction to:

(a) Seek the abatement of a chronic nuisance that is located or occurring within the city;

(b) If applicable, seek the closure of the property where the chronic nuisance is located or occurring; and

(c) If applicable, seek penalties against the owner of the property within the city and any other appropriate relief.

2. An ordinance adopted pursuant to subsection 1 must:

(a) Contain procedures pursuant to which the owner of the property is:

(1) Sent notice, by certified mail, return receipt requested, by the city police or other person authorized to issue a citation, of the existence on his property of two or more nuisance activities and the date by which he must abate the condition to prevent the matter from being submitted to the city attorney for legal action; and

(2) Afforded an opportunity for a hearing before a court of competent jurisdiction.

(b) Provide that the date specified in the notice by which the owner must abate the condition is tolled for the period during which the owner requests a hearing and receives a decision.

(c) Provide the manner in which the city will recover money expended for labor and materials used to abate the condition on the property if the owner fails to abate the condition.

3. If the court finds that a chronic nuisance exists and emergency action is necessary to avoid immediate threat to the public health, welfare or safety, the court shall order the city to secure and close the property for a period not to exceed 1 year or until the nuisance is abated, whichever occurs first, and may:

(a) Impose a civil penalty of not more than \$500 per day for each day that the condition was not abated after the date specified in the notice by which the owner was required to abate the condition;

(b) Order the owner to pay the city for the cost incurred by the city in abating the condition;

(c) If applicable, order the owner to pay reasonable expenses for the relocation of any tenants who are affected by the chronic nuisance; and

(d) Order any other appropriate relief.

4. In addition to any other reasonable means authorized by the court for the recovery of money expended by the city to abate the chronic nuisance, the governing body may make the expense a special assessment against the property upon which the chronic nuisance is or was located or occurring. The special assessment may be collected at the same time and in the same manner as ordinary county taxes are collected, and is subject to the same penalties and the same procedure and sale in case of delinquency as provided for ordinary county taxes. All laws applicable to the levy, collection and enforcement of county taxes are applicable to such a special assessment.

5. As used in this section:

(a) A “chronic nuisance” exists:

(1) When three or more nuisance activities exist or have occurred during any 30-day period on the property. ~~††~~

(2) When a person associated with the property has engaged in three or more nuisance activities during any 30-day period on the property or within 100 feet of the property. ~~††~~

(3) When the property has been the subject of a search warrant based on probable cause of continuous or repeated violations of chapter 459 of NRS. ~~† or ††~~

(4) When a building or place is used for the purpose of unlawfully selling, serving, storing, keeping, manufacturing, using or giving away a controlled substance, immediate precursor ~~as defined in NRS 453.086~~ or controlled substance analog. ~~as defined in NRS 453.043.~~

(5) When a building or place was used for the purpose of unlawfully manufacturing a controlled substance, immediate precursor or controlled substance analog and:

(I) The building or place has not been deemed safe for habitation by a governmental entity; or

(II) All materials or substances involving the controlled substance, immediate precursor or controlled substance analog have not been removed from or remediated on the building or place by an entity certified or licensed to do so within 180 days after the building or place is no longer used for the purpose of unlawfully manufacturing a controlled substance, immediate precursor or controlled substance analog.

(b) "Controlled substance analog" has the meaning ascribed to it in NRS 453.043.

(c) "Immediate precursor" has the meaning ascribed to it in NRS 453.086.

(d) "Nuisance activity" means:

- (1) Criminal activity;
- (2) The presence of debris, litter, garbage, rubble, abandoned or junk vehicles or junk appliances;
- (3) Excessive noise and violations of curfew; or
- (4) Any other activity, behavior or conduct defined by the governing body to constitute a public nuisance.

~~(e)~~ (e) "Person associated with the property" means a person who, on the occasion of a nuisance activity, has:

- (1) Entered, patronized or visited;
- (2) Attempted to enter, patronize or visit; or
- (3) Waited to enter, patronize or visit,

↪ a property or a person present on the property.

Sec. 23. Chapter 639 of NRS is hereby amended by adding thereto the provisions set forth as sections 24, 25 and 26 of this act.

Sec. 24. As used in this section and sections 25 and 26 of this act, "product that is a precursor to methamphetamine" means a product which contains ephedrine, pseudoephedrine or phenylpropanolamine or the salts, optical isomers or salts of optical isomers of such chemicals and may be marketed or distributed lawfully in the United States under the Federal Food, Drug and Cosmetic Act, 21 U.S.C. §§ 301 et seq., as a nonprescription drug.

Sec. 25. A person shall not sell or transfer to an ultimate user in the course of any business, or engage in the business of selling to ultimate users, a product that is a precursor to methamphetamine, unless the person is a pharmacy.

Sec. 26. 1. Except as otherwise provided in subsection 2, if a pharmacy becomes aware of any unusual or excessive loss or disappearance of a product that is a precursor to methamphetamine while the product is under the control of the pharmacy, the pharmacy must:

(a) Make an oral report to the Department of Public Safety at the earliest practicable opportunity after the pharmacy becomes aware of the

unusual or excessive loss or disappearance of the product that is a precursor to methamphetamine; and

(b) Submit a written report to the Department of Public Safety within 15 days after the pharmacy becomes aware of the unusual or excessive loss or disappearance of the product that is a precursor to methamphetamine.

2. If an unusual or excessive loss or disappearance of a product that is a precursor to methamphetamine occurs while the product is being transported to a pharmacy, the pharmacy is not required to comply with the provisions of subsection 1.

3. A report required by subsection 1 must include, without limitation, a description of the circumstances surrounding the loss or disappearance and may be in substantially the following form:

LOSS REPORT

License number:

Name:

Business address:

City:

State:

Zip:

Business phone:

Date of loss:

Type of loss:

Description of circumstances:

4. As used in this section, "unusual or excessive loss or disappearance" means a loss or disappearance for which a report would be required under 21 U.S.C. § 830(b)(1), and any regulations adopted pursuant thereto, if the pharmacy were subject to the requirements of 21 U.S.C. § 830(b)(1) and any regulations adopted pursuant thereto.

Sec. 27. This act becomes effective on August 1, 2007.

Assemblywoman Leslie moved that the Assembly adopt the report of the first Conference Committee concerning Assembly Bill No. 148.

Remarks by Assemblymen Leslie, Weber, and Anderson.

Madam Speaker requested the privilege of the Chair for the purpose of making remarks.

Motion carried by a constitutional majority.

Madam Speaker:

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.

DEBBIE SMITH
RUBEN KIHUEN
JOE HARDY

Assembly Conference Committee

MAURICE WASHINGTON
VALERIE WIENER
BARBARA CEGAVSKE

Senate Conference Committee

Assemblywoman Smith moved that the Assembly adopt the report of the first Conference Committee concerning Senate Bill No. 143.

Remarks by Assemblyman Smith.

Motion carried by a constitutional majority.

CONSIDERATION OF SENATE AMENDMENTS

Assembly Bill No. 593.

The following Senate amendment was read:

Amendment No. 802.

AN ACT relating to the Legislative Branch of Government; making various changes relating to the Legislature and the Legislative Counsel Bureau; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

This bill makes various changes relating to the Legislature and the Legislative Counsel Bureau. Section 1 of this bill provides that **salary paid for certain additional hours worked by executive, administrative, professional or supervisory employees of the Legislative Counsel Bureau constitutes compensation for the purposes of retirement. Section 2 of this bill provides that** the fee for a certain bill service during a legislative session will be set by the Director of the Legislative Counsel Bureau instead of being specified in the statute. (NRS 218.185) Section ~~2~~ **3** of this bill eliminates the requirement that the Legislative Counsel represent any Legislator in any matter before the Commission on Ethics. (NRS 218.697) Section ~~3~~ **4** of this bill transfers authority for the portrait of the Governor from the Legislative Commission to the Director of the Department of Cultural Affairs. (NRS 223.121) Sections ~~4 and 7~~ **5 and 9** of this bill provide for title to all property reserved for the use of the Legislature to be held in the name of the Legislature. (NRS 331.135) Section ~~4.5~~ **6** of this bill exempts the Legislative Branch of Government from certain provisions relating to the State Public Works Board. Sections ~~5 and 8~~ **7 and 10** of this bill clarify provisions concerning the appointment of members to the Nevada Silver Haired Legislative Forum. (NRS 427A.330) Section ~~6~~ **8** of this bill clarifies the prospective impact of the cost-of-living increases enacted for Legislators. (Chapter 329, Statutes of Nevada 2005, p. 1182) **Section 11 of this bill authorizes a person who received payment for hours worked before and during the 2007 regular session of the Legislature that would have been considered as compensation pursuant to section 1 of this act to make the necessary contributions to the Public Employees' Retirement System to have that payment considered as compensation.**

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. For the purposes of NRS 286.025, salary paid for all hours worked by an executive, administrative, professional or supervisory employee of the Legislative Counsel Bureau in addition to the employee's regularly scheduled workday or 40-hour workweek in the fiscal year that includes a regular session of the Legislature, up to a maximum number of hours designated as required for the classification by the Director of the Legislative Counsel Bureau and approved by the Legislative Commission, constitutes "compensation." The Legislative Counsel Bureau and such employees shall make the appropriate contributions to the Public Employees' Retirement System for such compensation.

2. The maximum number of additional hours that may be designated as required for a classification pursuant to subsection 1 is 750.

~~{Section 1.}~~ **Sec. 2.** NRS 218.185 is hereby amended to read as follows:

218.185 1. During each session of the Legislature, employees of the Senate and Assembly shall compile and prepare sets of books containing bills, resolutions, journals and histories for:

(a) The officers and members of the Senate and Assembly without cost to them.

(b) Selected staff members of the Legislative Counsel Bureau without cost to them.

(c) The press room for use of accredited press representatives, four such sets of books without cost to them.

(d) Persons other than those enumerated in paragraphs (a), (b) and (c) upon application to the Legislative Counsel Bureau and the payment of a fee ~~{of \$150.}~~ **established by the Director of the Legislative Counsel Bureau.**

2. All fees collected under the provisions of this section must be deposited with the State Treasurer for credit to the Legislative Fund in accordance with the provisions of NRS 353.250.

~~{Sec. 2.}~~ **Sec. 3.** NRS 218.697 is hereby amended to read as follows:

218.697 1. ~~{Upon request, the Legislative Counsel shall represent any Legislator in any matter before the Commission on Ethics.~~

~~2.}~~ When deemed necessary or advisable to protect the official interests of the Legislature or one or more legislative committees, the Legislative Commission, or the Chairman of the Legislative Commission in cases where action is required before a meeting of the Legislative Commission is scheduled to be held, may direct the Legislative Counsel and his staff to appear in, commence, prosecute, defend or intervene in any action, suit, matter, cause or proceeding in any court or agency of this State or of the United States.

~~{3.}~~ **2.** The Legislative Commission may authorize payment of the expenses and costs incurred pursuant to this section from the Legislative Fund.

~~{Sec. 3.}~~ **Sec. 4.** NRS 223.121 is hereby amended to read as follows:

223.121 1. The ~~Legislative Commission~~ **Director** may, upon the election of each new Governor, enter into a contract with an artist for the purpose of procuring a portrait of that Governor for display in the Capitol Building.

2. The portrait must be painted in oil colors and appropriately framed. The painting and framing must be done in the same manner, style and size as the portraits of former Governors of the State displayed in the Capitol Building.

3. The contract price must not exceed the appropriation made for this purpose to the Account for the Governor's Portrait in the State General Fund. The contract price must include the cost of the portrait and the frame.

4. The portrait and frame are subject to the approval of the Governor.

5. Upon delivery of the approved, framed portrait to the Secretary of State and its acceptance by the ~~Legislative Commission~~, **Director**, the State Controller shall draw his warrant in an amount equal to the contract price and the State Treasurer shall pay the warrant from the Account for the Governor's Portrait. Any balance remaining in the Account immediately lapses to the State General Fund.

6. As used in this section, "Director" means the Director of the Department of Cultural Affairs.

~~Sec. 4~~ **Sec. 5.** NRS 331.135 is hereby amended to read as follows:

331.135 1. The Legislature reserves the supervision and control, both during and between legislative sessions, of:

(a) The entire legislative building, including its chambers, offices and other rooms, and its furnishings and equipment.

(b) A portion of the parcel of land bounded on the west by Carson Street, on the south by Fifth Street, on the east by Fall Street, and on the north by the sidewalk along the south fence of the capitol grounds, situated in a portion of the Capitol Complex, as shown on the Record of Survey Map No. 297, Official Records of Carson City, Nevada, File No. 3043, section 17, T. 15 N., R. 20 E., M.D.M., more particularly described as follows:

Beginning at the southwest corner of block 36, Sears , Thompson **and** Sears Division, as shown on that record of survey;

Thence N 89°52'32" E, a distance of 443.93 feet;

Thence N 00°12'15" E, a distance of 302.14 feet;

Thence N 44°47'45" W, a distance of 189.88 feet to the north side of an existing sidewalk;

Thence N 89°39'33" W, along that sidewalk, a distance of 97.13 feet to the east side of an existing sidewalk;

Thence N 00°14'26" E, along that sidewalk, a distance of 270.00 feet, more or less, to the north line of a sidewalk;

Thence N 89°47'45" W, along that sidewalk, a distance of 212.50 feet, to the east right-of-way line of Carson Street;

Thence S 00°13'08" W, along that line, a distance of 709.40 feet, more or less, to the true point of beginning.

Containing 5.572 acres, more or less.

(c) The entire parcel of land bounded on the north by Fifth Street, on the south by Sixth Street, on the east by Stewart Street and on the west by Plaza Street, also described as blocks 2 and 3, Pierson and Goodridge Addition; and that portion of Fall Street between Fifth Street and Sixth Street abandoned by Carson City on April 26, 1990, Meeting Agenda Item 9 M-89/90-10. Also the entire parcel of land bounded on the north by the south boundary line of block 2, Pierson and Goodridge Addition, on the south by Seventh Street, on the east by Stewart Street and on the west by Fall Street, and further described as block 7, Pierson and Goodridge Addition.

(d) The entire parcel of land bounded on the north by Sixth Street, on the south by Seventh Street, on the east by Fall Street, and on the west by Plaza Street, also described as block 6, Pierson and Goodridge Addition.

(e) The entire parcel of land bounded on the north by Fourth Street, on the west by Stewart Street, on the south by Fifth Street, and on the east by the abandoned right-of-way of Valley Street, also described as block 39 of Sears , Thompson *and* Sears Division of Carson City; and the west 30.00 feet of the abandoned right-of-way of Valley Street abutting block 39 of Sears , Thompson *and* Sears Division. Excepting therefrom that portion of Stewart and Fifth Streets deeded to the State of Nevada through its Department of Transportation as recorded in book 283, page 208, of Deeds, Carson City, Nevada.

(f) *The entire parcel of land bounded on the north by Third Street, on the west by Stewart Street, on the south by Fourth Street, and on the east by Valley Street, also described as block 22 of Sears, Thompson and Sears Division of Carson City; and the land occupied by the state printing warehouse in block 21 of Sears, Thompson and Sears Division of Carson City; and the abandoned right-of-way of Fourth Street between block 22 of Sears, Thompson and Sears Division and block 39 of Sears, Thompson and Sears Division of Carson City. Excepting therefrom that portion of Stewart Street deeded to the State of Nevada through its Department of Transportation as recorded in book 283, page 208, of Deeds, Carson City, Nevada.*

(g) Any other property acquired for the use of the Legislature or its staff.

↪ ***Title to the property described in this subsection must be held in the name of the Legislature of the State of Nevada.***

2. The Director of the Legislative Counsel Bureau:

(a) Shall provide an individual office for each Legislator whose position as an officer or as a chairman of a committee does not otherwise entitle him to occupy an assigned office.

(b) May assign the use of space in the legislative building or other legislative facilities or on the legislative grounds in such a manner as the Legislative Commission prescribes.

3. The Director of the Legislative Counsel Bureau shall cause the legislative building, chambers and grounds and other legislative facilities to

be kept in good repair, clean, orderly and presentable as befits public property and the dignity of the Legislature. For this purpose he may, in addition to his general power to employ or contract for the services of personnel, contract with any private enterprise or governmental agency for the provision of appropriate services.

~~{Sec. 4.5.}~~ **Sec. 6.** NRS 341.158 is hereby amended to read as follows:

341.158 The provisions of ~~{NRS 341.141 to 341.155, inclusive,}~~ **this chapter** do not ~~{require}~~ **apply to** the Legislative Branch of government. ~~{to use the services of the Board.}~~ The Legislature may require the Board to provide the services described in ~~{those sections}~~ **NRS 341.141 to 341.155, inclusive**, for particular projects for the Legislative Branch of government.

~~{Sec. 5.}~~ **Sec. 7.** NRS 427A.330 is hereby amended to read as follows:

427A.330 1. The Legislative Commission shall appoint to the Nevada Silver Haired Legislative Forum a number of members equal to the number of State Senators. The persons appointed to the Forum must be the persons nominated pursuant to this section. Each member of the Senate shall, after consulting with the members of the Assembly who reside within his senatorial district, nominate a person who meets the requirements for appointment to the Forum set forth in NRS 427A.340.

2. Appointments to the Nevada Silver Haired Legislative Forum must be made by the Legislative Commission before December ~~{1 of an odd-numbered year. The term of a member begins on December 1 of the odd-numbered year of appointment.}~~

~~3. The members of the Nevada Silver Haired Legislative Forum from Clark County Senatorial Districts 2, 3, 4, 7 and 8, Washoe County Senatorial Districts 1 and 3, the Capital Senatorial District and the Western Nevada Senatorial District serve an initial term of 1 year. The members of the Nevada Silver Haired Legislative Forum from the remaining senatorial districts serve an initial term of 2 years.}~~ **31 of the second year of a member's term.** After the initial terms, each member **of the Forum** serves a term of 2 years. **Each member of the Forum continues to serve until his successor is appointed.**

~~{Sec. 6.}~~ **Sec. 8.** Chapter 329, Statutes of Nevada 2005, at page 1182, is hereby amended by adding thereto a new section to be designated as section 8, immediately following section 7, to read as follows:

Sec. 8. The increases in the compensation for Senators and Assemblymen pursuant to the amendatory provisions of section 7 of this act must be calculated based only upon increases in the salaries of the classified employees of this State that take effect on or after November 2, 2004.

~~{Sec. 7.}~~ **Sec. 9.** The State Land Registrar shall, as soon as practicable after the effective date of this act, execute and file all necessary and appropriate documents to provide that title to property described in subsection 1 of NRS 331.135 is held in the name of the Legislature of the State of Nevada.

~~{Sec. 8.}~~ **Sec. 10.** On or before December 31, 2007, or as soon thereafter as practicable, the Legislative Commission shall appoint new members of the Nevada Silver Haired Legislative Forum pursuant to NRS 427A.330, as amended by section ~~{5}~~ 7 of this act. The Legislative Commission shall appoint to terms ending on:

1. December 31, 2008, members nominated by Senators representing Clark County Senatorial Districts 1, 5, 9, 10 and 12, Washoe County Senatorial Districts 1 and 4, the Central Nevada Senatorial District and the Rural Nevada Senatorial District.

2. December 31, 2009, members nominated by Senators representing Clark County Senatorial Districts 2, 3, 4, 6, 7, 8 and 11, Washoe County Senatorial Districts 2 and 3, and the Capital Senatorial District.

↪ The terms of the members of the Nevada Silver Haired Legislative Forum as of the effective date of this act continue until their successors are appointed pursuant to this section. A member may be reappointed.

Sec. 11. A person who worked hours before and during the 2007 regular session of the Legislature that would have been considered as compensation pursuant to the provisions of section 1 of this act, had that section been in effect, may elect to have his payment for those hours, up to the limit established for his classification, and in no case more than 750 hours, considered as compensation by:

1. **Notifying the Public Employees' Retirement System of his election; and**

2. **Paying the amount necessary to make both the employer and employee contributions to the System on the payment for the additional hours that the person desires to have considered as compensation. The Legislative Counsel Bureau shall not make any portion of the required contribution.**

↪ **The election and payment must be made on or before January 1, 2008.**

~~{Sec. 9.}~~ **Sec. 12. 1. This section and sections 2 to 11, inclusive, of this act becomes effective upon passage and approval.**

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

Assemblywoman Koivisto moved that the Assembly concur in the Senate amendment to Assembly Bill No. 593.

Remarks by Assemblywoman Koivisto.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

RECEDE FROM ASSEMBLY AMENDMENTS

Assemblywoman Parnell moved that the Assembly do not recede from its actions on Senate Bill No. 328, that a conference be requested, and that Madam Speaker appoint a first Conference Committee consisting of three members to meet with a like committee of the Senate.

Remarks by Assemblywoman Parnell.
 Motion carried.

APPOINTMENT OF CONFERENCE COMMITTEES

Madam Speaker appointed Assemblymen Segerblom, Smith, and Stewart as a first Conference Committee to meet with a like committee of the Senate for the further consideration of Senate Bill No. 328.

RECEDE FROM ASSEMBLY AMENDMENTS

Assemblyman Anderson moved that the Assembly do not recede from its actions on Senate Bill No. 436, that a conference be requested, and that Madam Speaker appoint a first Conference Committee consisting of three members to meet with a like committee of the Senate.

Remarks by Assemblyman Anderson.
 Motion carried.

APPOINTMENT OF CONFERENCE COMMITTEES

Madam Speaker appointed Assemblymen Horne, Parks, and Allen as a first Conference Committee to meet with a like committee of the Senate for the further consideration of Senate Bill No. 436.

REPORTS OF CONFERENCE COMMITTEES

Madam Speaker:

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.

BONNIE PARNELL
 MOISES DENIS
 BOB BEERS

Assembly Conference Committee

JOSEPH HECK
 BOB COFFIN
 BARBARA CEGAVSKE

Senate Conference Committee

Assemblywoman Parnell moved that the Assembly adopt the report of the first Conference Committee concerning Senate Bill No. 115.

Remarks by Assemblyman Parnell.

Motion carried by a constitutional majority.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Oceguera moved that all rules be suspended and that all bills and resolutions be immediately transmitted to the Senate for this legislative day.

Motion carried.

Assemblyman Oceguera moved that the Assembly recess until 4:30 p.m.

Motion carried.

Assembly in recess at 12:53 p.m.

ASSEMBLY IN SESSION

At 4:40 p.m.
Madam Speaker presiding.
Quorum present.

REPORTS OF COMMITTEES

Madam Speaker:

Your Committee on Ways and Means, to which were rereferred Assembly Bills Nos. 158, 232, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

MORSE ARBERRY JR., *Chair*

UNFINISHED BUSINESS

RECEDE FROM ASSEMBLY AMENDMENTS

Assemblywoman Leslie moved that the Assembly do not recede from its action on Senate Bill No. 266, that a conference be requested, and that Madam Speaker appoint a first Conference Committee consisting of three members to meet with a like committee of the Senate.

Remarks by Assemblywoman Leslie.

Motion carried.

APPOINTMENT OF CONFERENCE COMMITTEES

Madam Speaker appointed Assemblymen Gerhardt, Womack, and Stewart as a first Conference Committee to meet with a like committee of the Senate for the further consideration of Senate Bill No. 266.

GENERAL FILE AND THIRD READING

Assembly Bill No. 232.

Bill read third time.

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

Amendment No. 1104.

AN ACT relating to the Department of Health and Human Services; requiring the Department to make available to consumers certain information relating to pharmacies and the prices of commonly prescribed prescription drugs; ~~making an appropriation;~~ **requiring the Department to make certain determinations before performing certain duties;** providing an administrative penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 3 of this bill requires the Retail Association of Nevada or its successor to compile a list of not less than 100 prescription drugs, and their generic equivalents, that are most commonly prescribed to residents of this State. Sections 5-8 of this bill require the Department of Health and Human Services to: (1) combine the contents of the list with usual and customary pricing information received from pharmacies that are licensed by the State

Board of Pharmacy; and (2) present the combined information on the Department's Internet website so that consumers may compare the prices currently being charged by those pharmacies for those prescription drugs. By regulation, links to such information on the Department's website may be placed on the Internet websites of other persons and entities, including pharmacies and other governmental entities. Section 4 of this bill requires pharmacies that are licensed by the State Board of Pharmacy and located in the State of Nevada to provide to the Department, at least once each month, the usual and customary prices that the pharmacy charges for the prescription drugs on the list of most-prescribed drugs compiled by the Retail Association of Nevada, as well as certain contact information for the pharmacy. Pharmacies that are licensed by the State Board of Pharmacy but located outside the State of Nevada may, but are not required to, provide such information. Section 9 of this bill allows the Department to accept grants, donations, gifts and other public and private money to carry out the provisions of this bill. **Section 9 also requires the Department to determine at the beginning of each fiscal year whether sufficient money is available to fund one or more components of the programs and duties of the Department relating to sections 2-10 of this bill.** Section 10 of this bill provides that if a pharmacy is required to provide information to the Department pursuant to section 4 and the pharmacy, without good cause, fails to do so or fails to do so in a timely manner, the Department may impose an administrative penalty of up to \$500 for each day on which such a failure occurs. ~~Section 13 of this bill makes an appropriation to the Department to pay for the goods and services needed by the Department in order to furnish information to consumers by way of its Internet website.~~ This bill excludes institutional pharmacies from the application of its provisions.

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 the provisions set forth as sections 2 to 10, inclusive, of this act.

Sec. 2. *As used in sections 2 to 10, inclusive, of this act, unless the context otherwise requires, "pharmacy" means every store or shop licensed by the State Board of Pharmacy where drugs, controlled substances, poisons, medicines or chemicals are stored or possessed, or dispensed or sold at retail, or displayed for sale at retail, or where prescriptions are compounded or dispensed. The term does not include an institutional pharmacy as defined in NRS 639.0085.*

Sec. 3. *The Retail Association of Nevada or its successor shall:*

1. *Compile a list of not less than the 100 brand name prescription drugs most commonly prescribed to residents of this State;*

2. *Ensure that the list compiled pursuant to subsection 1 sets forth a separate entry for the generic equivalent, if any, of each brand name prescription drug included on the list; and*

3. *At least once each calendar quarter, update the list compiled pursuant to subsection 1 and transmit the list to the Department.*

Sec. 4. 1. *Except as otherwise provided in subsections 2 and 3, each pharmacy shall, in accordance with the regulations adopted pursuant to section 8 of this act, provide to the Department:*

(a) *Information that a consumer may use to locate, contact or otherwise do business with the pharmacy, including, without limitation:*

(1) *The name of the pharmacy;*

(2) *The physical address of the pharmacy; and*

(3) *The phone number of the pharmacy;*

(b) *If the pharmacy maintains an electronic mail address, the electronic mail address of the pharmacy;*

(c) *If the pharmacy maintains an Internet website, the Internet address of that website; and*

(d) *Not less frequently than once each month:*

(1) *For each prescription drug that is on the list compiled pursuant to section 3 of this act and that is stocked by the pharmacy, the usual and customary price that the pharmacy is currently charging for the prescription drug; and*

(2) *For each generic equivalent that is on the list compiled pursuant to section 3 of this act and that is stocked by the pharmacy, the usual and customary price that the pharmacy is currently charging for the generic equivalent.*

2. *If a pharmacy is not located within the State of Nevada, the pharmacy may, but is not required to, provide to the Department the information described in subsection 1.*

3. *If a pharmacy is part of a larger company or corporation or a chain of pharmacies or retail stores, the parent company or corporation may provide to the Department the information described in subsection 1.*

4. *As used in this section, "usual and customary price" means the usual and customary charges that a provider charges to the general public for a drug, as described in 42 C.F.R. § 447.331.*

Sec. 5. 1. *Except as otherwise provided in subsection 2, the Department shall:*

(a) *Place or cause to be placed on the Internet website maintained by the Department the information provided by each pharmacy pursuant to section 4 of this act;*

(b) *Ensure that the information provided by each pharmacy pursuant to section 4 of this act and placed on the Internet website maintained by the Department is organized so that each individual pharmacy has its own separate entry on that website; and*

(c) Ensure that the pricing information provided by each pharmacy pursuant to section 4 of this act and placed on the Internet website maintained by the Department:

(1) Is presented in a manner which complies with the requirements of section 6 of this act; and

(2) Is updated not less frequently than once each month.

2. If a pharmacy is part of a larger company or corporation or a chain of pharmacies or retail stores, the Department may present the pricing information pertaining to such a pharmacy in such a manner that the pricing information is combined with the pricing information relative to other pharmacies that are part of the same company, corporation or chain, to the extent that the pricing information does not differ among those pharmacies.

3. The Department may establish additional or alternative procedures by which a consumer who is unable to access the Internet or is otherwise unable to receive the information described in subsection 1 in the manner in which it is presented by the Department may obtain that information:

(a) In the form of paper records;

(b) Through the use of a telephonic system; or

(c) Using other methods or technologies designed specifically to assist consumers who are hearing impaired or visually impaired.

Sec. 6. 1. Except as otherwise provided in this section, the Department shall ensure that the list of prescription drugs compiled pursuant to section 3 of this act and the information that pharmacies provide pursuant to section 4 of this act are combined and presented to consumers in such a manner that a consumer may easily compare the prices for particular prescription drugs, and their generic equivalents, that are currently charged by:

(a) Pharmacies located within the same city, county or zip code in which the consumer resides;

(b) Internet pharmacies; and

(c) Pharmacies that provide mail order service to residents of Nevada.

↪ The requirements of paragraphs (b) and (c) apply only to the extent that information regarding such pharmacies is made available to the Department.

2. As used in this section, "Internet pharmacy" has the meaning ascribed to it in NRS 639.00865.

Sec. 7. The Department and its members, officers and employees are not liable civilly or criminally for any act, omission, error or technical problem that results in:

1. The failure to provide to consumers information regarding a pharmacy, including, without limitation, the prices charged by the pharmacy for the prescription drugs and generic equivalents that are on the list compiled pursuant to section 3 of this act; or

2. *The providing to consumers of incorrect information regarding a pharmacy, including, without limitation, the prices charged by the pharmacy for the prescription drugs and generic equivalents that are on the list compiled pursuant to section 3 of this act.*

Sec. 8. *The Department shall adopt such regulations as it determines to be necessary or advisable to carry out the provisions of sections 2 to 10, inclusive, of this act. Such regulations must provide for, without limitation:*

1. *Notice to consumers stating that:*

(a) *Although the Department will strive to ensure that consumers receive accurate information regarding pharmacies, including, without limitation, the prices charged by those pharmacies for the prescription drugs and generic equivalents that are on the list compiled pursuant to section 3 of this act, the Department is unable to guarantee the accuracy of such information;*

(b) *If a consumer follows an Internet link from the Internet website maintained by the Department to an Internet website maintained by a pharmacy, the Department is unable to guarantee the accuracy of any information made available on the Internet website maintained by the pharmacy; and*

(c) *The Department advises consumers to contact a pharmacy directly to verify the accuracy of any information regarding the pharmacy which is made available to consumers pursuant to sections 2 to 10, inclusive, of this act;*

2. *Procedures adopted cooperatively with the Office of the Governor to direct consumers who have questions regarding the program described in sections 2 to 10, inclusive, of this act to contact the Office for Consumer Health Assistance in the Office of the Governor;*

3. *Provisions in accordance with which the Department will allow an Internet link to the information provided by each pharmacy pursuant to section 4 of this act and made available on the Department's Internet website to be placed on other Internet websites managed or maintained by other persons and entities, including, without limitation, Internet websites managed or maintained by:*

(a) *Pharmacies;*

(b) *Other governmental entities, including, without limitation, the State Board of Pharmacy and the Office of the Governor; and*

(c) *Nonprofit organizations and advocacy groups;*

4. *Procedures pursuant to which consumers and pharmacies may report to the Department that information made available to consumers pursuant to sections 2 to 10, inclusive, of this act is inaccurate;*

5. *The form and manner in which pharmacies are to provide to the Department the information described in section 4 of this act; and*

6. *Standards and criteria pursuant to which the Department may remove from its Internet website information regarding a pharmacy or an*

Internet link to the Internet website maintained by a pharmacy, or both, if the Department determines that the pharmacy has:

(a) Ceased to be licensed and in good standing pursuant to chapter 639 of NRS;

(b) Engaged in a pattern of providing to consumers information that is false or would be misleading to reasonably informed persons; or

(c) Violated any state or federal law governing the practice of pharmacy.

Sec. 9. 1. On or before July 1 of each odd-numbered year, the Department shall make a determination of whether sufficient money is available and authorized for expenditure to fund one or more components of the programs and other duties of the Department relating to sections 2 to 10, inclusive, of this act.

2. The Department shall temporarily suspend any components of the program or duties of the Department for which it determines pursuant to subsection 1 that sufficient money is not available.

3. The Department may apply for and accept any available grants and may accept any bequests, devises, donations or gifts from any public or private source to carry out the provisions of sections 2 to 10, inclusive, of this act.

Sec. 10. *If a pharmacy that is licensed under the provisions of chapter 639 of NRS and is located within the State of Nevada fails to provide to the Department the information required to be provided pursuant to section 4 of this act or fails to provide such information on a timely basis, and the failure was not caused by excusable neglect, technical problems or other extenuating circumstances, the Department may impose against the pharmacy an administrative penalty of not more than \$500 for each day of such failure.*

Sec. 11. NRS 639.2802 is hereby amended to read as follows:

639.2802 ~~{Prescription}~~ *In addition to any applicable requirements set forth in sections 2 to 10, inclusive, of this act, prescription* price information must be made available, upon request, by a pharmacist or practitioner who dispenses drugs.

Sec. 12. NRS 639.28025 is hereby amended to read as follows:

639.28025 ~~{Every}~~ *In addition to any applicable requirements set forth in sections 2 to 10, inclusive, of this act, every* practitioner who dispenses drugs shall post on the premises in a place conspicuous to customers and easily accessible and readable by customers a notice, provided by the Board, advising customers that a price list of drugs and professional services is available to them upon request.

Sec. 13. ~~{1. There is hereby appropriated from the State General Fund to the Department of Health and Human Services for the purpose of allowing the Department to acquire such equipment, goods, services and technologies as may be necessary for the Department to provide to consumers, by way of the Department's Internet website, the information described in sections 2 to 10, inclusive, of this act.~~

~~For the Fiscal Year 2007-2008 \$25,000~~

~~For the Fiscal Year 2008-2009 \$10,000~~

~~2. The sums appropriated by subsection 1 are available for either fiscal year. Any remaining balance of those sums must not be committed for expenditure after June 30, 2009, by the entity to which the appropriation is made or any entity to which money from the appropriation is granted or otherwise transferred in any manner, and any portion of the appropriated money remaining must not be spent for any purpose after September 18, 2009, by either the entity to which the money was appropriated or the entity to which the money was subsequently granted or transferred, and must be reverted to the State General Fund on or before September 18, 2009.] (Deleted by amendment.)~~

Sec. 14. 1. This section and section ~~13~~ 9 of this act become effective upon passage and approval.

2. Sections 1 to ~~12~~ 8, inclusive, 10, 11 and 12 of this act become effective on October 1, 2007.

Assemblywoman Leslie moved the adoption of the amendment.

Amendment adopted.

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

Assembly Bill No. 158.

Bill read third time.

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

Amendment No. 1103.

AN ACT relating to health care; requiring the Secretary of State to establish and maintain the Registry of Advance Directives for Health Care on his Internet website; establishing the requirements to register an advance directive and to obtain access to an advance directive in the Registry; providing civil and criminal immunity to providers of health care and the Secretary of State, his deputies, employees and attorneys under certain circumstances; **requiring the Secretary of State to make certain determinations before performing certain duties**; requiring the Secretary of State to conduct an interim study of the Registry; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, a person may provide an advance directive concerning his health care in the form of a declaration governing the withholding or withdrawal of life-sustaining treatment, a durable power of attorney for health care decisions or a do-not-resuscitate order. (NRS 449.535-449.690, 449.800-449.860, 450B.420)

Section 6 of this bill requires the Secretary of State to establish and maintain the Registry of Advance Directives for Health Care by posting a digital photograph of each advance directive to a secure portion of his Internet website.

Section 7 of this bill establishes the procedures that a person must follow to register his advance directive with the Secretary of State and obtain the registration number and password that are needed to access his advance directive in the registry.

Section 8 of this bill requires any person requesting access to an advance directive in the Registry to provide the correct registration number and password. Section 8 also restricts access to a person's advance directive in the Registry to the registrant and his personal representative or provider of health care unless: (1) the registrant requests that another person be granted access; (2) the Secretary of State determines that the access is in the registrant's best interest; or (3) the access is necessary to comply with a court order.

Section 10 of this bill provides that the Secretary of State is not required to determine whether an advance directive is accurate or valid before posting it to the Registry and clarifies that the validity of an advance directive or a revocation of an advance directive is not affected by posting or failing to post the advance directive to the Registry.

Sections 11 and 12 of this bill provide civil and criminal immunity for providers of health care and the Secretary of State, his deputies, employees and attorneys in connection with the Registry if they act in good faith.

Section 13 of this bill authorizes the Secretary of State to charge fees and accept contributions to establish and maintain the Registry. **Section 13 also requires the Secretary of State to determine at the beginning of each fiscal year whether sufficient money is available to fund one or more components of the programs and duties of the Secretary of State relating to sections 2-15 of this bill.**

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

Section 1. Chapter 449 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 15, inclusive, of this act.

Sec. 2. *As used in sections 2 to 15, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 3, 4 and 5 of this act have the meanings ascribed to them in those sections.*

Sec. 3. *"Advance directive" means an advance directive for health care. The term includes:*

1. A declaration governing the withholding or withdrawal of life-sustaining treatment as set forth in NRS 449.535 to 449.690, inclusive;

2. A durable power of attorney for health care decisions as set forth in NRS 449.800 to 449.860, inclusive; and

3. A do-not-resuscitate order as defined in NRS 450B.420.

Sec. 4. *"Registrant" means a person whose advance directive is registered with the Secretary of State pursuant to section 7 of this act.*

Sec. 5. *"Registry" means the Registry of Advance Directives for Health Care established by the Secretary of State pursuant to section 6 of this act.*

Sec. 6. *The Secretary of State shall establish and maintain the Registry of Advance Directives for Health Care on his Internet website. The Registry must include, without limitation, in a secure portion of the website, an electronic reproduction of each advance directive. The electronic reproduction must be capable of being viewed on the website and downloaded, printed or otherwise retrieved by a person as set forth in section 8 of this act.*

Sec. 7. 1. *A person who wishes to register an advance directive must submit to the Secretary of State:*

- (a) An application in the form prescribed by the Secretary of State;*
- (b) A copy of the advance directive; and*
- (c) The fee, if any, established by the Secretary of State pursuant to section 13 of this act.*

2. *If the person satisfies the requirements of subsection 1, the Secretary of State shall:*

- (a) Make an electronic reproduction of the advance directive and post it to the Registry;*
- (b) Assign a registration number and password to the registrant; and*
- (c) Provide the registrant with a registration card that includes, without limitation, the name, registration number and password of the registrant.*

3. *The Secretary of State shall establish procedures for:*

- (a) The registration of an advance directive that replaces an advance directive that is posted on the Registry;*
- (b) The removal from the Registry of an advance directive that has been revoked following the revocation of the advance directive or the death of the registrant; and*
- (c) The issuance of a duplicate registration card or the provision of other access to the registrant's registration number and password if a registration card issued pursuant to this section is lost, stolen, destroyed or otherwise unavailable.*

Sec. 8. 1. *Except as otherwise provided in this section, the Secretary of State shall not provide access to a registrant's advance directive unless:*

- (a) The person requesting access provides the registration number and password of the registrant;*
- (b) The Secretary of State determines that providing access to the advance directive is in the best interest of the registrant;*
- (c) Access to the advance directive is required pursuant to the lawful order of a court of competent jurisdiction; or*
- (d) Access to the advance directive is requested by the registrant or his personal representative.*

2. *A registrant or the personal representative of a registrant may access the registrant's advance directive for any purpose. A provider of health*

care to the registrant may access the registrant's advance directive only in connection with the provision of health care to the registrant.

Sec. 9. The Secretary of State shall remove from the Registry the advance directives of deceased registrants. The State Registrar of Vital Statistics shall cooperate with the Secretary of State to identify registrants whose advance directives must be removed from the Registry. The Secretary of State shall remove from the Registry the advance directives of deceased registrants at least once every 5 years.

Sec. 10. 1. The provisions of sections 2 to 15, inclusive, of this act do not require the Secretary of State to determine whether the contents of an advance directive submitted for registration are accurate or the execution or issuance of the advance directive complies with the requirements necessary to make the advance directive valid.

2. The registration of an advance directive does not establish or create a presumption that the contents of the advance directive are accurate or the execution or issuance of the advance directive complies with the requirements necessary to make the advance directive valid.

3. Failure to register an advance directive does not affect the validity of the advance directive.

4. Failure to notify the Secretary of State of the revocation of a registrant's advance directive does not affect the validity of the revocation.

Sec. 11. 1. The provisions of sections 2 to 15, inclusive, of this act do not require a provider of health care to inquire whether a patient has an advance directive registered on the Registry or to access the Registry to determine the terms of the advance directive.

2. A provider of health care who relies in good faith on the provisions of an advance directive retrieved from the Registry is immune from criminal and civil liability as set forth in:

(a) NRS 449.630, if the advance directive is a declaration governing the withholding or withdrawal of life-sustaining treatment executed pursuant to NRS 449.535 to 449.690, inclusive, or a durable power of attorney for health care decisions executed pursuant to NRS 449.800 to 449.860, inclusive; or

(b) NRS 450B.540, if the advance directive is a do-not-resuscitate order as defined in NRS 450B.420.

Sec. 12. The Secretary of State and the deputies, employees and attorneys of the Secretary of State are not liable for any action or omission made in good faith by the Secretary of State, deputy, employee or attorney in carrying out the provisions of sections 2 to 15, inclusive, of this act.

Sec. 13. 1. On or before July 1 of each odd-numbered year, the Secretary of State shall make a determination of whether sufficient money is available and authorized for expenditure to fund one or more components of the programs and other duties of the Secretary of State relating to sections 2 to 15, inclusive, of this act.

2. The Secretary of State shall temporarily suspend any components of the programs or duties of the Secretary of State for which he determines pursuant to subsection 1 that sufficient money is not available.

3. The Secretary of State may charge and collect fees and accept gifts, grants, bequests and other contributions from any source for the purpose of carrying out the provisions of sections 2 to 15, inclusive, of this act.

Sec. 14. 1. All money received by the Secretary of State pursuant to sections 2 to 15, inclusive, of this act must be:

(a) Deposited in the State Treasury and accounted for separately in the State General Fund; and

(b) Used only for the purpose of carrying out the provisions of sections 2 to 15, inclusive, of this act.

2. The Secretary of State shall administer the account. The interest and income earned on the money in the account, after deducting any applicable charges, must be credited to the account.

3. The money in the account does not lapse to the State General Fund at the end of any fiscal year.

4. Claims against the account must be paid as other claims against the State are paid.

Sec. 15. The Secretary of State may adopt regulations to carry out the provisions of sections 2 to 15, inclusive, of this act.

Sec. 16. **To the extent money is available and authorized for use for the purposes set forth in this section:**

1. The Secretary of State shall conduct a study of the Registry of Advance Directives for Health Care.

2. In conducting the study pursuant to subsection 1, the Secretary of State shall work in consultation with and solicit advice and recommendations from the Nevada Center for Ethics and Health Policy of the University of Nevada, Reno.

3. The Secretary of State 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. 17. This act becomes effective 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 on July 1, 2007, for all other purposes.

Assemblywoman Leslie moved the adoption of the amendment.

Amendment adopted.

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

Assembly Bill No. 232.

Bill read third time.

Remarks by Assemblywoman Leslie.

Roll call on Assembly Bill No. 232:

YEAS—40.

NAYS—Settelmeyer.

EXCUSED—Horne.

Assembly Bill No. 232 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 158.

Bill read third time.

Remarks by Assemblyman Bobzien.

Roll call on Assembly Bill No. 158:

YEAS—29.

NAYS—Beers, Christensen, Gansert, Goedhart, Goicoechea, Grady, Hardy, Mabey, Marvel, Settelmeyer, Stewart, Weber—12.

EXCUSED—Horne.

Assembly Bill No. 158 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

UNFINISHED BUSINESS

CONSIDERATION OF SENATE AMENDMENTS

Assembly Bill No. 440.

The following Senate amendment was read:

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 of~~ 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; ~~or~~

(h) Violates any provision of NRS 604A.490; ~~or~~ **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 ~~two 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.

Assemblyman Ocegüera moved that the Assembly concur in the Senate amendment to Assembly Bill No. 440.

Remarks by Assemblyman Ocegüera.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 319.

The following Senate amendment was read:

Amendment No. 869.

AN ACT relating to public employees' retirement; pledging that the Legislature will not increase the retirement benefits for certain public employees unless the retirement fund from which the benefits will be paid is funded at or above a certain level; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, the retirement benefits of public employees under the Public Employees' Retirement System are generally governed by the provisions of chapter 286 of NRS. There are two separate retirement funds established under the System pursuant to chapter 286 of NRS, the Public Employees' Retirement Fund and the Police and Firefighters' Retirement Fund. (NRS 286.220, 286.225) This bill sets forth the pledge of the Legislature that it will not increase any benefit or allowance payable under the System pursuant to chapter 286 of NRS ~~{that is not cost neutral}~~ unless the actuarial value of the assets of the retirement fund from which the benefit or allowance will be paid is equal to or greater than 85 percent of the actuarial accrued liabilities of that retirement fund.

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

Section 1. Chapter 286 of NRS is hereby amended by adding thereto a new section to read as follows:

The Legislature hereby pledges that it will not enact any law which has the effect of increasing any benefit or allowance payable under the System pursuant to this chapter ~~{that is not cost neutral}~~ unless the actuarial value of the assets of the retirement fund from which the benefit or allowance will be paid is equal to or greater than 85 percent of the actuarial accrued liabilities of that retirement fund, as determined in accordance with generally accepted accounting principles for government as prescribed by the Governmental Accounting Standards Board.

Sec. 2. (Deleted by amendment.)

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

Assemblyman Arberry moved that the Assembly do not concur in the Senate amendment to Assembly Bill No. 319.

Remarks by Assemblyman Arberry.

Motion carried.

Bill ordered transmitted to the Senate.

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

Motion carried.

Assembly in recess at 4:46 p.m.

ASSEMBLY IN SESSION

At 5:00 p.m.

Madam Speaker presiding.

Quorum present.

UNFINISHED BUSINESS

There being no objections, the Speaker and Chief Clerk signed Assembly Bills Nos. 139, 212, 569, 579; Assembly Resolution No. 16; Senate Bill No. 310.

GUESTS EXTENDED PRIVILEGE OF ASSEMBLY FLOOR

On request of Assemblyman Grady, the privilege of the floor of the Assembly Chamber for this day was extended to the following students from Dayton High School: Amanda Aranyos, Alyssa Fortune, Amanda Knapp, Curtis Wilhelm, Sean Lane, Travis Wade, Michael Feliz-Long, Rachel Breithaupt, Stephanie Roedel, Avery Bell, Joe Delaski, Jesse Vickers, Dallas Pruet, Jessica Riley, Josue Pineda, Thomas Chill, Luis Madrid, Chris Roman, Valerie White and Austin Osborne.

On request of Assemblyman Hogan, the privilege of the floor of the Assembly Chamber for this day was extended to the following students from Roberta C. Cartwright Elementary School: Jack Mikita, Joey Inferno, Gavin McCord, Trevor Gower, Nick Courtney, Tanner Anderson, Hector Gonzalez, Fallon Jones, Taylor Adams, Emily Sidebottom, Ellen Campbell, Sunny Stokes, Elizabeth Seang, Shaina Krashin, Lisa Smith, Tim Mikita, Robert Gower, Steven Anderson, Jolene Jones, Rebecca Campbell, Jayne Krashin, Jeanette Smith, Cami Bech, Susan Stemmerik, Lily Bernaur, Elizabeth Schulenburg, Kaitlyn Lombardo, Sydnee Morency, Sam Cox, Daniel Siciliano, Jarrett Alipio, Staci Bernaur, Diane Manzano, Matthew Cox, Rich Morency, Keith Lombardo, Jana Stewart, Samantha Campbell, Gabriella Garcia, Nayeli Martinez, Alyssa Moreno, Heather Campbell, Gabriella Robles, Karina Meza, Madison Crader, Jordan Lommason, Matt Villanueva, Colin Curi, Anh Luong, Cody Iwertz, Joseph Reed, Gabriel Camacho, Jadrian Boeckh, Zack Turrietta, Anthony Schulenburg, Nathaniel Montiero, Ryan Crame, Nikola Nikolic, Carter Dunn, Julie Curi, Dora Frixione, Pablo Villanueva, Chuck Iwertz, Juan Boeckh, Maurice Montiero, Julie Jensen, Michelle Dunn, Sherry Christensen, Chip Christensen, Amanda Mulholland, Fridah Ojeda, Bianca Andrade, Cristina Litao, Ashleigh Angelo, Denzel Gamboa, Nick Johnston, Ryan Brickman, Zack Martinez, Michael Christensen, Angel Martinez, Kyle Kelly, Brandon Baliza, Mark Vielma, Elianna cooper, Francesca Strawther, Kailyn Pashall, Brittney Mainor, Brandon Mainor, Brian Mainor, Rachel Mainor, Sitter Mainor, Laura Mulholland, Cecilia Andrade, Leo Gamboa, Bobby Martinez, Kenny Kelly,

Peggy Kelly, Michael Angelo, Helen Welte, Sarah Mainor, Owen Hurley, Caden Marshall, Nick Moneo, Monet Salazar, Lexi Lyman, Madison Zobrist, Peter Hurley, Sarah Jane Salazar, Stacy Mahan, Travis Elwell, Harman Bhinder, Isaiah Saromines, Cody Carpenter, Wyatt Wood, Marshall Merriman, Sidney Iwata, Elayna Gardner, Andrea Sookiassian, Erianna Flores, Katelyn DeBusk, Michael Siwec, Corey Schauben, Jack Harper, Aly Bennett, Richard Elwell, Shad Saromines, Bill Wood, Patti Jo Iwata, Jannette Sookiassian, Michael Siwec, Richard Bennett, Kerry Bennett, Bryan Sison, Giselle Moreno and Mike Smith.

On request of Assemblywoman Leslie, the privilege of the floor of the Assembly Chamber for this day was extended to Jessica Sferrazza and Hillary Schieve.

Assemblyman Ocegueda moved that the Assembly adjourn until Saturday, June 2, 2007, at 11 a.m.

Motion carried.

Assembly adjourned at 5:01 p.m.

Approved:

BARBARA E. BUCKLEY
Speaker of the Assembly

Attest: SUSAN FURLONG REIL
Chief Clerk of the Assembly