

THE ONE HUNDRED AND SEVENTEENTH DAY

CARSON CITY (Friday), June 1, 2007

Senate called to order at 11:26 a.m.

President Krolicki presiding.

Roll called.

All present.

Prayer by the Chaplain, Pastor Albert Tilstra.

Our Father, when we long for life without trials and work without difficulties, remind us that oaks grow strong in contrary winds and diamonds are made under pressure. With stout hearts may we see in every calamity an opportunity and not give way to the pessimism that sees in every opportunity a calamity.

Knowing that You are still upon the throne, let us get on with the job at hand, doing the best we can and leaving the rest to You. Help us to show ourselves to be good workmen who need not be ashamed, rightly dividing the word of truth. This we ask in Your Holy Name.

AMEN.

Pledge of Allegiance to the Flag.

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

Motion carried.

REPORTS OF COMMITTEES

Mr. President:

Your Committee on Finance, to which was referred Assembly Bill No. 626, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

Also, your Committee on Finance, to which were referred Senate Bills Nos. 191, 540, 547, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

WILLIAM J. RAGGIO, *Chair*

Mr. President:

Your Committee on Judiciary, to which was referred Assembly Bill No. 510, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

MARK E. AMODEI, *Chair*

Mr. President:

Your Committee on Transportation and Homeland Security, to which was referred Assembly Bill No. 584, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

DENNIS NOLAN, *Chair*

MESSAGES FROM THE ASSEMBLY

ASSEMBLY CHAMBER, Carson City, May 31, 2007

To the Honorable the Senate:

I have the honor to inform your honorable body that the Assembly on this day passed Senate Bill No. 90; Assembly Bill No. 627.

Also, I have the honor to inform your honorable body that the Assembly on this day passed, as amended, Assembly Bills Nos. 291, 469.

Also, I have the honor to inform your honorable body that the Assembly amended, and on this day passed, as amended, Senate Bill No. 422, Amendment No. 1081, and respectfully requests your honorable body to concur in said amendment.

Also, I have the honor to inform your honorable body that the Assembly on this day concurred in the Senate Amendment No. 804 to Assembly Bill No. 139; Senate Amendment No. 1061 to Assembly Bill No. 212; Senate Amendment No. 708 to Assembly Bill No. 569.

Also, I have the honor to inform your honorable body that the Assembly on this day respectfully refused to recede from its action on Senate Bill No. 18, Assembly Amendments Nos. 709, 977, and requests a conference, and appointed Assemblymen Conklin, Parks and Gansert as a first Conference Committee to meet with a like committee of the Senate.

Also, I have the honor to inform your honorable body that the Assembly on this day respectfully refused to recede from its action on Senate Bill No. 43, Assembly Amendment No. 840, and requests a conference, and appointed Assemblymen Atkinson, Bobzien and Carpenter as a first Conference Committee to meet with a like committee of the Senate.

Also, I have the honor to inform your honorable body that the Assembly on this day respectfully refused to recede from its action on Senate Bill No. 412, Assembly Amendment No. 983, and requests a conference, and appointed Assemblymen Conklin, Gerhardt and Mabey as a first Conference Committee to meet with a like committee of the Senate.

Also, I have the honor to inform your honorable body that the Assembly on this day respectfully refused to recede from its action on Senate Bill No. 483, Assembly Amendment No. 837, and requests a conference, and appointed Assemblymen Segerblom, Horne and Mabey as a first Conference Committee to meet with a like committee of the Senate.

Also, I have the honor to inform your honorable body that the Assembly on this day respectfully refused to recede from its action on Senate Bill No. 487, Assembly Amendment No. 893, and requests a conference, and appointed Assemblymen Kirkpatrick, Bobzien and Gansert as a first Conference Committee to meet with a like committee of the Senate.

Also, I have the honor to inform your honorable body that the Assembly on this day respectfully refused to recede from its action on Senate Bill No. 536, Assembly Amendment No. 858, and requests a conference, and appointed Assemblymen Koivisto, Womack and Weber as a first Conference Committee to meet with a like committee of the Senate.

Also, I have the honor to inform your honorable body that the Assembly on this day appointed Assemblymen Smith, Bobzien and Grady as a first Conference Committee concerning Assembly Bill No. 13.

Also, I have the honor to inform your honorable body that the Assembly on this day appointed Assemblymen Leslie, Anderson and Hardy as a first Conference Committee concerning Assembly Bill No. 148.

Also, I have the honor to inform your honorable body that the Assembly on this day appointed Assemblymen Conklin, Bobzien and Gansert as a first Conference Committee concerning Assembly Bill No. 178.

Also, I have the honor to inform your honorable body that the Assembly on this day appointed Assemblymen Manendo, Ohrenschall and Settlemeyer as a first Conference Committee concerning Assembly Bill No. 304.

Also, I have the honor to inform your honorable body that the Assembly on this day appointed Assemblymen Horne, Allen and Parks as a first Conference Committee concerning Assembly Bill No. 396.

Also, I have the honor to inform your honorable body that the Assembly on this day appointed Assemblymen Leslie, Gerhardt and Mabey as a first Conference Committee concerning Assembly Bill No. 424.

Also, I have the honor to inform your honorable body that the Assembly on this day appointed Assemblymen Pierce, Koivisto and Stewart as a first Conference Committee concerning Assembly Bill No. 443.

Also, I have the honor to inform your honorable body that the Assembly on this day appointed Assemblymen Conklin, Horne and Allen as a first Conference Committee concerning Assembly Bill No. 496.

Also, I have the honor to inform your honorable body that the Assembly on this day appointed Assemblymen Atkinson, Manendo and Goicoechea as a first Conference Committee concerning Assembly Bill No. 497.

LUCINDA BENJAMIN
Assistant Chief Clerk of the Assembly

MOTIONS, RESOLUTIONS AND NOTICES

By Senator Hardy:

Senate Concurrent Resolution No. 48—Encouraging automobile manufacturers to make certain information and tools available to independent garages for the repair of motor vehicles.

Senator Hardy moved that the resolution be referred to the Committee on Transportation and Homeland Security.

Motion carried.

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

Remarks by Senator Care.

Motion carried.

INTRODUCTION, FIRST READING AND REFERENCE

Assembly Bill No. 291.

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

Motion carried.

Assembly Bill No. 469.

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

Motion carried.

Assembly Bill No. 627.

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

Remarks by Senator Raggio.

Motion carried.

SECOND READING AND AMENDMENT

Senate Bill No. 191.

Bill read second time.

The following amendment was proposed by the Committee on Finance:

Amendment No. 1066.

"SUMMARY—~~Makes an appropriation to the Office of the Attorney General to purchase computer hardware and software and projectors.~~
Revises provisions governing the Account for the Technological Crime Advisory Board. (BDR ~~[S-1203]~~ *15-1203*)

"AN ACT *relating to state financial administration; revising the provisions governing the Account for the Technological Crime Advisory Board; making an appropriation ;* ~~to the Office of the Attorney General to~~

~~purchase computer hardware and software and projectors,] and providing other matters properly relating thereto."~~

Legislative Counsel's Digest:

Under existing law, money in the Account for the Technological Crime Advisory Board does not revert to the State General Fund. (NRS 205A.090) Section 1 of this bill provides that any money in the Account that is appropriated from the State General Fund or the State Highway Fund must revert as provided in the legislation authorizing the appropriation. Section 2 of this bill makes an appropriation to the Office of the Attorney General for certain computer equipment and software.

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

Section 1. NRS 205A.090 is hereby amended to read as follows:

205A.090 1. The Account for the *Technological Crime* Advisory Board ~~[for the Nevada Task Force for Technological Crime]~~ is hereby created in the State General Fund. The Board shall administer the Account.

2. The money in the Account must only be used to carry out the provisions of this chapter and pay the expenses incurred by the Board in the discharge of its duties, including, without limitation, the payment of any expenses related to the creation and subsequent activities of the task forces on technological crime.

3. Claims against the Account must be paid as other claims against the State are paid.

4. The money in the Account *that is provided from sources other than the State General Fund or the State Highway Fund* must remain in the Account and must not revert to the State General Fund at the end of any fiscal year. *Money in the Account that is appropriated or allocated from the State General Fund or the State Highway Fund must revert as provided in the legislation that authorizes the appropriation or the allocation.*

~~[Section 1.]~~ *Sec. 2.* There is hereby appropriated from the State General Fund to the Office of the Attorney General the sum of ~~[\$480,271]~~ \$452,272 for the purchase of computer hardware and software, including a tape backup system, and for the purchase of projectors.

~~[Sec. 2.]~~ *Sec. 3.* Any remaining balance of the appropriation made by section 1 of this act must not be committed for expenditure after June 30, 2009, by the entity to which the appropriation is made or any entity to which money from the appropriation is granted or otherwise transferred in any manner, and any portion of the appropriated money remaining must not be spent for any purpose after September 18, 2009, by either the entity to which the money was appropriated or the entity to which the money was subsequently granted or transferred, and must be reverted to the State General Fund on or before September 18, 2009.

~~[Sec. 3.]~~ *Sec. 4.* This act becomes effective upon passage and approval.

Senator Raggio moved the adoption of the amendment.

Remarks by Senator Raggio.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 540.

Bill read second time.

The following amendment was proposed by the Committee on Finance:

Amendment No. 1067.

"SUMMARY—Revises provisions governing the system of public education in this State. (BDR 34-113)"

"AN ACT relating to education; ~~renaming the State Board of Education to the State Commission on Public Education; making the Commission an advisory body;~~ revising the duties and powers of the Superintendent of Public Instruction; ~~and the Department of Education;~~ revising provisions relating to the appointment of the Superintendent of Public Instruction; ~~creating a Division of Accountability for Public Schools within the Department;~~ making the Commission on Educational Excellence an advisory body; making the Commission on Educational Technology an advisory body; making the Council to Establish Academic Standards for Public Schools an advisory body; revising provisions relating to the regional training programs for the professional development of teachers and administrators; ~~repealing the Legislative Bureau of Educational Accountability and Program Evaluation;~~ and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law establishes the Department of Education, which consists of the State Board of Education, the State Board for Career and Technical Education and the Superintendent of Public Instruction. (NRS 385.010) ~~This bill renames the State Board of Education to the State Commission on Public Education and makes it an advisory body to the Department of Education and the Superintendent of Public Instruction. The Department and the Superintendent assume the duties and responsibilities formerly assigned to the State Board of Education.~~

~~Section 4 of this bill creates the Division of Accountability for Public Schools within the Department.~~ *Section 1 of this bill adds the Governor or his designee as a member of the State Board of Education and prescribes certain authority of the Governor as a member of the State Board.*

Section ~~15~~ 6 of this bill provides for the appointment of the Superintendent of Public Instruction by the Governor instead of the State Board of Education. (NRS 385.150)

Existing law creates the Commission on Educational Excellence to establish programs of educational excellence and award grants of money to certain public schools and school districts. (NRS 385.3781-385.379) Sections ~~38-42~~ 10-13 of this bill make the Commission an advisory body.

The Advisory Commission on Educational Excellence makes recommendations for allocations to the Legislative Committee on Education, with final approval by the Interim Finance Committee.

Existing law creates the Commission on Educational Technology to establish a plan for the use of educational technology in the public schools of this State. (NRS 388.780-388.805) Sections ~~195-991~~ 16-20 of this bill make the Commission an advisory body to the Superintendent of Public Instruction and require the Superintendent and the Department to carry out the duties formerly assigned to the Commission.

Under existing law the Council to Establish Academic Standards for Public Schools establishes the academic standards that will be taught in the public schools in this State. (NRS 389.500-389.570) Sections ~~119-125~~ 21-26 of this bill make the Council an advisory body to the Superintendent of Public Instruction, who will be responsible for carrying out the duties formerly assigned to the Council.

Existing law creates four regional training programs for the professional development of teachers and administrators with specified geographical boundaries and requires certain school districts to serve as the fiscal agents of each of the regional training programs. (NRS 391.500-391.556) ~~Section 151~~ Sections 29-32 of this bill ~~eliminates~~ eliminate the specified geographical boundaries and ~~requires~~ require the Superintendent of Public Instruction to prescribe the geographical boundaries of the four regional training programs. The Superintendent is also required to select the school district to serve as fiscal agent for each regional training program.

~~Existing law creates the Legislative Bureau of Educational Accountability and Program Evaluation within the Fiscal Analysis Division of the Legislative Counsel Bureau. (NRS 218.5356) Section 224 of this bill repeals the Legislative Bureau of Educational Accountability and Program Evaluation.~~

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

Delete existing sections 1 through 225 of this bill and replace with the following new sections 1 through 40:

Section 1. NRS 385.021 is hereby amended to read as follows:

385.021 1. The State Board consists of ~~10~~ 11 members as follows:

(a) The Governor or his designee; and

(b) Ten members elected by the registered voters within the districts described in NRS 385.0225 to 385.0265, inclusive.

2. Each *elected* member of the State Board must be a resident of the district from which that member is elected.

3. At the general election in 2002, and every 4 years thereafter, one member of the State Board must be elected for a term of 4 years from Districts Numbers 2, 5, 6 and 10.

4. At the general election in 2004, and every 4 years thereafter, one member of the State Board must be elected for a term of 4 years from Districts Numbers 1, 3, 4, 7, 8 and 9.

5. If a vacancy occurs on the State Board, the Governor shall appoint a member to fill the vacancy until the next general election, at which election a member must be chosen for the balance of the unexpired term. The appointee must be a resident of the district where the vacancy occurs.

6. No member of the State Board may be elected to the office more than three times.

Sec. 2. NRS 385.030 is hereby amended to read as follows:

385.030 1. At ~~its~~ the first meeting of the State Board after each election and qualification of newly elected members, the ~~State Board of Education shall organize by electing~~ Governor shall select one of ~~its~~ the members of the State Board as President, to serve at the pleasure of the ~~Board~~ Governor.

2. The Superintendent of Public Instruction is the Secretary of the State Board and shall serve without additional salary.

Sec. 3. NRS 385.040 is hereby amended to read as follows:

385.040 1. The State Board ~~of Education~~ may hold at least four regular meetings annually at the state capital. The Secretary shall call all regular meetings.

2. The Board may hold special meetings at such other times and places as the Board may direct. The Secretary shall call special meetings upon the written request of the Governor, the President or any three members of the Board.

3. The Governor may direct that an item be included on the agenda of a meeting of the State Board for consideration.

4. A majority of the Board constitutes a quorum for the transaction of business, and no action of the Board is valid unless that action receives, at a legally called meeting, the approval of a majority of all board members.

Sec. 4. NRS 385.080 is hereby amended to read as follows:

385.080 ~~The~~

1. Except as otherwise provided in this section, the State Board may adopt regulations for its own government and as necessary for the execution of the powers and duties conferred upon it by law.

2. The Governor may disapprove any action taken or regulation adopted by the State Board.

3. An action or regulation shall be deemed approved if the Governor does not disapprove the regulation within 30 days after it is adopted by the State Board.

Sec. 5. NRS 385.110 is hereby amended to read as follows:

385.110 1. Except as otherwise provided in subsections 2 and 3, the State Board shall prescribe and cause to be enforced the courses of study for the public schools of this State. The courses of study prescribed and enforced by the State Board must comply with the standards of content and

performance established by the ~~{Council to Establish Academic Standards for Public Schools}~~ Superintendent of Public Instruction pursuant to NRS 389.520.

2. For those courses of study prescribed by the State Board:

(a) High schools may have modified courses of study, subject to the approval of the State Board; and

(b) Any high school offering courses normally accredited as being beyond the level of the 12th grade shall, before offering such courses, have them approved by the State Board.

3. A charter school is not required to offer the courses of study prescribed by the State Board except for those courses of study which are required for promotion to the next grade or graduation from high school.

Sec. 6. NRS 385.150 is hereby amended to read as follows:

385.150 1. The ~~{State Board}~~ Governor shall appoint the Superintendent of Public Instruction for a term of ~~{3}~~ 4 years. The ~~{State Board}~~ Governor may remove the Superintendent of Public Instruction from office for inefficiency, neglect of duty, malfeasance in office or for other just cause.

2. A vacancy must be filled by the ~~{State Board}~~ Governor for the remainder of the unexpired term ~~{ }~~ in the manner prescribed in this section.

3. The Superintendent of Public Instruction is in the unclassified service of the State.

4. The appointment of the Superintendent of Public Instruction must be made from a list of names of at least three persons that is submitted to the Governor by the search committee convened pursuant to subsection 5.

5. Before the expiration of the term of the Superintendent of Public Instruction or in the event of a vacancy, the Governor shall convene a search committee to recommend candidates for appointment as the Superintendent of Public Instruction. The search committee must consist of the following members:

(a) A member of the State Board, appointed by the President of the Board;

(b) Two members appointed by the Governor;

(c) A member who is not a Legislator, appointed by the Majority Leader of the Senate; and

(d) A member who is not a Legislator, appointed by the Speaker of the Assembly.

6. The search committee shall:

(a) Solicit the names of potential candidates for appointment as the Superintendent of Public Instruction;

(b) Review the qualifications of each potential candidate;

(c) Conduct interviews of potential candidates; and

(d) Recommend to the Governor not less than three persons as candidates for appointment as the Superintendent of Public Instruction.

Sec. 7. NRS 385.170 is hereby amended to read as follows:

385.170 The Superintendent *of Public Instruction* shall not pursue any other business or occupation or hold any other office of profit without the approval of the ~~[State Board of Education.]~~ *Governor.*

Sec. 8. NRS 385.175 is hereby amended to read as follows:

385.175 The Superintendent of Public Instruction shall:

1. Execute, direct or supervise all administrative, technical and procedural activities of the Department. ~~[in accordance with policies prescribed by the State Board.]~~

2. *Oversee the activities of the:*

(a) Advisory Commission on Educational Technology; and

(b) Advisory Council for Academic Standards in the Public Schools.

3. Employ ~~[approved by the State Board and]~~ *, within the limits of available money,* personnel for the positions necessary for the efficient operation of the Department.

~~[3.]~~ 4. Organize the Department in a manner which will assure efficient operation and service.

~~[4.]~~ 5. Maintain liaison and coordinate activities with other state agencies performing educational functions.

~~[5.]~~ 6. Perform such other duties as are prescribed by law.

Sec. 9. NRS 385.330 is hereby amended to read as follows:

385.330 1. Professional staff and other personnel appointed by the Superintendent of Public Instruction shall perform such duties as are assigned by the Superintendent.

2. The Superintendent of Public Instruction ~~[, under the policies of the State Board,]~~ shall locate the offices of professional staff and other personnel where the needs of the education program can best be served.

Sec. 10. NRS 385.3783 is hereby amended to read as follows:

385.3783 ~~["Commission"]~~ *"Advisory Commission"* means the *Advisory Commission on Educational Excellence* created by NRS 385.3784.

Sec. 11. NRS 385.3784 is hereby amended to read as follows:

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

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

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

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

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

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

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

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

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

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

6. The Department shall provide:

- (a) Administrative support;
- (b) Equipment; and
- (c) Office space,

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

7. The Legislative Counsel Bureau:

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

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

Sec. 12. NRS 385.3785 is hereby amended to read as follows:

385.3785 1. The Advisory Commission shall:

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

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

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

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

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

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

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

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

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

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

(2) Conditions for school districts and schools that do not meet the grant criteria but desire to continue participation in the program and receive money

from the Account, including, without limitation, a review of the leadership at the school and recommendations regarding changes to the appropriate body.

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

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

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

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

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

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

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

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

2. The Advisory Commission shall, on or before June 1 of each year, recommend to the Committee allocations of money for the school districts and public schools that participate in the program. The Committee shall review the recommendations of the Advisory Commission and determine which applications to transmit, with recommendations, to the State Board of Examiners.

3. The State Board of Examiners, or the Clerk of the Board if authorized by the Board to act on its behalf, shall consider each application and, if it finds that an allocation of money should be made, recommend the amount of each allocation to the Interim Finance Committee. The Interim Finance Committee shall consider each recommendation submitted by the State Board of Examiners, but is not bound to follow the recommendations of the State Board of Examiners when determining the allocation of money for each school district and school.

4. To the extent money is available, the ~~Commission~~ Interim Finance Committee shall make allocations of money to school districts and public schools for effective programs for grades 7 through 12 that are designed to improve the achievement of pupils and effective programs of innovation for

pupils. ~~In making such allocations, the Commission shall comply with the requirements of subsection 1.~~

~~3.~~ A school district or public school selected for participation may be approved by the Interim Finance Committee for participation for a period not to exceed 2 years, but may reapply.

5. Allocations of money must be distributed not later than August 15 of each year.

6. If a school district or public school that receives money pursuant to subsection ~~1 or 2~~ 4 does not meet the criteria for effectiveness as prescribed in paragraph (h) of subsection 1 over a 2-year period, the Advisory Commission may consider not ~~awarding~~ recommending future allocations of money to that school district or public school.

~~4.~~ 7. On or before July 1 of each year, the Department shall provide a list of priorities of schools based upon the adequate yearly progress status of schools in the immediately preceding year for consideration by the Advisory Commission in its development of procedures for the applications.

~~5.~~ 8. In carrying out the requirements of this section, the Advisory Commission shall review and consider the programs of remedial study adopted by the Department pursuant to NRS 385.389, the list of approved providers of supplemental services maintained by the Department pursuant to NRS 385.384 and the recommendations submitted by the Committee pursuant to NRS 218.5354 concerning programs, practices and strategies that have proven effective in improving the academic achievement and proficiency of pupils.

Sec. 13. NRS 385.3789 is hereby amended to read as follows:

385.3789 1. The Advisory Commission shall prepare an annual report that describes the distribution of money to the school districts and public schools and the programs for which money was allocated from the Account. The report must be submitted on or before September 1 of each year to the entities identified in subsection 3.

2. The Advisory Commission shall:

(a) Prepare an annual report that describes:

(1) The activities of the Advisory Commission;

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

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

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

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

(a) State Board;

(b) Governor;

(c) Committee;

- (d) Bureau;
- (e) Interim Finance Committee; and
- (f) Board of trustees of each school district.

Sec. 14. NRS 385.379 is hereby amended to read as follows:

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

2. The money in the Account may only be used for the allocation of money to school districts and public schools whose applications are approved by the ~~Commission~~ *Interim Finance Committee* pursuant to NRS 385.3785.

Sec. 15. 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 compilation of reports submitted pursuant to subsection 2;

(b) Increase the line items of expenditure or revenue based on merit salary increases, cost of living adjustments or inflation, as deemed credible and reliable based upon published indices 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 budget 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. 16. NRS 388.785 is hereby amended to read as follows:

388.785 ~~("Commission")~~ "Advisory Commission" means the Advisory Commission on Educational Technology created pursuant to NRS 388.790.

Sec. 17. NRS 388.790 is hereby amended to read as follows:

388.790 1. The Advisory Commission on Educational Technology, consisting of 2 members who serve ex officio and 11 members who are appointed, is hereby created. The Superintendent of Public Instruction, or his designee, and the Director of the Department of Information Technology shall serve ~~ex officio~~ as nonvoting members of the Advisory Commission.

2. The Governor shall appoint the following voting members to the Advisory Commission, at least two of whom must reside in a county whose population is less than 100,000:

(a) One administrator in a public school who possesses knowledge and experience in the general application of technology;

(b) One school teacher in a public elementary school who possesses knowledge and experience in the use of educational technology in the public schools;

(c) One school teacher in a public secondary school who possesses knowledge and experience in the use of educational technology in the public schools;

(d) One representative of public libraries who possesses knowledge and experience in the general application of technology;

(e) One representative of the Nevada System of Higher Education who possesses knowledge and experience in the use of educational technology in institutions of higher education;

(f) One representative of the private sector who possesses knowledge and experience in the use of technology; and

(g) One parent or legal guardian who possesses knowledge and experience in the general application of technology.

3. The Majority Leader of the Senate shall appoint two voting members to the Advisory Commission:

- (a) One of whom is a member of the Senate; and
- (b) One of whom is employed in the field of technology.

4. The Speaker of the Assembly shall appoint two voting members to the Advisory Commission:

- (a) One of whom is a member of the Assembly; and
- (b) One of whom is employed in the field of technology.

5. The Governor shall appoint a Chairman among the voting members of the Advisory Commission.

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

7. The person or entity who appoints a member to the Advisory Commission may remove that member if the member neglects his duty or commits malfeasance in office, or for other just cause. Any vacancy in the membership of the Advisory Commission must be filled for the remainder of the unexpired term in the same manner as the original appointment.

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

9. Members of the Advisory Commission who are not Legislators serve without compensation, except that for each day or portion of a day during which a member of the Advisory Commission attends a meeting of the Advisory Commission or is otherwise engaged in the business of the Advisory Commission, he is entitled to receive the per diem allowance and travel expenses provided for state officers and employees generally.

10. For each day or portion of a day during which a member of the Advisory Commission who is a Legislator attends a meeting of the Advisory Commission or is otherwise engaged in the work of the Advisory Commission, 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 Advisory Commission must be paid from the Legislative Fund.

Sec. 18. NRS 388.795 is hereby amended to read as follows:

388.795 1. The ~~{Commission}~~ Superintendent of Public Instruction shall establish a plan for the use of educational technology in the public schools of this State. In preparing the plan, the ~~{Commission}~~ Superintendent shall consider:

- (a) Plans that have been adopted by the Department and the school districts in this State;
- (b) Plans that have been adopted in other states;
- (c) The information reported pursuant to paragraph (t) of subsection 2 of NRS 385.347; ~~{and}~~
- (d) The advice and recommendations of the Advisory Commission; and
- (e) Any other information that the Superintendent, the Advisory Commission or the Committee deems relevant to the preparation of the plan.

2. The Advisory Commission shall advise and make recommendations to the Superintendent of Public Instruction in carrying out the provisions of this section.

3. The plan established by the ~~{Commission}~~ Superintendent of Public Instruction must include recommendations for methods to:

- (a) Incorporate educational technology into the public schools of this State;
- (b) Increase the number of pupils in the public schools of this State who have access to educational technology;
- (c) Increase the availability of educational technology to assist licensed teachers and other educational personnel in complying with the requirements of continuing education, including, but not limited to, the receipt of credit for college courses completed through the use of educational technology;
- (d) Facilitate the exchange of ideas to improve the achievement of pupils who are enrolled in the public schools of this State; and
- (e) Address the needs of teachers in incorporating the use of educational technology in the classroom, including, but not limited to, the completion of training that is sufficient to enable the teachers to instruct pupils in the use of educational technology.

~~{3}~~ 4. The Department shall provide:

- (a) Administrative support;
- (b) Equipment; and
- (c) Office space,

↪ as is necessary for the Advisory Commission to carry out the provisions of this section.

~~{4}~~ 5. The following entities shall cooperate with the Superintendent of Public Instruction and the Advisory Commission in carrying out the provisions of this section:

- (a) The State Board.
- (b) The board of trustees of each school district.
- (c) The superintendent of schools of each school district.
- (d) The Department.

~~5~~ 6. The Superintendent of Public Instruction, upon advice and recommendation of the Advisory Commission, shall:

(a) Develop technical standards for educational technology and any electrical or structural appurtenances necessary thereto, including, without limitation, uniform specifications for computer hardware and wiring, to ensure that such technology is compatible, uniform and can be interconnected throughout the public schools of this State.

(b) Allocate money to the school districts from the Trust Fund for Educational Technology created pursuant to NRS 388.800 and any money appropriated by the Legislature for educational technology, subject to any priorities for such allocation established by the Legislature.

(c) Establish criteria for the board of trustees of a school district that receives an allocation of money from the ~~Commission~~ Superintendent to:

(1) Repair, replace and maintain computer systems.

(2) Upgrade and improve computer hardware and software and other educational technology.

(3) Provide training, installation and technical support related to the use of educational technology within the district.

(d) Submit to the Governor, the Advisory Commission, the Committee and the Department ~~its~~ a plan for the use of educational technology in the public schools of this State and any recommendations for legislation.

(e) Review the plan annually and make revisions as it deems necessary or as directed by the Committee or the Department.

(f) In addition to the recommendations set forth in the plan pursuant to subsection 2, make further recommendations to the Committee and the Department as the ~~Commission~~ Superintendent deems necessary.

~~6~~ 7. The Advisory Commission may ~~appoint~~ recommend to the Superintendent of Public Instruction for appointment an advisory committee composed of members of the Advisory Commission or other qualified persons to provide recommendations to the ~~Commission~~ Superintendent regarding standards for the establishment, coordination and use of a telecommunications network in the public schools throughout the various school districts in this State. ~~The~~ An advisory committee serves at the pleasure of the ~~Commission~~ Superintendent and without compensation unless an appropriation or other money for that purpose is provided by the Legislature.

~~7~~ 8. As used in this section, "public school" includes the Caliente Youth Center, the Nevada Youth Training Center and any other state facility for the detention of children that is operated pursuant to title 5 of NRS.

Sec. 19. NRS 388.800 is hereby amended to read as follows:

388.800 1. The Trust Fund for Educational Technology is hereby created in the State General Fund. The Trust Fund must be administered by the Superintendent of Public Instruction. The Superintendent may accept gifts and grants of money from any source for deposit in the Trust Fund. Any

such money may be expended in accordance with the terms and conditions of the gift or grant, or in accordance with subsection 3.

2. The interest and income earned on the money in the Trust Fund must be credited to the Trust Fund.

3. The money in the Trust Fund may be used only for the distribution of money to school districts to be used in kindergarten through 12th grade to obtain and maintain hardware and software for computer systems, equipment for transfer of data by modem through connection to telephone lines, and other educational technology as may be approved by the ~~{Commission}~~ Superintendent of Public Instruction for use in classrooms.

Sec. 20. NRS 388.805 is hereby amended to read as follows:

388.805 The Department shall, in consultation with the Advisory Commission, adopt regulations that establish a program whereby school districts may apply to the ~~{Commission on Educational Technology}~~ Superintendent of Public Instruction for money from the Trust Fund for Educational Technology.

Sec. 21. NRS 389.500 is hereby amended to read as follows:

389.500 As used in NRS 389.500 to 389.570, inclusive, ~~{“Council”}~~ “Advisory Council” means the Advisory Council ~~{to Establish}~~ for Academic Standards ~~{for}~~ in the Public Schools.

Sec. 22. NRS 389.510 is hereby amended to read as follows:

389.510 1. The Advisory Council ~~{to Establish}~~ for Academic Standards ~~{for}~~ in the Public Schools ~~{, consisting of eight members,}~~ is hereby created ~~{,}~~ to advise the Superintendent of Public Instruction. The membership of the Advisory Council consists of ~~{~~

~~{~~ (a) Four ~~{}~~ six ~~{}~~ members appointed by the ~~{Governor in accordance with subsection 2,}~~

~~{}~~ (b) Two ~~{}~~ members appointed by the ~~{Majority Leader of the Senate in accordance with subsection 3, and}~~

~~{}~~ (c) Two ~~{}~~ members appointed by the ~~{Speaker of the Assembly in accordance with subsection 3.}~~

~~{}~~ 2. The Governor shall ensure that:

~~{}~~ (a) Two of the members whom he appoints to the Council Superintendent as follows:

(a) Two members who are parents or legal guardians of pupils who attend public schools. These members must not otherwise be affiliated with the public school system of this State.

(b) Two ~~{of the members whom he appoints to the Council}~~ members who are licensed educational personnel.

(c) Two members who are representatives of a private business or industry that may be affected by actions taken by the Advisory Council or the Superintendent in carrying out the provisions of NRS 389.500 to 389.570, inclusive.

↳ Insofar as practicable, the *Superintendent shall ensure that the* members ~~{whom}~~ he appoints to the *Advisory Council* reflect the ethnic and geographical diversity of this State.

3. ~~{The Majority Leader of the Senate and the Speaker of the Assembly shall each ensure that:~~

~~(a) One of the members whom he appoints to the Council is a member of the House of the Legislature to which he belongs.~~

~~(b) The other member whom he appoints to the Council is a representative of a private business or industry that may be affected by actions taken by the Council.~~

~~4. Each member of the *Advisory Council* must be a resident of this State.~~

~~{5.} 4. After the initial terms, the term of each member of the *Advisory Council* is 4 years. The ~~{person who appoints a member to the Council}~~ *Superintendent of Public Instruction* may remove ~~{that} a~~ member if ~~{the} that~~ member neglects his duty or commits malfeasance in office, or for other just cause. A vacancy in the membership of the *Advisory Council* must be filled for the remainder of the unexpired term ~~, {in the same manner as the original appointment.}~~ A member shall continue to serve on the *Advisory Council* until his successor is appointed.~~

~~{6. The Governor}~~

5. *The Superintendent of Public Instruction* shall select a Chairman from among the membership of the *Advisory Council* in accordance with this subsection. The ~~{Governor}~~ *Superintendent* shall not select as Chairman a member of the *Advisory Council* who is affiliated with the public school system in this State, except that this subsection does not preclude the ~~{Governor}~~ *Superintendent* from selecting a parent or legal guardian of a pupil as Chairman if the parent or legal guardian is not otherwise affiliated with the public school system in this State. Once selected by the ~~{Governor}~~ *Superintendent*, the Chairman holds that office for 2 years.

~~{7. For each day or portion of a day during which a member of the Council who is a Legislator attends a meeting of the Council or is otherwise engaged in the work of the Council, 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 Council must be paid from the Legislative Fund.

~~8.} 6. Members of the *Advisory Council* ~~{who are not Legislators}~~ serve without salary, but are entitled to receive the per diem allowance and travel expenses provided for state officers and employees generally.~~

Sec. 23. *NRS 389.520 is hereby amended to read as follows:*

389.520 1. The ~~{Council}~~ *Superintendent of Public Instruction* shall:

(a) Establish standards of content and performance, including, without limitation, a prescription of the resulting level of achievement, for the grade levels set forth in subsection 2, based upon the content of each course, that is expected of pupils for the following courses of study:

- (1) English, including reading, composition and writing;
- (2) Mathematics;
- (3) Science;
- (4) Social studies, which includes only the subjects of history, geography, economics and government;
- (5) The arts;
- (6) Computer education and technology;
- (7) Health; and
- (8) Physical education.

(b) Establish a schedule for the periodic review and, if necessary, revision of the standards of content and performance. The review must include, without limitation, the review required pursuant to NRS 389.570 of the results of pupils on the examinations administered pursuant to NRS 389.550.

(c) Assign priorities to the standards of content and performance relative to importance and degree of emphasis and revise the standards, if necessary, based upon the priorities.

2. The ~~{Council}~~ Superintendent of Public Instruction shall establish standards of content and performance for each grade level in kindergarten and grades 1 to 8, inclusive, for English and mathematics. The ~~{Council}~~ Superintendent shall establish standards of content and performance for the grade levels selected by the ~~{Council}~~ Superintendent for the other courses of study prescribed in subsection 1.

3. The State Board shall adopt the standards of content and performance established by the ~~{Council}~~ Superintendent of Public Instruction.

4. The Superintendent of Public Instruction shall consider the advice and recommendations of the Advisory Council in carrying out the provisions of this section.

5. The ~~{Council}~~ State Board shall work in cooperation with the ~~{State Board}~~ Advisory Council to prescribe the examinations required by NRS 389.550.

Sec. 24. NRS 389.540 is hereby amended to read as follows:

389.540 The board of trustees of each school district shall conduct a periodic review of the courses of study offered in the public schools of the school district to determine whether the courses of study comply with the standards of content and performance established by the ~~{Council}~~ Superintendent of Public Instruction pursuant to NRS 389.520 and if revision of the courses of study is necessary to ensure compliance.

Sec. 25. NRS 389.550 is hereby amended to read as follows:

389.550 1. The State Board shall, in consultation with the Advisory Council, prescribe examinations that comply with 20 U.S.C. § 6311(b)(3) and that measure the achievement and proficiency of pupils:

(a) For grades 3 ~~4, 5, 6, 7 and~~ to 8, *inclusive*, in the standards of content established by the ~~{Council}~~ *Superintendent of Public Instruction* for the subjects of English and mathematics.

(b) For grades 5 and 8, in the standards of content established by the ~~{Council}~~ *Superintendent* for the subject of science.

↪ The examinations prescribed pursuant to this subsection must be written, developed, printed and scored by a nationally recognized testing company.

2. In addition to the examinations prescribed pursuant to subsection 1, the State Board shall, in consultation with the *Advisory* Council, prescribe a writing examination for grades 5 and 8 and for the high school proficiency examination.

3. The board of trustees of each school district and the governing body of each charter school shall administer the examinations prescribed by the State Board. The examinations must be:

(a) Administered to pupils in each school district and each charter school at the same time during the spring semester, as prescribed by the State Board.

(b) Administered in each school in accordance with uniform procedures adopted by the State Board. The Department shall monitor the school districts and individual schools to ensure compliance with the uniform procedures.

(c) Administered in each school in accordance with the plan adopted pursuant to NRS 389.616 by the Department and with the plan adopted pursuant to NRS 389.620 by the board of trustees of the school district in which the examinations are administered. The Department shall monitor the compliance of school districts and individual schools with:

(1) The plan adopted by the Department; and

(2) The plan adopted by the board of trustees of the applicable school district, to the extent that the plan adopted by the board of trustees of the school district is consistent with the plan adopted by the Department.

Sec. 26. NRS 389.570 is hereby amended to read as follows:

389.570 1. The *Advisory* Council *and the Superintendent of Public Instruction* shall review the results of pupils on the examinations administered pursuant to NRS 389.550, including, without limitation, for each school in a school district and each charter school that is located within a school district, a review of the results for the current school year and a comparison of the progress, if any, made by the pupils enrolled in the school from preceding school years.

2. After the completion of the review pursuant to subsection 1, *the Superintendent of Public Instruction, in consultation with the Advisory Council*, shall evaluate:

(a) Whether the standards of content and performance established by the ~~{Council}~~ *Superintendent* require revision; and

(b) The success of pupils, as measured by the results of the examinations, in achieving the standards of performance established by the ~~{Council}~~ *Superintendent*.

3. The ~~{Council}~~ *Superintendent of Public Instruction* shall report the results of the evaluation conducted pursuant to subsection 2 to the *Advisory Council, the State Board and the Legislative Committee on Education*.

Sec. 27. NRS 390.140 is hereby amended to read as follows:

390.140 1. The State Board shall make the final selection of all textbooks to be used in the public schools in this State, except for charter schools. If a textbook proposed for selection is in a subject area for which standards of content have been established by the ~~{Council to Establish Academic Standards for Public Schools}~~ *Superintendent of Public Instruction* pursuant to NRS 389.520, the State Board shall not select the textbook unless the State Board determines that the textbook adequately supports the standards for that subject area.

2. A textbook must not be selected by the State Board pursuant to subsection 1 for use in the public schools in classes in literature, history or social sciences unless it accurately portrays the cultural and racial diversity of our society, including lessons on the contributions made to our society by men and women from various racial and ethnic backgrounds.

Sec. 28. NRS 391.038 is hereby amended to read as follows:

391.038 1. The State Board, in consultation with educational institutions in this State which offer courses of study and training for the education of teachers, the board of trustees of each school district in this State and other educational personnel, shall review and evaluate a course of study and training offered by an educational institution which is designed to provide the education required for:

- (a) The licensure of teachers or other educational personnel;
- (b) The renewal of licenses of teachers or other educational personnel; or
- (c) An endorsement in a field of specialization.

↪ If the course of study and training meets the requirements established by the State Board, it must be approved by the State Board. The State Board shall not approve a course of study or training unless the course of study and training provides instruction, to the extent deemed necessary by the State Board, in the standards of content and performance prescribed by the ~~{Council to Establish Academic Standards for Public Schools}~~ *Superintendent of Public Instruction* pursuant to NRS 389.520.

2. The State Board may review and evaluate such courses of study and training itself or may recognize a course of study and training approved by a national agency for accreditation acceptable to the Board.

3. The State Board shall adopt regulations establishing fees for the review by the Board of a course of study and training submitted to the Board by an educational institution.

4. The State Board, in consultation with educational institutions in this State which offer courses of study and training for the education of teachers and other educational personnel, and the Nevada Association of Colleges for Teacher Education and the Nevada Association of Teacher Educators, shall adopt regulations governing the approval by the State Board of courses of

study and training which are accredited by the National Council for Accreditation of Teacher Education, and those which are not so accredited.

5. If the State Board denies or withdraws its approval of a course of study or training, the educational institution is entitled to a hearing and judicial review of the decision of the State Board.

Sec. 29. NRS 391.512 is hereby amended to read as follows:

391.512 1. There are hereby created ~~the Southern Nevada Regional Training Program, the Western Nevada Regional Training Program, the Northeastern Nevada Regional Training Program and the Northwestern Nevada Regional Training Program.~~ *four regional training programs in this State.* The governing body of each regional training program shall establish and operate a:

(a) Regional training program for the professional development of teachers and administrators.

(b) Nevada Early Literacy Intervention Program through the regional training program established pursuant to paragraph (a).

2. ~~Except as otherwise provided in subsection 6, the Southern Nevada Regional Training Program.~~ *The Superintendent of Public Instruction shall establish the geographical boundaries of each regional training program, which* must primarily provide services to teachers and administrators who are employed by school districts ~~in:~~

- ~~(a) Clark County;~~
- ~~(b) Esmeralda County;~~
- ~~(c) Lincoln County; and~~
- ~~(d) Nye County.~~

3. ~~Except as otherwise provided in subsection 6, the Western Nevada Regional Training Program must primarily provide services to teachers and administrators who are employed by school districts in:~~

- ~~(a) Carson City;~~
- ~~(b) Churchill County;~~
- ~~(c) Douglas County;~~
- ~~(d) Lyon County; and~~
- ~~(e) Mineral County.~~

4. ~~Except as otherwise provided in subsection 6, the Northeastern Nevada Regional Training Program must primarily provide services to teachers and administrators who are employed by school districts in:~~

- ~~(a) Elko County;~~
- ~~(b) Eureka County;~~
- ~~(c) Lander County;~~
- ~~(d) Humboldt County; and~~
- ~~(e) White Pine County.~~

5. ~~Except as otherwise provided in subsection 6, the Northwestern Nevada Regional Training Program must primarily provide services to teachers and administrators who are employed by school districts in:~~

- ~~(a) Pershing County;~~

~~(b) Storey County; and~~

~~(c) Washoe County;~~

~~6.]~~ *which are located within the geographical boundaries established by the Superintendent.* Each regional training program shall, when practicable, make reasonable accommodations for the attendance of teachers and administrators who are employed by school districts outside the primary jurisdiction of the regional training program.

~~7.]~~ 3. The *Superintendent of Public Instruction shall determine which* board of trustees ~~of the:~~

~~(a) Clark County School District] of a school district located within each regional training program shall serve as the fiscal agent for [the Southern Nevada Regional Training Program.~~

~~(b) Douglas County School District shall serve as the fiscal agent for the Western Nevada Regional Training Program.~~

~~(c) Elko County School District shall serve as the fiscal agent for the Northeastern Nevada Regional Training Program.~~

~~(d) Washoe County School District shall serve as the fiscal agent for the Northwestern Nevada Regional Training Program.~~

~~→]~~ *that regional training program.* As fiscal agent, each school district is responsible for the payment, collection and holding of all money received from this State for the maintenance and support of the regional training program and Nevada Early Intervention Program established and operated by the applicable governing body.

Sec. 30. NRS 391.544 is hereby amended to read as follows:

391.544 1. Based upon the assessment of needs for training within the region and priorities of training adopted by the governing body pursuant to NRS 391.540, each regional training program must provide:

(a) Training for teachers in the standards established by the ~~[Council to Establish Academic Standards for Public Schools]~~ *Superintendent of Public Instruction* pursuant to NRS 389.520.

(b) Through the Nevada Early Literacy Intervention Program established for the regional training program, training for teachers who teach kindergarten and grades 1, 2 or 3 on methods to teach fundamental reading skills, including, without limitation:

- (1) Phonemic awareness;
- (2) Phonics;
- (3) Vocabulary;
- (4) Fluency;
- (5) Comprehension; and
- (6) Motivation.

(c) At least one of the following types of training:

(1) Training for teachers and school administrators in the assessment and measurement of pupil achievement and the effective methods to analyze the test results and scores of pupils to improve the achievement and proficiency of pupils.

(2) Training for teachers in specific content areas to enable the teachers to provide a higher level of instruction in their respective fields of teaching. Such training must include instruction in effective methods to teach in a content area provided by teachers who are considered masters in that content area.

(3) In addition to the training provided pursuant to paragraph (b) of subsection 1, training for teachers in the methods to teach basic skills to pupils, such as providing instruction in reading with the use of phonics and providing instruction in basic skills of mathematics computation.

2. The training required pursuant to subsection 1 must:

(a) Include the activities set forth in 20 U.S.C. § 7801(34), as deemed appropriate by the governing body for the type of training offered.

(b) Include appropriate procedures to ensure follow-up training for teachers and administrators who have received training through the program.

(c) Incorporate training that addresses the educational needs of:

(1) Pupils with disabilities who participate in programs of special education; and

(2) Pupils who are limited English proficient.

3. The governing body of each regional training program shall prepare and maintain a list that identifies programs for the professional development of teachers and administrators that successfully incorporate:

(a) The standards of content and performance established by the ~~{Council to Establish Academic Standards for Public Schools}~~ Superintendent of Public Instruction pursuant to NRS 389.520;

(b) Fundamental reading skills; and

(c) Other training listed in subsection 1.

↪ The governing body shall provide a copy of the list on an annual basis to school districts for dissemination to teachers and administrators.

4. A regional training program may include model classrooms that demonstrate the use of educational technology for teaching and learning.

5. A regional training program may contract with the board of trustees of a school district that is served by the regional training program as set forth in NRS 391.512 to provide professional development to the teachers and administrators employed by the school district that is in addition to the training required by this section. Any training provided pursuant to this subsection must include the activities set forth in 20 U.S.C. § 7801(34), as deemed appropriate by the governing body for the type of training offered.

6. To the extent money is available from legislative appropriation or otherwise, a regional training program may provide training to paraprofessionals.

Sec. 31. NRS 391.552 is hereby amended to read as follows:

391.552 The governing body of each regional training program shall:

1. Establish a method for the evaluation of the success of the regional training program, including, without limitation, the Nevada Early Literacy

Intervention Program. The method must be consistent with the uniform procedures adopted by the Statewide Council pursuant to NRS 391.520.

2. On or before September 1 of each year, submit an annual report to the State Board, the Commission, *the Department*, the Legislative Committee on Education and the Legislative Bureau of Educational Accountability and Program Evaluation that includes:

(a) The priorities for training adopted by the governing body pursuant to NRS 391.540.

(b) The type of training offered through the program in the immediately preceding year.

(c) The number of teachers and administrators who received training through the program in the immediately preceding year.

(d) The number of paraprofessionals, if any, who received training through the program in the immediately preceding year.

(e) An evaluation of the success of the program, including, without limitation, the Nevada Early Literacy Intervention Program, in accordance with the method established pursuant to subsection 1.

(f) A description of the gifts and grants, if any, received by the governing body in the immediately preceding year and the gifts and grants, if any, received by the Statewide Council during the immediately preceding year on behalf of the regional training program. The description must include the manner in which the gifts and grants were expended.

(g) The 5-year plan for the program prepared pursuant to NRS 391.540 and any revisions to the plan made by the governing body in the immediately preceding year.

Sec. 32. NRS 391.556 is hereby amended to read as follows:

391.556 The board of trustees of each school district shall submit an annual report to the State Board, the Commission, the Legislative Committee on Education and the Legislative Bureau of Educational Accountability and Program Evaluation that includes for the immediately preceding year:

1. The number of teachers and administrators employed by the school district who received training through the program; and

2. An evaluation of whether that training included the standards of content and performance established by the ~~the Council to Establish Academic Standards for Public Schools~~ *Superintendent of Public Instruction* pursuant to NRS 389.520.

Sec. 33. NRS 392A.080 is hereby amended to read as follows:

392A.080 1. The governing body of a university school for profoundly gifted pupils must consist of ~~five~~ *eight* members and must include ~~the Superintendent of Public Instruction,~~ the president of the university where the university school for profoundly gifted pupils is located, who ~~serve~~ *serves* ex-officio. The Governor shall appoint three members to serve 4-year terms. The members appointed by the Governor may not be employees of the State, a municipality of the State or the Board of Regents of the University of Nevada. The remaining four members of the governing body shall be

appointed by the entity that operates the university school for profoundly gifted pupils. A person may serve on a governing body pursuant to this subsection only if he submits an affidavit to the Department indicating that the person has not been convicted of a felony or any crime involving moral turpitude.

2. The governing body of a university school for profoundly gifted pupils is a public body. It is hereby given such reasonable and necessary powers, not conflicting with the Constitution and the laws of the State of Nevada, as may be required to attain the ends for which the school is established and to promote the welfare of pupils who are enrolled in the school.

3. The governing body of a university school for profoundly gifted pupils shall, during each calendar quarter, hold at least one regularly scheduled public meeting in the county in which the school is located.

Sec. 34. NRS 396.5195 is hereby amended to read as follows:

396.5195 The Board of Regents shall, in cooperation with the ~~[State Board]~~ Department and the Advisory Council ~~[to Establish]~~ for Academic Standards ~~[for]~~ in the Public Schools, ensure that students enrolled in a program developed by the System for the education of teachers are provided instruction regarding the standards of content and performance required of pupils enrolled in high schools in this State.

Sec. 35. NRS 218.5354 is hereby amended to read as follows:

218.5354 1. The Committee may:

(a) Evaluate, review and comment upon issues related to education within this State, including, but not limited to:

(1) Programs to enhance accountability in education;

(2) Legislative measures regarding education;

(3) The progress made by this State, the school districts and the public schools in this State in satisfying the goals and objectives of the federal No Child Left Behind Act of 2001, 20 U.S.C. §§ 6301 et seq., and the annual measurable objectives established by the State Board of Education pursuant to NRS 385.361;

(4) Methods of financing public education;

(5) The condition of public education in the elementary and secondary schools;

(6) The program to reduce the ratio of pupils per class per licensed teacher prescribed in NRS 388.700, 388.710 and 388.720;

(7) The development of any programs to automate the receipt, storage and retrieval of the educational records of pupils; and

(8) Any other matters that, in the determination of the Committee, affect the education of pupils within this State.

(b) Conduct investigations and hold hearings in connection with its duties pursuant to this section.

(c) Request that the Legislative Counsel Bureau assist in the research, investigations, hearings and reviews of the Committee.

(d) Make recommendations to the Legislature concerning the manner in which public education may be improved.

2. The Committee shall:

(a) In addition to any standards prescribed by the Department of Education, prescribe standards for the review and evaluation of the reports of the State Board of Education, school districts and public schools pursuant to paragraph (a) of subsection 1 of NRS 385.359.

(b) For the purposes set forth in NRS 385.389, recommend to the Department of Education programs of remedial study for each subject tested on the examinations administered pursuant to NRS 389.015. In recommending these programs of remedial study, the Committee shall consider programs of remedial study that have proven to be successful in improving the academic achievement of pupils.

(c) Recommend to the Department of Education providers of supplemental educational services for inclusion on the list of approved providers prepared by the Department pursuant to NRS 385.384. In recommending providers, the Committee shall consider providers with a demonstrated record of effectiveness in improving the academic achievement of pupils.

(d) For the purposes set forth in NRS 385.3785 ~~[-recommend]~~ :

(1) Recommend to the Advisory Commission on Educational Excellence created by NRS 385.3784 programs, practices and strategies that have proven effective in improving the academic achievement and proficiency of pupils.

(2) Review the recommendations of the Advisory Commission on Educational Excellence for allocations of money and determine which applications to transmit to the State Board of Examiners pursuant to NRS 385.3785.

Sec. 36. 1. Notwithstanding the provisions of NRS 385.150, as amended by section 6 of this act, the person serving as the Superintendent of Public Instruction on July 1, 2007, who was appointed by the State Board of Education pursuant to NRS 385.150 to a term expiring in 2010 continues to serve for the remainder of the unexpired term. If a vacancy occurs before the expiration of that term, the Governor shall appoint a Superintendent of Public Instruction in accordance with NRS 385.150, as amended by section 6 of this act, for the remainder of the unexpired term.

2. The Governor shall appoint a Superintendent of Public Instruction pursuant to NRS 385.150, as amended by section 6 of this act, commencing with the term that begins in 2010.

Sec. 37. 1. The terms of all members appointed to the Council to Establish Academic Standards for Public Schools created pursuant to NRS 389.510 who are incumbent on June 30, 2007, expire on that date.

2. Not later than July 1, 2007, the Superintendent of Public Instruction shall make the appointments to the Advisory Council for Academic Standards in the Public Schools pursuant to NRS 389.510, as amended by section 22 of this act, as follows:

(a) One member who is a parent or legal guardian of a pupil who attends public school, one member who is selected from among licensed educational personnel and one member who represents a business or industry must be appointed to terms expiring on June 30, 2009.

(b) One member who is a parent or legal guardian of a pupil who attends public school, one member who is selected from among licensed educational personnel and one member who represents a business or industry must be appointed to terms expiring on June 30, 2011.

↪ These appointments may include former members whose terms expired pursuant to subsection 1.

Sec. 38. The Superintendent of Public Instruction shall, on or before February 2, 2009:

1. Establish the boundaries of the four regional training programs that will be created on July 1, 2009, pursuant to NRS 391.512, as amended by section 29 of this act, and determine the boards of trustees of school districts that shall serve as the fiscal agents for each regional training program respectively;

2. Prepare a plan for the fair and equitable allocation of any money, vehicles and other property held by regional training programs on June 30, 2009, to the four regional training programs described in subsection 1; and

3. Submit a report containing that information to the Director of the Legislative Counsel Bureau for transmittal to the 75th Session of the Nevada Legislature.

Sec. 39. 1. The Legislative Counsel shall, in preparing:

(a) The reprint and supplements to the Nevada Revised Statutes, appropriately change any references to an officer, agency or other entity whose name is changed or whose responsibilities have been transferred pursuant to the provisions of this act to refer to the appropriate officer, agency or other entity.

(b) Supplements to the Nevada Administrative Code, appropriately change any references to an officer, agency or other entity whose name is changed or whose responsibilities have been transferred pursuant to the provisions of this act to refer to the appropriate officer, agency or other entity.

2. Any references in a bill or resolution passed by the 74th Session of the Nevada Legislature to an officer, agency or other entity whose name is changed or whose responsibilities have been transferred pursuant to the provisions of this act to another officer, agency or other entity shall be deemed to refer to the officer, agency or other entity to which the responsibility is transferred.

3. The provisions of this section apply to:

(a) The change of the name of the Commission on Educational Excellence to the Advisory Commission on Educational Excellence and the transfer of any duties from the Commission on Educational Excellence;

(b) The change of the name of the Commission on Educational Technology to the Advisory Commission on Educational Technology and the transfer of any duties from the Commission on Educational Technology;

(c) The change of the name of the Council to Establish Academic Standards for Public Schools to the Advisory Council for Academic Standards in the Public Schools and the transfer of any duties from the Council to Establish Academic Standards for Public Schools; and

(d) Any other entity whose name was changed or duties transferred pursuant to the provisions of this act.

Sec. 40. 1. This section and sections 37 and 38 of this act become effective upon passage and approval.

2. Sections 1 to 28, inclusive, 30 to 36, inclusive, and 39 of this act become effective on July 1, 2007.

3. Section 29 of this act becomes effective on July 1, 2009.

Senator Raggio moved the adoption of the amendment.

Remarks by Senators Raggio, Horsford and Carlton.

Mr. President declared the motion carried on a division of the house as he would exercise his Constitutional right and vote to break the tie.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senator Beers moved that the Senate recess subject to the call of the Chair.

Motion carried.

Senate in recess at 11:46 a.m.

SENATE IN SESSION

At 11:50 a.m.

President Krolicki presiding.

Quorum present.

Senator Titus moved that Senate Bill No. 540 be rereferred to the Committee on Human Resources and Education upon return from reprint.

Remarks by Senators Raggio and Washington.

Motion carried on a division of the house.

Senate Bill No. 547.

Bill read second time.

The following amendment was proposed by the Committee on Finance:

Amendment No. 988.

"SUMMARY—Makes various changes regarding the management of the Public Employees' Benefits Program. (BDR 23-1414)"

"AN ACT relating to programs for public employees; making various changes regarding the management of the Public Employees' Benefits Program; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

The Governmental Accounting Standards Board is an independent body which establishes standards of financial accounting and reporting for state and local governmental agencies. The Board has issued Statements 43 and 45, which ~~Statements~~ require governmental employers to report as liabilities those postemployment benefits, other than pensions, ~~which~~ that have not yet been funded.

This bill creates the State Retirees' Health and Welfare Benefits Fund, an irrevocable trust fund to be administered by the Board of the Public Employees' Benefits Program. ~~Sections 3 and~~ Section 4 of this bill ~~create~~ creates the Retirees' Fund and ~~specify~~ specifies its purpose. Sections 5 and 6 of this bill specify how money is to be paid into the Retirees' Fund, invested and paid out of the Retirees' Fund.

Section 10.3 of this bill clarifies that a local government is required to pay the subsidy for the cost of coverage under the Public Employees' Benefits Program for its retirees who join the Program subsequent to retirement, such as by reinstatement. (NRS 287.023) Section 18 of this bill makes this requirement apply retroactively to October 1, 2003, which was the date on which the requirement to pay such subsidies became effective.

Sections 11.5 and 13 of this bill prohibit members of the Board of the Public Employees' Benefits Program and the Executive Officer of the Program from participating in certain business enterprises or investments. (NRS 287.041, 287.0424) Section 13 also requires gubernatorial approval of the employment of the Executive Officer. Section 12 of this bill authorizes the Board of the Program to meet in closed session with its legal counsel in certain circumstances. (NRS 287.0415) Section 14 of this bill changes the title of the Accounting Officer to Chief Financial Officer. (NRS 287.0426)

Section 17 of this bill changes the manner in which the subsidies to be paid in connection with the Program are calculated. (NRS 287.046)

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

Section 1. Chapter 287 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 10, inclusive, of this act.

Sec. 2. "Program Fund" means the Fund for the Public Employees' Benefits Program created pursuant to NRS 287.0435.

Sec. 3. "Retirees' Fund" means the State Retirees' Health and Welfare Benefits Fund created pursuant to section 4 of this act.

Sec. 4. 1. The State Retirees' Health and Welfare Benefits Fund is hereby created as an irrevocable trust fund.

2. The purpose of the Retirees' Fund is to account for the financial assets designated to offset the portion of the current and future costs of ~~the~~ health and welfare benefits paid pursuant to subsection 2 of NRS 287.046.

Sec. 5. 1. The money in the Retirees' Fund must not be used or appropriated for any purpose incompatible with the policies of the Program,

as expressed in NRS 287.0402 to 287.049, inclusive, and sections 2 to 10, inclusive, of this act.

2. The Retirees' Fund must be invested and administered to ensure the highest return consistent with safety in accordance with accepted investment practices and the laws of this State ~~+~~ which may include, without limitation, investment in the Retirement Benefits Investment Fund established pursuant to section 5 of Senate Bill No. 457 of this session.

3. The Board has the exclusive control of the administration and investment of the Retirees' Fund.

4. The following money must be deposited in the Retirees' Fund:

- (a) All money appropriated by the Legislature to the Retirees' Fund;
- (b) All money provided for the purpose of offsetting the portion of the costs of the health and welfare benefits for current and future state retirees pursuant to NRS 287.046;
- (c) All money accruing to the Retirees' Fund from all other sources; and
- (d) Any other money provided to the Program for the payment of other ~~postretirement~~ health and welfare benefits for current and future state retirees pursuant to NRS 287.046.

5. The interest and income earned on the money in the Retirees' Fund, after deducting any applicable charges, must be credited to the Retirees' Fund.

6. Any money remaining in the Retirees' Fund at the end of a fiscal year does not revert to the State General Fund, and the balance in the Retirees' Fund must be carried forward.

Sec. 6. 1. The money in the Retirees' Fund must be expended by the Board for the purpose of:

- (a) Offsetting a portion of the costs of the health and welfare benefits for current and future state retirees pursuant to NRS 287.046; and
- (b) Paying such other expenses as by law may be paid from the Retirees' Fund.

2. Money designated for the purposes set forth in subsection 1 must be withdrawn from the Retirees' Fund and deposited in the Program Fund as necessary.

3. The money in the Retirees' Fund belongs to the officers, employees and retirees of this State in aggregate and is to be held in trust by the Board. Neither the State nor the governing body of any county, school district, municipal corporation, political subdivision, public corporation or other local governmental agency of the State, nor any single officer, employee or retiree of any such entity has any right to the money in the Retirees' Fund.

Sec. 7. No officer, employee or retiree of this State has any inherent right to benefits provided pursuant to ~~this chapter.~~ NRS 287.0402 to 287.049, inclusive.

Sec. 8. ~~1. The Board shall fix an administrative fee sufficient to pay the costs and expenses described in subsection 1 of section 6 of this act. The~~

~~Board shall, on a monthly basis, transfer the administrative fee from the Retirees' Fund to the Program Fund.~~

~~2.—The Board shall, not less frequently than once each calendar quarter, consider the investments of the Retirees' Fund. In carrying out the requirements of this subsection, the Board shall:~~

~~(a) Review and, if appropriate, direct changes in the investment portfolio of the Retirees' Fund;~~

~~(b) Recommend any appropriate changes in the investment objectives and policies of the Retirees' Fund;~~

~~(c) Receive, acknowledge and process investment suggestions forwarded to the Board by state participants in the Program; and~~

~~(d) As the Board deems appropriate, provide to state participants in the Program an explanation of investment practices.~~

~~3.—~~ The Board shall provide to the Department of Administration and to the Interim Retirement and Benefits Committee of the Legislature, created by NRS 218.5373:

~~{(a)}~~ 1. An annual audit of the Retirees' Fund to be conducted by an independent certified public accountant;

~~{(b)}~~ 2. An annual report concerning the Retirees' Fund; and

~~{(c)}~~ 3. An independent biennial certified actuarial valuation and report of the State's ~~{postretirement}~~ health and welfare benefits ~~{,}~~ for current and future state retirees, which ~~{evaluation and report}~~ are provided for the purpose of developing the annual required contribution pursuant to the statements issued by the Governmental Accounting Standards Board.

Sec. 9. ~~{1.—In addition to the provisions of chapter 355 of NRS, the Board may invest and reinvest the money in the Retirees' Fund as provided in this section and section 10 of this act and may employ investment counsel for that purpose. The Board may also employ investment supervisory services, trust audit services and other related investment services which it deems necessary to invest effectively and safeguard the money in the Retirees' Fund.~~

~~2.—No person engaged in business as a broker or dealer in securities or who has a direct pecuniary interest in any such business who receives commissions for transactions performed as agent for the Board is eligible for employment as investment counsel for the Board.~~

~~3.—The Board shall not engage investment counsel unless:~~

~~(a) The principal business of the person selected by the Board consists of giving continuous advice as to the investment of money on the basis of the individual needs of each client;~~

~~(b) The person and his predecessors have been continuously engaged in such a business for a period of 5 or more years;~~

~~(c) The person is registered as an investment adviser under the laws of the United States as from time to time in effect, or is a bank or an investment management subsidiary of a bank; and~~

~~(d) The contract between the Board and the investment counsel is of no specific duration and is voidable at any time by either party.~~

~~4. The Board and its individual members are not liable for investment decisions made by investment counsel if they obtain qualified investment counsel, establish proper objectives and policies for investments, and issue appropriate interim directives. Investment counsel is liable for any investment decision that is not made in accordance with the objectives and policies established by the Board and any applicable interim directives.~~

~~5. The expenses incurred in obtaining and reviewing services pursuant to the provisions of this section and the reimbursements to employees for their expenses incurred in connection with investment decisions must be paid out of the Retirees' Fund.~~

~~6. The Board shall tender invitations to banks and credit unions for commercial banking and trust services, consider proposals submitted by interested banks and credit unions, and consider contracts for commercial banking and trust services at least every 5 years. (Deleted by amendment.)~~

Sec. 10. ~~[The Board may invest the money in the Retirees' Fund in every kind of investment which~~

~~1. Persons of prudence, discretion and intelligence acquire or retain for their own account; and~~

~~2. Is consistent with the laws of this State.] (Deleted by amendment.)~~

Sec. 10.3. NRS 287.023 is hereby amended to read as follows:

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

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

3. Notice of the selection of the option must be given in writing to the last public employer of the officer or employee within 60 days after the date of retirement or death, as the case may be. If no notice is given by that date,

the retired officer or employee and his dependents shall be deemed to have selected the option to cancel the coverage for the group insurance, plan of benefits or medical and hospital service established pursuant to NRS 287.010, 287.015, 287.020 or paragraph (b), (c) or (d) of subsection 1 of NRS 287.025 or not to join the Public Employees' Benefits Program, as the case may be.

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

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

(b) Shall pay the same portion of the cost of coverage under the Public Employees' Benefits Program for *retired* persons who ~~join~~ *participate in* the Program ~~upon retirement~~ pursuant to subsection 1, *subsection 5 of NRS 287.045 or subsection 1 of NRS 287.0475* as the State pays pursuant to subsection 2 of NRS 287.046 for persons retired from state service who have continued to participate in the Program.

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

Sec. 10.7. NRS 287.040 is hereby amended to read as follows:

287.040 The provisions of NRS 287.010 to 287.040, inclusive, do not make it compulsory upon any governing body of any county, school district, municipal corporation, political subdivision, public corporation or other local governmental agency of the State of Nevada, except as otherwise provided in NRS 287.021 *or subsection 4 of NRS 287.023* or in an agreement entered into pursuant to subsection 3 of NRS 287.015, to pay any premiums, contributions or other costs for group insurance, a plan of benefits or medical or hospital services established pursuant to NRS 287.010, 287.015, 287.020 or paragraph (b), (c) or (d) of subsection 1 of NRS 287.025, or *for coverage under the Public Employees' Benefits Program, or upon any officer or employee of any county, school district, municipal corporation, political subdivision, public corporation or other local governmental agency of this State to accept any such coverage or to assign his wages or salary in payment of premiums or contributions therefor.*

Sec. 11. NRS 287.0402 is hereby amended to read as follows:

287.0402 As used in NRS 287.0402 to 287.049, inclusive, *and sections 2 to 10, inclusive, of this act*, unless the context otherwise requires, the words and terms defined in NRS 287.0404 to 287.0406, inclusive, *and sections 2 and 3 of this act* have the meanings ascribed to them in those sections.

Sec. 11.5. NRS 287.041 is hereby amended to read as follows:

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

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

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

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

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

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

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

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

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

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

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

(b) Except for a member appointed pursuant to paragraph (f) of subsection 1, be a current employee of the State of Nevada or another public employer that participates in the Program or a retired public employee who is a participant in the Program; ~~and~~

(c) Not be an elected officer of the State of Nevada or any of its political subdivisions ~~¶~~; *and*

(d) Not participate in any business enterprise or investment:

(1) With any vendor or provider to the Program; or

(2) In real or personal property if the Program owns or has a direct financial interest in that enterprise or property.

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

5. The appointed members of the Board serve at the pleasure of the Governor. If the Governor wishes to remove a member from the Board for any reason other than malfeasance or misdemeanor, the Governor shall provide the member with written notice which states the reason for and the effective date of the removal.

Sec. 12. NRS 287.0415 is hereby amended to read as follows:

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

2. The Governor shall designate one of the members of the Board to serve as the Chairman.

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

4. The Board may meet in closed session:

(a) To discuss matters relating to personnel;

(b) *With investment counsel to plan future investments or establish investment objectives and policies;*

(c) *With legal counsel to receive advice upon claims or suits by or against the Program;*

(d) To prepare a request for a proposal or other solicitation for bids to be released by the Board for competitive bidding; or

~~(e)~~ (e) As otherwise provided pursuant to chapter 241 of NRS.

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

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

Sec. 13. NRS 287.0424 is hereby amended to read as follows:

287.0424 1. The Board shall employ an Executive Officer ~~[who]~~, *subject to the approval of the Governor. The Executive Officer* is in the unclassified service of the State and serves at the pleasure of the Board. The Board may delegate to the Executive Officer the exercise or discharge of any power, duty or function vested in or imposed upon the Board.

2. The Executive Officer must:

(a) Be a graduate of a 4-year college or university with a degree in business administration or public administration or an equivalent degree, as determined by the Board; and

(b) Possess at least 5 years' experience in a high-level administrative or executive capacity in the field of insurance, management of employees' benefits or risk management, including, without limitation, responsibility for a variety of administrative functions such as personnel, accounting, data processing or the structuring of insurance programs.

3. Except as otherwise provided in NRS 284.143, the Executive Officer shall not pursue any other business or occupation or perform the duties of any other office of profit during normal office hours unless on leave approved in advance. The Executive Officer shall not participate in any business enterprise or investment ~~[with]~~:

(a) *With any vendor or provider to the Program* ~~[;]~~; *or*

(b) *In real or personal property if the Program owns or has a direct financial interest in that enterprise or property.*

4. The Executive Officer is entitled to an annual salary fixed by the Board. The salary of the Executive Officer is exempt from the limitations set forth in NRS 281.123.

Sec. 14. NRS 287.0426 is hereby amended to read as follows:

287.0426 1. The Executive Officer may appoint a Quality Control Officer, Operations Officer, ~~[Accounting]~~ Chief Financial Officer, ~~[Investment Officer]~~, Information Technology Systems Officer and Executive Assistant, who are in the unclassified service of the State and serve at the pleasure of the Executive Officer. The appointment and dismissal of the Quality Control Officer ~~[and Investment Officer]~~ are subject to the approval of the Board.

2. The Quality Control Officer, Operations Officer, ~~[Accounting]~~ Chief Financial Officer ~~[, Investment Officer]~~ and Information Technology Systems Officer must each be a graduate of a 4-year college or university with a degree that is appropriate to their respective responsibilities or possess equivalent experience as determined by the Board.

3. The Quality Control Officer, Operations Officer, ~~[Accounting]~~ Chief Financial Officer, ~~[Investment Officer]~~, Information Technology Systems Officer and Executive Assistant are entitled to annual salaries fixed by the

Board. The salaries of these employees are exempt from the limitations set forth in NRS 281.123.

4. The Executive Officer may employ such staff in the classified service of the State as are necessary for the performance of his duties, within limits of legislative appropriations or other available money.

Sec. 15. NRS 287.0433 is hereby amended to read as follows:

287.0433 The Board may establish a plan of life, accident or health insurance and provide for the payment of contributions into the *Program Fund*, ~~[for the Public Employees' Benefits Program established pursuant to NRS 287.0435,]~~ a schedule of benefits and the disbursement of benefits from the *Program Fund*. The Board may reinsure any risk or any part of such a risk.

Sec. 16. NRS 287.0435 is hereby amended to read as follows:

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

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

3. Disbursements from the *Program Fund* must be made as any other claims against the State are paid.

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

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

Sec. 17. NRS 287.046 is hereby amended to read as follows:

287.046 1. Except as otherwise provided in subsection 6, any active state officer or employee who elects to participate in the Program may participate, and the participating state agency that employs the officer or employee shall pay the State's share of the cost of the premiums or contributions for the Program from money appropriated or authorized as provided in NRS 287.044. State officers and employees who elect to participate in the Program must authorize deductions from their compensation for the payment of premiums or contributions for the Program. Any deduction from the compensation of a state officer or employee for the

payment of a premium or contribution for health insurance must be based on the actual amount of the premium or contribution after deducting any amount of the premium or contribution which is paid by the participating state agency that employs the employee.

2. ~~The Department of Personnel shall pay a percentage of the base amount provided by law for that fiscal year toward the cost of the premiums or contributions for the Program for persons who have retired with state service and who elect to participate in the Program. Except as otherwise provided in subsection 3, the percentage to be paid must be calculated as follows:~~

~~(a) For those persons who retire before January 1, 1994, 100 percent of the base amount provided by law for that fiscal year.~~

~~(b) For those persons who retire on or after January 1, 1994, with at least 5 years of state service, 25 percent plus an additional 7.5 percent for each year of state service in excess of 5 years to a maximum of 137.5 percent, excluding service purchased pursuant to NRS 1A.310 or 286.300, of the base amount provided by law for that fiscal year.] Administration shall establish an assessment that is to be used to pay for a portion of the cost of premiums or contributions for the Program for persons who have retired with state service and who elect to participate in the Program. The money so assessed must be deposited into the Retirees' Fund and must be based upon an amount approved by the Legislature each session to ~~prefund~~ pay for a portion of the current and future health and welfare benefits for state retirees. Except as otherwise provided in subsection 3, the portion to be paid to the Program from the Retirees' Fund on behalf of persons who have retired with state service and who elect to participate in the Program must be equal to a portion of the cost for each retiree and his dependents who are enrolled in the plan, as defined for each year of the plan by the Program. For persons who retire from the State on or after January 1, 1994, ~~with at least 5 years of service,~~ adjustments to the portion paid by the Retirees' Fund must be as follows:~~

~~(a) For each year of service less than 15 years, excluding service purchased pursuant to NRS 1A.310 or 286.300, the portion paid by the Retirees' Fund must be reduced by an amount equal to 7.5 percent of the base funding level defined by the Legislature. In no event may the adjustment exceed 75 percent of the base funding level defined by the Legislature.~~

~~(b) For each year of service ~~equal to or~~ greater than 15 years, excluding service purchased pursuant to NRS 1A.310 or 286.300, the portion paid by the Retirees' Fund must be increased by an amount equal to 7.5 percent of the base funding level defined by the Legislature. In no event may the adjustment exceed 37.5 percent of the base funding level defined by the Legislature.~~

3. If the amount calculated pursuant to subsection 2 exceeds the actual premium or contribution for the plan of the Program that the retired

participant selects, the balance must be credited to the *Program Fund*. ~~For the Public Employees' Benefits Program created pursuant to NRS 287.0435.]~~

4. For the purposes of subsection 2:

(a) Credit for service must be calculated in the manner provided by chapter 286 of NRS.

(b) No proration may be made for a partial year of state service.

5. The Department shall agree through the Board with the insurer for billing of remaining premiums or contributions for the retired participant and his dependents to the retired participant and to his dependents who elect to continue coverage under the Program after his death.

6. A Senator or Assemblyman who elects to participate in the Program shall pay the entire premium or contribution for his insurance.

Sec. 18. 1. This section and sections 1 to 10, inclusive, and 11 to 17, inclusive, of this act (becomes) become effective on July 1, 2007.

2. Sections 10.3 and 10.7 of this act become effective on July 1, 2007, and apply retroactively to October 1, 2003.

Senator Raggio moved the adoption of the amendment.

Remarks by Senator Raggio.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

GENERAL FILE AND THIRD READING

Senate Bill No. 380.

Bill read third time.

Senator Amodei moved that Senate Bill No. 380 be taken from the General File and placed on the General File for the next legislative day.

Remarks by Senator Amodei.

Motion carried.

Senator Raggio moved that the Senate recess until 3 p.m.

Motion carried.

Senate in recess at 11:59 a.m.

SENATE IN SESSION

At 5:04 p.m.

President Krolicki presiding.

Quorum present.

REPORTS OF COMMITTEES

Mr. President:

Your Committee on Finance, to which were referred Assembly Bills Nos. 197, 200, 203, 204, 206, 271, 272, 539, 618, 627, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

WILLIAM J. RAGGIO, *Chair*

Mr. President:

Your Committee on Government Affairs, to which was referred Assembly Bill No. 615, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

WARREN B. HARDY II, *Chair*

Mr. President:

Your Committee on Transportation and Homeland Security, to which was referred Assembly Bill No. 619, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

DENNIS NOLAN, *Chair*

Senator Cegavske moved that the Senate recess subject to the call of the Chair.

Motion carried.

Senate in recess at 5:06 p.m.

SENATE IN SESSION

At 5:08 p.m.

President Krolicki presiding.

Quorum present.

MESSAGES FROM THE ASSEMBLY

ASSEMBLY CHAMBER, Carson City, June 1, 2007

To the Honorable the Senate:

I have the honor to inform your honorable body that the Assembly on this day adopted Assembly Concurrent Resolution No. 34.

Also, I have the honor to inform your honorable body that the Assembly on this day adopted the report of the first Conference Committee concerning Assembly Bill No. 148.

LUCINDA BENJAMIN

Assistant Chief Clerk of the Assembly

MOTIONS, RESOLUTIONS AND NOTICES

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

Senator Raggio moved the adoption of the resolution.

Remarks by Senator Raggio.

Resolution adopted.

Senator Raggio moved that all necessary rules be suspended and that Assembly Concurrent Resolution No. 34 be immediately transmitted to the Assembly.

Motion carried unanimously.

Resolution ordered transmitted to the Assembly.

Senator Beers moved that Assembly Bill No. 594 be taken from the Secretary's desk and placed on the General File on the third agenda.

Remarks by Senator Beers.

Motion carried.

SECOND READING AND AMENDMENT

Assembly Bill No. 510.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 1087.

"SUMMARY—Makes various changes ~~concerning credits earned by offenders and the incarceration and supervision of~~ *pertaining to* offenders. (BDR 16-1377)"

"AN ACT relating to offenders; revising provisions relating to the residential confinement of certain offenders; authorizing the Director of the Department of Corrections to award greater amounts of credit against the sentence of offenders under certain circumstances; revising provisions relating to programs for the reentry of offenders and parolees into the community; providing for certain credits to be applied to a period of probation; revising provisions governing residential confinement for offenders who violate parole or probation; revising the additional penalty that must be imposed for the commission of certain crimes under certain circumstances; making various other changes pertaining to offenders; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Section 2 of this bill eliminates certain requirements that an offender must meet to be eligible for residential confinement and revises the prohibition against assigning a prisoner who has been convicted of a sexual offense to residential confinement by prohibiting the Director of the Department of Corrections from assigning a prisoner to a minimum security facility if the prisoner has ever been convicted of a sexual offense that is a felony. In addition, section 2 revises a provision which prohibits an offender from receiving residential confinement if the offender has ever been convicted of a violent crime by prohibiting an offender from receiving residential confinement if the offender has, within the immediately preceding 3 years, been convicted of a violent crime that is a felony. (NRS 209.392) Finally, section 2 provides that an offender who has been convicted of a category A or B felony is not eligible for residential confinement.

Existing law requires the Director to assign certain offenders who are abusers of alcohol or drugs to residential confinement. (NRS 209.429) Section 3 of this bill eliminates certain requirements that such an offender must meet for the Director to assign him to residential confinement.

Section 5 of this bill increases from 10 days to 20 days the deduction from the sentence of an offender who engages in certain good behavior. In addition, section 5 increases by 30 days the deductions from the sentence of an offender who obtains certain educational achievements. Section 5 also provides that certain credits to the sentence of an offender convicted of certain category C, D or E felonies must be deducted from the minimum term imposed by the sentence until the offender becomes eligible for parole and from the maximum term imposed by the sentence. (NRS 209.4465) Section 6

of this bill increases from 10 days to 20 days the deduction from the sentence of a parolee who is current with any fee to defray the cost of his supervision and who is current with any restitution payments. (NRS 209.4475) Section 6.2 of this bill increases from 30 days to 60 days the deduction from the sentence of an offender who successfully completes a program of treatment for the abuse of alcohol or drugs. (NRS 209.448) Section 6.4 of this bill increases from 30 days to 60 days the deduction from the sentence of an offender who successfully completes a program of vocational education and training. (NRS 209.449)

Section 7 of this bill revises the prohibition against assigning a prisoner who has been convicted of a sexual offense to a minimum security facility by prohibiting the Director from assigning a prisoner to such a facility if the prisoner has ever been convicted of a sexual offense that is a felony. In addition, section 7 revises the prohibition against assigning a prisoner who has committed a violent act during the previous year to a minimum security facility by prohibiting the Director from assigning a prisoner to such a facility if the prisoner has, within the preceding year, been convicted of a violent crime that is a felony. (NRS 209.481)

Existing law allows the Director of the Department of Corrections to recommend an offender to a judicial program for reentry of offenders and parolees into the community. (NRS 209.4886) Section 7.5 of this bill provides that an offender is not eligible for a judicial program for reentry if the offender has, within the immediately preceding year, instead of 5 years, been convicted of a violent crime that is a felony. Existing law allows the Director to establish a program for reentry of offenders and parolees into the community. Section 8 of this bill revises a provision which provides that an offender is not eligible for the program if the offender has, within the immediately preceding 5 years, been convicted of a violent crime by providing that an offender is not eligible for the program if the offender has, within the immediately preceding year, been convicted of a violent crime that is a felony. (NRS 209.4888)

Section 8.3 of this bill prohibits the State Board of Parole Commissioners from considering whether a prisoner has appealed the judgment of imprisonment for which the prisoner is being considered for parole when the Board determines whether to grant parole to a prisoner.

Existing law provides that certain prisoners must be released on parole 12 months before the end of the prisoner's maximum term of imprisonment. However, if the State Board of Parole Commissioners finds that there is a reasonable probability that the prisoner will be a danger to public safety while on parole, the Board may deny the parole. (NRS 213.1215) Section 8.55 provides that if the Board denies parole for this reason, the Board must provide the prisoner with a written statement of the reasons for the denial.

Section 8.7 of this bill provides that a person who is sentenced to a period of probation for a felony and who engages in certain good behavior while on

probation must be allowed a deduction from his period of probation of 20 days for each month he serves. (NRS 176A.500)

Existing law authorizes the State Board of Parole Commissioners, in lieu of suspending the parole of a parolee who violates a condition of his parole and returning him to confinement in prison, to require the parolee to serve a term of residential confinement. (NRS 213.152) Section 8.6 of this bill authorizes the State Board of Parole Commissioners, in lieu of suspending the parole of a parolee who violates a condition of his parole and returning him to confinement in prison, to place the parolee in a community correctional center, conservation camp, facility of minimum security or other place of confinement other than a prison for a period of not more than 6 months.

If a person who has been placed on probation violates a condition of his probation, existing law authorizes a court, in lieu of causing the sentence imposed to be executed, to direct that the person be placed under the supervision of the Division of Parole and Probation of the Department of Public Safety and to require the person to serve a term of residential confinement. Section 8.8 of this bill authorizes the court, in lieu of causing the sentence imposed to be executed, to direct that the person be placed under the supervision of the Department of Corrections and to require the person to serve a term of confinement in a community correctional center, conservation camp, facility of minimum security or other place of confinement other than a prison for a period of not more than 6 months. (NRS 176A.660)

Section 10 of this bill provides for retroactive application of the amendatory provisions of sections 5 and 8.7 to certain credits earned by offenders pursuant to NRS 209.4465 and 176A.500 in certain circumstances.

Existing law provides that persons who commit certain crimes must be punished by the imposition of a penalty equal to and in addition to the term of imprisonment for the underlying crime. (NRS 193.161-193.1685) Sections 10-19 of this bill provide that the additional penalty for such crimes must be a minimum term of not less than 1 year and a maximum term of not more than 20 years, except that the additional term of imprisonment must not exceed the sentence imposed for the underlying crime. Moreover, sections 10-19 require a court to consider certain factors and, state on the record that the court considered those factors, when the court determines the length of the additional punishment to be imposed.

Section 20 of this bill amends Assembly Bill No. 508 of this session to require the Advisory Commission on the Administration of Justice to identify and study issues relating to: (1) the application of the Open Meeting Law to the State Board of Pardons Commissioners and the State Board of Parole Commissioners; and (2) the operations of the Department of Corrections.

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

Section 1. (Deleted by amendment.)

Sec. 2. NRS 209.392 is hereby amended to read as follows:

209.392 1. Except as otherwise provided in NRS 209.3925 and 209.429, the Director may, at the request of an offender who is eligible for residential confinement pursuant to the standards adopted by the Director pursuant to subsection 3 and who has:

(a) ~~Established~~ *Demonstrated a willingness and ability to establish a position of employment in the community;*

(b) ~~Enrolled~~ *Demonstrated a willingness and ability to enroll in a program for education or rehabilitation; or*

(c) *Demonstrated an ability to pay for all or part of the costs of his confinement and to meet any existing obligation for restitution to any victim of his crime,*

↪ *assign the offender to the custody of the Division of Parole and Probation of the Department of Public Safety to serve a term of residential confinement, pursuant to NRS 213.380, for not longer than the remainder of his sentence.*

2. Upon receiving a request to serve a term of residential confinement from an eligible offender, the Director shall notify the Division of Parole and Probation. If any victim of a crime committed by the offender has, pursuant to subsection 4 of NRS 213.130, requested to be notified of the consideration of a prisoner for parole and has provided a current address, the Division of Parole and Probation shall notify the victim of the offender's request and advise the victim that he may submit documents regarding the request to the Division of Parole and Probation. If a current address has not been provided as required by subsection 4 of NRS 213.130, the Division of Parole and Probation must not be held responsible if such notification is not received by the victim. All personal information, including, but not limited to, a current or former address, which pertains to a victim and which is received by the Division of Parole and Probation pursuant to this subsection is confidential.

3. The Director, after consulting with the Division of Parole and Probation, shall adopt, by regulation, standards providing which offenders are eligible for residential confinement. The standards adopted by the Director must provide that an offender who:

(a) ~~Is not eligible for parole or release from prison within a reasonable period;~~

~~(b)~~ *Has recently committed a serious infraction of the rules of an institution or facility of the Department;*

~~(c)~~ *(b) Has not performed the duties assigned to him in a faithful and orderly manner;*

~~(d)~~ *(c) Has ~~never~~ been convicted of:*

(1) Any crime that is punishable as a felony involving the use or threatened use of force or violence against the victim ~~[-or]~~ within the immediately preceding 3 years;

(2) A sexual offense ~~[-]~~

~~(e)~~ *that is punishable as a felony; or*

(3) A category A or B felony;

(d) Has more than one prior conviction for any felony in this State or any offense in another state that would be a felony if committed in this State, not including a violation of NRS 484.379, 484.3795 or 484.37955; or

~~[(f)]~~ (e) Has escaped or attempted to escape from any jail or correctional institution for adults, ~~[- or~~

~~(g) Has not made an effort in good faith to participate in or to complete any educational or vocational program or any program of treatment, as ordered by the Director.]~~

↪ is not eligible for assignment to the custody of the Division of Parole and Probation to serve a term of residential confinement pursuant to this section.

4. If an offender assigned to the custody of the Division of Parole and Probation pursuant to this section escapes or violates any of the terms or conditions of his residential confinement:

(a) The Division of Parole and Probation may, pursuant to the procedure set forth in NRS 213.410, return the offender to the custody of the Department.

(b) The offender forfeits all or part of the credits for good behavior earned by him before the escape or violation, as determined by the Director. The Director may provide for a forfeiture of credits pursuant to this paragraph only after proof of the offense and notice to the offender and may restore credits forfeited for such reasons as he considers proper. The decision of the Director regarding such a forfeiture is final.

5. The assignment of an offender to the custody of the Division of Parole and Probation pursuant to this section shall be deemed:

(a) A continuation of his imprisonment and not a release on parole; and

(b) For the purposes of NRS 209.341, an assignment to a facility of the Department,

↪ except that the offender is not entitled to obtain any benefits or to participate in any programs provided to offenders in the custody of the Department.

6. An offender does not have a right to be assigned to the custody of the Division of Parole and Probation pursuant to this section, or to remain in that custody after such an assignment, and it is not intended that the provisions of this section or of NRS 213.371 to 213.410, inclusive, create any right or interest in liberty or property or establish a basis for any cause of action against the State, its political subdivisions, agencies, boards, commissions, departments, officers or employees.

Sec. 3. NRS 209.429 is hereby amended to read as follows:

209.429 1. Except as otherwise provided in subsection 6, the Director shall assign an offender to the custody of the Division of Parole and Probation of the Department of Public Safety to serve a term of residential confinement, pursuant to NRS 213.380, for not longer than the remainder of the maximum term of his sentence if ~~[-~~

~~(a) The]~~ the offender has:

~~[(1)] (a) [Established] Demonstrated a willingness and ability to establish a position of employment in the community;~~

~~[(2)] (b) [Enrolled] Demonstrated a willingness and ability to enroll in a program for education or rehabilitation; or~~

~~[(3)] (c) Demonstrated an ability to pay for all or part of the costs of his confinement and to meet any existing obligation for restitution to any victim of his crime . ‡~~

~~(b) The offender has successfully completed the initial period of treatment required under the program of treatment established pursuant to NRS 209.425; and~~

~~(e) The Director believes that the offender will be able to:~~

~~(1) Comply with the terms and conditions required under residential confinement; and~~

~~(2) Complete successfully the remainder of the program of treatment while under residential confinement.~~

~~↪ If an offender assigned to the program of treatment pursuant to NRS 209.427 completes the initial phase of the program and thereafter refuses to enter the remainder of the program of treatment pursuant to this section, the offender forfeits all or part of the credits earned by him to reduce his sentence pursuant to this chapter before this refusal, as determined by the Director. The Director may provide for a forfeiture of credits pursuant to this paragraph only after proof of the offense and notice to the offender and may restore credits forfeited for such reasons as he considers proper. The decision of the Director regarding such a forfeiture is final.]~~

2. Before a person may be assigned to serve a term of residential confinement pursuant to this section, he must submit to the Division of Parole and Probation a signed document stating that:

(a) He will comply with the terms or conditions of his residential confinement; and

(b) If he fails to comply with the terms or conditions of his residential confinement and is taken into custody outside of this State, he waives all his rights relating to extradition proceedings.

3. If an offender assigned to the custody of the Division of Parole and Probation pursuant to this section escapes or violates any of the terms or conditions of his residential confinement:

(a) The Division of Parole and Probation may, pursuant to the procedure set forth in NRS 213.410, return the offender to the custody of the Department.

(b) The offender forfeits all or part of the credits earned by him to reduce his sentence pursuant to this chapter before the escape or violation, as determined by the Director. The Director may provide for a forfeiture of credits pursuant to this paragraph only after proof of the offense and notice to the offender and may restore credits forfeited for such reasons as he considers proper. The decision of the Director regarding forfeiture of credits is final.

4. The assignment of an offender to the custody of the Division of Parole and Probation pursuant to this section shall be deemed:

(a) A continuation of his imprisonment and not a release on parole; and

(b) For the purposes of NRS 209.341, an assignment to a facility of the Department,

↳ except that the offender is not entitled to obtain any benefits or to participate in any programs provided to offenders in the custody of the Department.

5. A person does not have a right to be assigned to the custody of the Division of Parole and Probation pursuant to this section, or to remain in that custody after such an assignment, and it is not intended that the provisions of this section or of NRS 213.371 to 213.410, inclusive, create any right or interest in liberty or property or establish a basis for any cause of action against the State, its political subdivisions, agencies, boards, commissions, departments, officers or employees.

6. The Director shall not assign an offender who is serving a sentence for committing a battery which constitutes domestic violence pursuant to NRS 33.018 to the custody of the Division of Parole and Probation to serve a term of residential confinement unless the Director makes a finding that the offender is not likely to pose a threat to the victim of the battery.

Sec. 4. NRS 209.446 is hereby amended to read as follows:

209.446 1. Every offender who is sentenced to prison for a crime committed on or after July 1, 1985, but before July 17, 1997, who has no serious infraction of the regulations of the Department, the terms and conditions of his residential confinement, or the laws of the State recorded against him, and who performs in a faithful, orderly and peaceable manner the duties assigned to him, must be allowed:

(a) For the period he is actually incarcerated under sentence;

(b) For the period he is in residential confinement; and

(c) For the period he is in the custody of the Division of Parole and Probation of the Department of Public Safety pursuant to NRS 209.4886 or 209.4888,

↳ a deduction of 10 days from his sentence for each month he serves.

2. In addition to the credit provided for in subsection 1, the Director may allow not more than 10 days of credit each month for an offender whose diligence in labor and study merits such credits. In addition to the credits allowed pursuant to this subsection, an offender is entitled to the following credits for educational achievement:

(a) For earning a general educational development certificate, 30 days.

(b) For earning a high school diploma, 60 days.

(c) For earning an associate degree, 90 days.

3. The Director may allow not more than 10 days of credit each month for an offender who participates in a diligent and responsible manner in a center for the purpose of making restitution, *program for reentry of offenders and parolees into the community*, conservation camp, program of work

release or another program conducted outside of the prison. An offender who earns credit pursuant to this subsection is entitled to the entire 20 days of credit each month which is authorized in subsections 1 and 2.

4. The Director may allow not more than 90 days of credit each year for an offender who engages in exceptional meritorious service.

5. The Board shall adopt regulations governing the award, forfeiture and restoration of credits pursuant to this section.

6. Credits earned pursuant to this section:

(a) Must be deducted from the maximum term imposed by the sentence; and

(b) Apply to eligibility for parole unless the offender was sentenced pursuant to a statute which specifies a minimum sentence which must be served before a person becomes eligible for parole.

Sec. 5. NRS 209.4465 is hereby amended to read as follows:

209.4465 1. An offender who is sentenced to prison for a crime committed on or after July 17, 1997, who has no serious infraction of the regulations of the Department, the terms and conditions of his residential confinement or the laws of the State recorded against him, and who performs in a faithful, orderly and peaceable manner the duties assigned to him, must be allowed:

(a) For the period he is actually incarcerated pursuant to his sentence;

(b) For the period he is in residential confinement; and

(c) For the period he is in the custody of the Division of Parole and Probation of the Department of Public Safety pursuant to NRS 209.4886 or 209.4888,

↪ a deduction of ~~{40}~~ 20 days from his sentence for each month he serves.

2. In addition to the credits allowed pursuant to subsection 1, the Director may allow not more than 10 days of credit each month for an offender whose diligence in labor and study merits such credits. In addition to the credits allowed pursuant to this subsection, an offender is entitled to the following credits for educational achievement:

(a) For earning a general educational development certificate, ~~{30}~~ 60 days.

(b) For earning a high school diploma, ~~{60}~~ 90 days.

(c) For earning his first associate degree, ~~{90}~~ 120 days.

3. The Director may, in his discretion, authorize an offender to receive a maximum of 90 days of credit for each additional degree of higher education earned by the offender.

4. The Director may allow not more than 10 days of credit each month for an offender who participates in a diligent and responsible manner in a center for the purpose of making restitution, *program for reentry of offenders and parolees into the community*, conservation camp, program of work release or another program conducted outside of the prison. An offender who earns credit pursuant to this subsection is eligible to earn the entire ~~{20}~~ 30 days of credit each month that is allowed pursuant to subsections 1 and 2.

5. The Director may allow not more than 90 days of credit each year for an offender who engages in exceptional meritorious service.

6. The Board shall adopt regulations governing the award, forfeiture and restoration of credits pursuant to this section.

7. ~~Credits~~ *Except as otherwise provided in subsection 8, credits earned pursuant to this section:*

(a) Must be deducted from the maximum term imposed by the sentence; and

(b) Apply to eligibility for parole unless the offender was sentenced pursuant to a statute which specifies a minimum sentence that must be served before a person becomes eligible for parole.

8. *Credits earned pursuant to this section by an offender who has not been convicted of:*

(a) *Any crime that is punishable as a felony involving the use or threatened use of force or violence against the victim;*

(b) *A sexual offense that is punishable as a felony;*

(c) *A violation of NRS 484.379, 484.3795 or 484.37955 that is punishable as a felony; or*

(d) *A category A or B felony,*

→ *apply to eligibility for parole and must be deducted from the minimum term imposed by the sentence until the offender becomes eligible for parole and must be deducted from the maximum term imposed by the sentence.*

Sec. 6. NRS 209.4475 is hereby amended to read as follows:

209.4475 1. In addition to any credits earned pursuant to NRS 209.447, an offender who is on parole as of January 1, 2004, or who is released on parole on or after January 1, 2004, for a term less than life must be allowed for the period he is actually on parole a deduction of ~~{10}~~ 20 days from his sentence for each month he serves if:

(a) He is current with any fee to defray the costs of his supervision pursuant to NRS 213.1076; and

(b) He is current with any payment of restitution required pursuant to NRS 213.126.

2. In addition to any credits earned pursuant to subsection 1 and NRS 209.447, the Director may allow not more than 10 days of credit each month for an offender:

(a) Who is on parole as of January 1, 2004, or who is released on parole on or after January 1, 2004, for a term less than life; and

(b) Whose diligence in labor or study merits such credits.

3. An offender is entitled to the deductions authorized by this section only if he satisfies the conditions of subsection 1 or 2, as determined by the Director. The Chief Parole and Probation Officer or other person responsible for the supervision of an offender shall report to the Director the failure of an offender to satisfy those conditions.

4. Credits earned pursuant to this section must, in addition to any credits earned pursuant to NRS 209.443, 209.446, 209.4465, 209.447, 209.448 and 209.449, be deducted from the maximum term imposed by the sentence.

5. The Director shall maintain records of the credits to which each offender is entitled pursuant to this section.

Sec. 6.2. NRS 209.448 is hereby amended to read as follows:

209.448 1. An offender who has no serious infraction of the regulations of the Department or the laws of the State recorded against him must be allowed, in addition to the credits provided pursuant to NRS 209.433, 209.443, 209.446 or 209.4465, a deduction of not more than ~~{30}~~ 60 days from the maximum term of his sentence for the successful completion of a program of treatment for the abuse of alcohol or drugs which is conducted jointly by the Department and a person who is licensed or certified as an alcohol and drug abuse counselor or certified as an alcohol and drug abuse counselor intern pursuant to chapter 641C of NRS.

2. The provisions of this section apply to any offender who is sentenced on or after October 1, 1991.

Sec. 6.4. NRS 209.449 is hereby amended to read as follows:

209.449 1. An offender who has no serious infraction of the regulations of the Department, the terms and conditions of his residential confinement, or the laws of the State recorded against him must be allowed, in addition to the credits provided pursuant to NRS 209.433, 209.443, 209.446 or 209.4465, a deduction of ~~{30}~~ 60 days from the maximum term of his sentence for the *successful* completion of:

- (a) A program of vocational education and training; or
- (b) Any other program approved by the Director.

2. If the offender completes such a program with meritorious or exceptional achievement, the Director may allow not more than 60 days of credit in addition to the ~~{30}~~ 60 days allowed for completion of the program.

Sec. 7. NRS 209.481 is hereby amended to read as follows:

209.481 1. The Director shall not assign any prisoner to an institution or facility of minimum security if the prisoner:

- (a) Except as otherwise provided in NRS 484.3792, 484.3795, 484.37955, 488.420 and 488.427, is not eligible for parole or release from prison within a reasonable period;
- (b) Has recently committed a serious infraction of the rules of an institution or facility of the Department;
- (c) Has not performed the duties assigned to him in a faithful and orderly manner;
- (d) Has *ever* been convicted of a sexual offense ~~{;}~~ *that is punishable as a felony*;

(e) Has ~~{committed an act of serious violence during the previous year;}~~ *, within the immediately preceding year, been convicted of any crime involving the use or threatened use of force or violence against a victim that is punishable as a felony; or*

(f) Has attempted to escape or has escaped from an institution of the Department.

2. The Director shall, by regulation, establish procedures for classifying and selecting qualified prisoners.

Sec. 7.5. NRS 209.4886 is hereby amended to read as follows:

209.4886 1. Except as otherwise provided in this section, if a judicial program has been established in the judicial district in which an offender was sentenced to imprisonment, the Director may, after consulting with the Division, refer the offender to the reentry court if:

(a) The Director believes that the offender would participate successfully in and benefit from the judicial program;

(b) The offender has demonstrated a willingness to:

(1) Engage in employment or participate in vocational rehabilitation or job skills training; and

(2) Meet any existing obligation for restitution to any victim of his crime; and

(c) The offender is within 2 years of his probable release from prison, as determined by the Director.

2. Except as otherwise provided in this section, if the Director is notified by the reentry court pursuant to NRS 209.4883 that an offender should be assigned to the custody of the Division to participate in the judicial program, the Director shall assign the offender to the custody of the Division to participate in the judicial program for not longer than the remainder of his sentence.

3. The Director shall, by regulation, adopt standards setting forth which offenders are eligible to be assigned to the custody of the Division to participate in the judicial program pursuant to this section. The standards adopted by the Director must be approved by the Board and must provide that an offender who:

(a) Has recently committed a serious infraction of the rules of an institution or facility of the Department;

(b) Has not performed the duties assigned to him in a faithful and orderly manner;

(c) Has, within the immediately preceding ~~{5 years,}~~ year, been convicted of any crime involving the use or threatened use of force or violence against a victim that is punishable as a felony;

(d) Has ever been convicted of a sexual offense ~~{;} that is punishable as a felony; or~~

(e) Has escaped or attempted to escape from any jail or correctional institution for adults, ~~{; or~~

~~{f) Has not made an effort in good faith to participate in or to complete any educational or vocational program or any program of treatment, as ordered by the Director.}~~

↪ is not eligible for assignment to the custody of the Division pursuant to this section to participate in a judicial program.

4. The Director shall adopt regulations requiring offenders who are assigned to the custody of the Division pursuant to this section to reimburse the reentry court, the Division and the Department for the cost of their participation in a judicial program, to the extent of their ability to pay.

5. The reentry court may return the offender to the custody of the Department at any time for any violation of the terms and conditions imposed by the reentry court.

6. If an offender assigned to the custody of the Division pursuant to this section violates any of the terms or conditions imposed by the reentry court and is returned to the custody of the Department, the offender forfeits all or part of the credits for good behavior earned by him before he was returned to the custody of the Department, as determined by the Director. The Director may provide for a forfeiture of credits pursuant to this subsection only after proof of the violation and notice is given to the offender. The Director may restore credits so forfeited for such reasons as he considers proper. The decision of the Director regarding such a forfeiture is final.

7. The assignment of an offender to the custody of the Division pursuant to this section shall be deemed:

(a) A continuation of his imprisonment and not a release on parole; and

(b) For the purposes of NRS 209.341, an assignment to a facility of the Department,

↳ except that the offender is not entitled to obtain any benefits or to participate in any programs provided to offenders in the custody of the Department.

8. An offender does not have a right to be assigned to the custody of the Division pursuant to this section, or to remain in that custody after such an assignment. It is not intended that the establishment or operation of a judicial program creates any right or interest in liberty or property or establishes a basis for any cause of action against the State of Nevada, its political subdivisions, agencies, boards, commissions, departments, officers or employees.

Sec. 8. NRS 209.4888 is hereby amended to read as follows:

209.4888 1. Except as otherwise provided in this section, if a correctional program has been established by the Director in the county in which an offender was sentenced to imprisonment, the Director may, after consulting with the Division, determine that an offender is suitable to participate in the correctional program if:

(a) The Director believes that the offender would participate successfully in and benefit from the correctional program;

(b) The offender has demonstrated a willingness to:

(1) Engage in employment or participate in vocational rehabilitation or job skills training; and

(2) Meet any existing obligation for restitution to any victim of his crime; and

(c) The offender is within 2 years of his probable release from prison, as determined by the Director.

2. Except as otherwise provided in this section, if the Director determines that an offender is suitable to participate in the correctional program, the Director shall request that the Chairman of the State Board of Parole Commissioners assign the offender to the custody of the Division to participate in the correctional program. The Chairman may assign the offender to the custody of the Division to participate in the correctional program for not longer than the remainder of his sentence.

3. The Director shall, by regulation, adopt standards setting forth which offenders are suitable to participate in the correctional program pursuant to this section. The standards adopted by the Director must be approved by the Board and must provide that an offender who:

(a) Has recently committed a serious infraction of the rules of an institution or facility of the Department;

(b) Has not performed the duties assigned to him in a faithful and orderly manner;

(c) Has, within the immediately preceding ~~5 years,~~ *year*, been convicted of any crime involving the use or threatened use of force or violence against a victim that is punishable as a felony;

(d) Has ever been convicted of a sexual offense ~~that is punishable as a felony;~~ *or*

(e) Has escaped or attempted to escape from any jail or correctional institution for adults, ~~or~~

~~(f) Has not made an effort in good faith to participate in or to complete any educational or vocational program or any program of treatment, as ordered by the Director.~~

↪ is not eligible for assignment to the custody of the Division pursuant to this section to participate in a correctional program.

4. The Director shall adopt regulations requiring offenders who are assigned to the custody of the Division pursuant to this section to reimburse the Division and the Department for the cost of their participation in a correctional program, to the extent of their ability to pay.

5. The Director may return the offender to the custody of the Department at any time for any violation of the terms and conditions agreed upon by the Director and the Chairman.

6. If an offender assigned to the custody of the Division pursuant to this section violates any of the terms or conditions agreed upon by the Director and the Chairman and is returned to the custody of the Department, the offender forfeits all or part of the credits for good behavior earned by him before he was returned to the custody of the Department, as determined by the Director. The Director may provide for a forfeiture of credits pursuant to this subsection only after proof of the violation and notice is given to the offender. The Director may restore credits so forfeited for such reasons as he

considers proper. The decision of the Director regarding such a forfeiture is final.

7. The assignment of an offender to the custody of the Division pursuant to this section shall be deemed:

- (a) A continuation of his imprisonment and not a release on parole; and
- (b) For the purposes of NRS 209.341, an assignment to a facility of the Department,

↪ except that the offender is not entitled to obtain any benefits or to participate in any programs provided to offenders in the custody of the Department.

8. An offender does not have a right to be assigned to the custody of the Division pursuant to this section, or to remain in that custody after such an assignment. It is not intended that the establishment or operation of a correctional program creates any right or interest in liberty or property or establishes a basis for any cause of action against the State of Nevada, its political subdivisions, agencies, boards, commissions, departments, officers or employees.

Sec. 8.3. NRS 213.10885 is hereby amended to read as follows:

213.10885 1. The Board shall adopt by regulation specific standards for each type of convicted person to assist the Board in determining whether to grant or revoke parole. The regulations must include standards for determining whether to grant or revoke the parole of a convicted person:

- (a) Who committed a capital offense.
- (b) Who was sentenced to serve a term of imprisonment for life.
- (c) Who was convicted of a sexual offense involving the use or threat of use of force or violence.
- (d) Who was convicted as a habitual criminal.
- (e) Who is a repeat offender.
- (f) Who was convicted of any other type of offense.

↪ The standards must be based upon objective criteria for determining the person's probability of success on parole.

2. In establishing the standards, the Board shall consider the information on decisions regarding parole that is compiled and maintained pursuant to NRS 213.10887 and all other factors which are relevant in determining the probability that a convicted person will live and remain at liberty without violating the law if parole is granted or continued. The other factors the Board considers must include, but are not limited to:

- (a) The severity of the crime committed;
- (b) The criminal history of the person;
- (c) Any disciplinary action taken against the person while incarcerated;
- (d) Any previous parole violations or failures;
- (e) Any potential threat to society or himself; and
- (f) The length of his incarceration.

3. In determining whether to grant parole to a prisoner, the Board shall not consider whether the prisoner has appealed the judgment of imprisonment for which the prisoner is being considered for parole.

4. The standards adopted by the Board must provide for a greater punishment for a convicted person who has a history of repetitive criminal conduct or who commits a serious crime, with a violent crime considered the most serious, than for a convicted person who does not have a history of repetitive crimes and did not commit a serious crime.

~~4~~ 5. The Board shall make available to the public a sample of the form the Board uses in determining the probability that a convicted person will live and remain at liberty without violating the law if parole is granted or continued.

~~5~~ 6. On or before January 1 of each even-numbered year, the Board shall review comprehensively the standards adopted by the Board. The review must include a determination of whether the standards are effective in predicting the probability that a convicted person will live and remain at liberty without violating the law if parole is granted or continued. If a standard is found to be ineffective, the Board shall not use that standard in its decisions regarding parole and shall adopt revised standards as soon as practicable after the review.

~~6~~ 7. The Board shall report to each regular session of the Legislature:

(a) The number and percentage of the Board's decisions that conflicted with the standards;

(b) The results and conclusions from the Board's review pursuant to subsection ~~5~~ 6; and

(c) Any changes in the Board's standards, policies, procedures, programs or forms that have been or will be made as a result of the review.

Sec. 8.5. NRS 213.120 is hereby amended to read as follows:

213.120 1. Except as otherwise provided in NRS 213.1213 and as limited by statute for certain specified offenses, a prisoner who was sentenced to prison for a crime committed before July 1, 1995, may be paroled when he has served one-third of the definite period of time for which he has been sentenced pursuant to NRS 176.033, less any credits earned to reduce his sentence pursuant to chapter 209 of NRS.

2. Except as otherwise provided in NRS 213.1213 and as limited by statute for certain specified offenses, a prisoner who was sentenced to prison for a crime committed on or after July 1, 1995, may be paroled when he has served the minimum term of imprisonment imposed by the court. ~~Any~~ *Except as otherwise provided in NRS 209.4465, any credits earned to reduce his sentence pursuant to chapter 209 of NRS while the prisoner serves the minimum term of imprisonment may reduce only the maximum term of imprisonment imposed and must not reduce the minimum term of imprisonment.*

Sec. 8.55. NRS 213.1215 is hereby amended to read as follows:

213.1215 1. Except as otherwise provided in subsections 3, 4 and 5 and in cases where a consecutive sentence is still to be served, if a prisoner sentenced to imprisonment for a term of 3 years or more:

- (a) Has not been released on parole previously for that sentence; and
- (b) Is not otherwise ineligible for parole,

➔ he must be released on parole 12 months before the end of his maximum term, as reduced by any credits he has earned to reduce his sentence pursuant to chapter 209 of NRS. The Board shall prescribe any conditions necessary for the orderly conduct of the parolee upon his release.

2. Each parolee so released must be supervised closely by the Division, in accordance with the plan for supervision developed by the Chief pursuant to NRS 213.122.

3. If the Board finds, at least 2 months before a prisoner would otherwise be paroled pursuant to subsection 1, that there is a reasonable probability that the prisoner will be a danger to public safety while on parole, the Board may require the prisoner to serve the balance of his sentence and not grant the parole provided for in subsection 1. If, pursuant to this subsection, the Board does not grant the parole provided for in subsection 1, the Board shall provide to the prisoner a written statement of its reasons for denying parole.

4. If the prisoner is the subject of a lawful request from another law enforcement agency that he be held or detained for release to that agency, the prisoner must not be released on parole, but released to that agency.

5. If the Division has not completed its establishment of a program for the prisoner's activities during his parole pursuant to this section, the prisoner must be released on parole as soon as practicable after the prisoner's program is established.

6. For the purposes of this section, the determination of the 12-month period before the end of a prisoner's term must be calculated without consideration of any credits he may have earned to reduce his sentence had he not been paroled.

Sec. 8.6. NRS 213.152 is hereby amended to read as follows:

213.152 1. Except as otherwise provided in subsection 6, if a parolee violates a condition of his parole, the Board may order him to a term of residential confinement in lieu of suspending his parole and returning him to confinement. In making this determination, the Board shall consider the criminal record of the parolee and the seriousness of the crime committed.

2. In ordering the parolee to a term of residential confinement, the Board shall:

- (a) Require ~~the~~ :

(1) The parolee to be confined to his residence during the time he is away from his employment, community service or other activity authorized by the Division; and

- ~~(b) Require intensive~~

(2) Intensive supervision of the parolee, including, without limitation, unannounced visits to his residence or other locations where he is expected to

be in order to determine whether he is complying with the terms of his confinement ~~[-]~~; *or*

(b) *Require the parolee to be confined to a facility of the Department of Corrections approved by the Board for a period not to exceed 6 months.*

3. An electronic device approved by the Division may be used to supervise a parolee ordered to a term of residential confinement. The device must be minimally intrusive and limited in capability to recording or transmitting information concerning the presence of the parolee at his residence, including, but not limited to, the transmission of still visual images which do not concern the activities of the person while inside his residence. A device which is capable of recording or transmitting:

(a) Oral or wire communications or any auditory sound; or

(b) Information concerning the activities of the parolee while inside his residence,

↪ must not be used.

4. The Board shall not order a parolee to a term of residential confinement unless he agrees to the order.

5. A term of residential confinement may not be longer than the unexpired maximum term of the original sentence of the parolee.

6. The Board shall not order a parolee who is serving a sentence for committing a battery which constitutes domestic violence pursuant to NRS 33.018 to a term of residential confinement unless the Board makes a finding that the parolee is not likely to pose a threat to the victim of the battery.

7. *As used in this section, "facility" has the meaning ascribed to it in NRS 209.065.*

Sec. 8.7. NRS 176A.500 is hereby amended to read as follows:

176A.500 1. The period of probation or suspension of sentence may be indeterminate or may be fixed by the court and may at any time be extended or terminated by the court, but the period, including any extensions thereof, must not be more than:

(a) Three years for a:

(1) Gross misdemeanor; or

(2) Suspension of sentence pursuant to NRS 176A.260 or 453.3363; or

(b) Five years for a felony.

2. At any time during probation or suspension of sentence, the court may issue a warrant for violating any of the conditions of probation or suspension of sentence and cause the defendant to be arrested. Except for the purpose of giving a dishonorable discharge from probation, and except as otherwise provided in this subsection, the time during which a warrant for violating any of the conditions of probation is in effect is not part of the period of probation. If the warrant is cancelled or probation is reinstated, the court may include any amount of that time as part of the period of probation.

3. Any parole and probation officer or any peace officer with power to arrest may arrest a probationer without a warrant, or may deputize any other

officer with power to arrest to do so by giving him a written statement setting forth that the probationer has, in the judgment of the parole and probation officer, violated the conditions of probation. Except as otherwise provided in subsection 4, the parole and probation officer, or the peace officer, after making an arrest shall present to the detaining authorities, if any, a statement of the charges against the probationer. The parole and probation officer shall at once notify the court which granted probation of the arrest and detention or residential confinement of the probationer and shall submit a report in writing showing in what manner the probationer has violated the conditions of probation.

4. A parole and probation officer or a peace officer may immediately release from custody without any further proceedings any person he arrests without a warrant for violating a condition of probation if the parole and probation officer or peace officer determines that there is no probable cause to believe that the person violated the condition of probation.

5. *An offender who is sentenced to serve a period of probation for a felony who has no serious infraction of the regulations of the Division, the terms and conditions of his probation or the laws of the State recorded against him, and who performs in a faithful, orderly and peaceable manner the duties assigned to him, must be allowed for the period of his probation a deduction of 20 days from that period for each month he serves.*

Sec. 8.8. NRS 176A.660 is hereby amended to read as follows:

176A.660 1. If a person who has been placed on probation violates a condition of his probation, the court may order him to a term of residential confinement in lieu of causing the sentence imposed to be executed. In making this determination, the court shall consider the criminal record of the person and the seriousness of the crime committed.

2. In ordering the person to a term of residential confinement, the court shall:

(a) Direct that he be placed under the supervision of the Division ~~;~~

~~(b) Require the~~ and require:

(1) *The person to be confined to his residence during the time he is away from his employment, community service or other activity authorized by the Division; and*

~~{(c) Require intensive}~~

(2) *Intensive supervision of the person, including, without limitation, unannounced visits to his residence or other locations where he is expected to be in order to determine whether he is complying with the terms of his confinement ~~[-]~~; or*

(b) Direct that he be placed under the supervision of the Department of Corrections and require the person to be confined to a facility of the Department approved by the Division and the court for a period not to exceed 6 months.

3. An electronic device approved by the Division may be used to supervise a person ordered to a term of residential confinement. The device

must be minimally intrusive and limited in capability to recording or transmitting information concerning the person's presence at his residence, including, but not limited to, the transmission of still visual images which do not concern the person's activities while inside his residence. A device which is capable of recording or transmitting:

- (a) Oral or wire communications or any auditory sound; or
- (b) Information concerning the person's activities while inside his residence,

↪ must not be used.

4. The court shall not order a person to a term of residential confinement unless he agrees to the order.

5. A term of residential confinement may not be longer than the maximum term of a sentence imposed by the court.

6. *As used in this section, "facility" has the meaning ascribed to it in NRS 209.065.*

Sec. 9. (Deleted by amendment.)

Sec. 10. *NRS 193.161 is hereby amended to read as follows:*

193.161 1. Except as otherwise provided in subsection ~~2~~ 3 and NRS 193.169, any person who commits a felony on the property of a public or private school, at an activity sponsored by a public or private school or on a school bus while the bus is engaged in its official duties shall, in addition to the term of imprisonment prescribed by statute for the crime, be punished by imprisonment in the state prison for a ~~term equal to and in addition to the~~ minimum term of ~~imprisonment prescribed by statute for the crime.~~ not less than 1 year and a maximum term of not more than 20 years. In determining the length of the additional penalty imposed, the court shall consider the following information:

- (a) The facts and circumstances of the crime;
- (b) The criminal history of the person;
- (c) The impact of the crime on any victim;
- (d) Any mitigating factors presented by the person; and
- (e) Any other relevant information.

↪ The court shall state on the record that it has considered the information described in paragraphs (a) to (e), inclusive, in determining the length of the additional penalty imposed.

2. The sentence prescribed by this section ~~must run~~ :

- (a) Must not exceed the sentence imposed for the crime; and
- (b) Runs consecutively with the sentence prescribed by statute for the crime.

~~2~~ 3. Unless a greater penalty is provided by specific statute and except as otherwise provided in NRS 193.169, in lieu of an additional term of imprisonment as provided pursuant to ~~subsection~~ subsections 1, ~~1~~ and 2, if a felony that resulted in death or substantial bodily harm to the victim was committed on the property of a public or private school when pupils or employees of the school were present or may have been present, at an

activity sponsored by a public or private school or on a school bus while the bus was engaged in its official duties, and the person who committed the felony intended to create a great risk of death or substantial bodily harm to more than one person by means of a weapon, device or course of action that would normally be hazardous to the lives of more than one person, the felony may be deemed a category A felony and the person who committed the felony may be punished by imprisonment in the state prison:

- (a) For life without the possibility of parole;
- (b) For life with the possibility of parole, with eligibility for parole beginning when a minimum of 20 years has been served; or
- (c) For a definite term of 50 years, with eligibility for parole beginning when a minimum of 20 years has been served.

~~{3. Subsection 1 does}~~

~~4. Subsections 1 and 2 do~~ not create a separate offense but ~~{provide}~~ provide an additional penalty for the primary offense, the imposition of which is contingent upon the finding of the prescribed fact. Subsection ~~{2}~~ 3 does not create a separate offense but provides an alternative penalty for the primary offense, the imposition of which is contingent upon the finding of the prescribed fact.

~~{4}~~ 5. For the purposes of this section, "school bus" has the meaning ascribed to it in NRS 483.160.

Sec. 11. NRS 193.162 is hereby amended to read as follows:

193.162 1. Except as otherwise provided in NRS 193.169 and 454.306, an adult who, with the assistance of a child:

(a) Commits a crime that is punishable as a category A or a category B felony shall , in addition to the term of imprisonment prescribed by statute for the crime, be punished by imprisonment in the state prison for ~~an additional term equal to the~~ a minimum term of ~~imprisonment prescribed by statute for the crime,~~ not less than 1 year and a maximum term of not more than 20 years.

(b) Commits any felony other than a category A or a category B felony shall , in addition to the term of imprisonment prescribed by statute for the crime, be punished by imprisonment in the state prison for ~~an additional term not less than 25 percent and not more than 100 percent of the~~ a minimum term of ~~imprisonment prescribed by statute for the crime,~~ not less than 1 year and a maximum term of not more than 20 years.

2. In determining the length of the additional penalty imposed pursuant to this section, the court shall consider the following information:

- (a) The facts and circumstances of the crime;
- (b) The criminal history of the person;
- (c) The impact of the crime on any victim;
- (d) Any mitigating factors presented by the person; and
- (e) Any other relevant information.

↪ The court shall state on the record that it has considered the information described in paragraphs (a) to (e), inclusive, in determining the length of the additional penalty imposed.

3. An additional sentence prescribed by this section ~~runs~~:

(a) Must not exceed the sentence imposed for the crime; and

(b) Runs consecutively with the sentence prescribed by statute for the crime.

~~2.~~ 4. This section does not create a separate offense but provides an additional penalty for the primary offense, whose imposition is contingent upon the finding of the prescribed fact.

~~3.~~ 5. As used in this section:

(a) "Adult" means a person who is 18 years of age or older.

(b) "Child" means a person who is less than 18 years of age.

Sec. 12. NRS 193.163 is hereby amended to read as follows:

193.163 1. Except as otherwise provided in NRS 193.169, any person who uses a handgun containing a metal-penetrating bullet in the commission of a crime shall , in addition to the term of imprisonment prescribed by statute for the crime, be punished by imprisonment in the state prison for a ~~term equal to and in addition to the~~ minimum term of ~~imprisonment prescribed by statute for the crime.~~ not less than 1 year and a maximum term of not more than 20 years. In determining the length of the additional penalty imposed, the court shall consider the following information:

(a) The facts and circumstances of the crime;

(b) The criminal history of the person;

(c) The impact of the crime on any victim;

(d) Any mitigating factors presented by the person; and

(e) Any other relevant information.

↪ The court shall state on the record that it has considered the information described in paragraphs (a) to (e), inclusive, in determining the length of the additional penalty imposed.

2. The sentence prescribed by this section ~~runs~~:

(a) Must not exceed the sentence imposed for the crime; and

(b) Runs consecutively with the sentence prescribed by statute for the crime.

~~2.~~ 3. This section does not create a separate offense but provides an additional penalty for the primary offense, whose imposition is contingent upon the finding of the prescribed fact.

~~3.~~ 4. As used in this section, "metal-penetrating bullet" has the meaning ascribed to it in NRS 202.273.

Sec. 13. NRS 193.165 is hereby amended to read as follows:

193.165 1. Except as otherwise provided in NRS 193.169, any person who uses a firearm or other deadly weapon or a weapon containing or capable of emitting tear gas, whether or not its possession is permitted by NRS 202.375, in the commission of a crime shall , in addition to the term of imprisonment prescribed by statute for the crime, be punished by

imprisonment in the state prison for a ~~term equal to and in addition to the~~ minimum term of ~~imprisonment prescribed by statute for the crime~~ not less than 1 year and a maximum term of not more than 20 years. In determining the length of the additional penalty imposed, the court shall consider the following information:

- (a) The facts and circumstances of the crime;
- (b) The criminal history of the person;
- (c) The impact of the crime on any victim;
- (d) Any mitigating factors presented by the person; and
- (e) Any other relevant information.

↪ The court shall state on the record that it has considered the information described in paragraphs (a) to (e), inclusive, in determining the length of the additional penalty imposed.

2. The sentence prescribed by this section ~~runs~~ :

(a) Must not exceed the sentence imposed for the crime; and

(b) Runs consecutively with the sentence prescribed by statute for the crime.

~~2.~~ 3. This section does not create any separate offense but provides an additional penalty for the primary offense, whose imposition is contingent upon the finding of the prescribed fact.

~~3.~~ 4. The provisions of subsections 1 ~~and~~ , 2 and 3 do not apply where the use of a firearm, other deadly weapon or tear gas is a necessary element of such crime.

~~4.~~ 5. The court shall not grant probation to or suspend the sentence of any person who is convicted of using a firearm, other deadly weapon or tear gas in the commission of any of the following crimes:

- (a) Murder;
- (b) Kidnapping in the first degree;
- (c) Sexual assault; or
- (d) Robbery.

~~5.~~ 6. As used in this section, "deadly weapon" means:

(a) Any instrument which, if used in the ordinary manner contemplated by its design and construction, will or is likely to cause substantial bodily harm or death;

(b) Any weapon, device, instrument, material or substance which, under the circumstances in which it is used, attempted to be used or threatened to be used, is readily capable of causing substantial bodily harm or death; or

(c) A dangerous or deadly weapon specifically described in NRS 202.255, 202.265, 202.290, 202.320 or 202.350.

Sec. 14. NRS 193.166 is hereby amended to read as follows:

193.166 1. Except as otherwise provided in NRS 193.169, a person who commits a crime that is punishable as a felony, other than a crime that is punishable as a felony pursuant to subsection 5 of NRS 200.591, in violation of:

(a) A temporary or extended order for protection against domestic violence issued pursuant to NRS 33.020;

(b) An order for protection against harassment in the workplace issued pursuant to NRS 33.270;

(c) A temporary or extended order for the protection of a child issued pursuant to NRS 33.400;

(d) An order for protection against domestic violence issued in an action or proceeding brought pursuant to title 11 of NRS; or

(e) A temporary or extended order issued pursuant to NRS 200.591,

↪ shall, in addition to the term of imprisonment prescribed by statute for the crime, be punished by imprisonment in the state prison, except as otherwise provided in this subsection, for a ~~term equal to and in addition to the~~ minimum term of ~~imprisonment prescribed by statute for that crime.~~ not less than 1 year and a maximum term of not more than 20 years. If the crime committed by the person is punishable as a category A felony or category B felony, in addition to the term of imprisonment prescribed by statute for that crime, the person 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 5 years.

2. In determining the length of the additional penalty imposed pursuant to this section, the court shall consider the following information:

(a) The facts and circumstances of the crime;

(b) The criminal history of the person;

(c) The impact of the crime on any victim;

(d) Any mitigating factors presented by the person; and

(e) Any other relevant information.

↪ The court shall state on the record that it has considered the information described in paragraphs (a) to (e), inclusive, in determining the length of the additional penalty imposed.

3. The sentence prescribed by this section ~~runs~~:

(a) Must not exceed the sentence imposed for the crime; and

(b) Runs concurrently or consecutively with the sentence prescribed by statute for the crime, as ordered by the court.

~~2.4~~ 4. The court shall not grant probation to or suspend the sentence of any person convicted of attempted murder, battery which involves the use of a deadly weapon, or battery which results in substantial bodily harm if an additional term of imprisonment may be imposed for that primary offense pursuant to this section.

~~2.5~~ 5. This section does not create a separate offense but provides an additional penalty for the primary offense, whose imposition is contingent upon the finding of the prescribed fact.

Sec. 15. NRS 193.167 is hereby amended to read as follows:

193.167 1. Except as otherwise provided in NRS 193.169, any person who commits the crime of:

(a) Murder;

- (b) Attempted murder;
- (c) Assault;
- (d) Battery;
- (e) Kidnapping;
- (f) Robbery;
- (g) Sexual assault;
- (h) Embezzlement of money or property of a value of \$250 or more;
- (i) Obtaining money or property of a value of \$250 or more by false pretenses; or

(j) Taking money or property from the person of another,
 ↪ against any person who is 60 years of age or older or against a vulnerable person shall , in addition to the term of imprisonment prescribed by statute for the crime, be punished , if the crime is a misdemeanor or gross misdemeanor, by imprisonment in the county jail ~~for state prison, whichever applies,~~ for a term equal to ~~[and in addition to]~~ the term of imprisonment prescribed by statute for the crime ~~[-]. The sentence prescribed by this subsection must run consecutively with the sentence prescribed by statute for the crime.~~, and, if the crime is a felony, by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 20 years.

2. Except as otherwise provided in NRS 193.169, any person who commits a criminal violation of the provisions of chapter 90 or 91 of NRS against any person who is 60 years of age or older or against a vulnerable person shall , in addition to the term of imprisonment prescribed by statute for the criminal violation, be punished , if the criminal violation is a misdemeanor or gross misdemeanor, by imprisonment in the county jail ~~for state prison, whichever applies,~~ for a term equal to ~~[and in addition to]~~ the term of imprisonment prescribed by statute for the criminal violation ~~[-]~~, and, if the criminal violation is a felony, by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 20 years.

3. In determining the length of the additional penalty imposed pursuant to this section, the court shall consider the following information:

- (a) The facts and circumstances of the crime or criminal violation;
- (b) The criminal history of the person;
- (c) The impact of the crime or criminal violation on any victim;
- (d) Any mitigating factors presented by the person; and
- (e) Any other relevant information.

↪ The court shall state on the record that it has considered the information described in paragraphs (a) to (e), inclusive, in determining the length of the additional penalty imposed.

4. The sentence prescribed by this ~~subsection~~ section must run consecutively with the sentence prescribed by statute for the crime or criminal violation.

~~§~~ 5. This section does not create any separate offense but provides an additional penalty for the primary offense, whose imposition is contingent upon the finding of the prescribed fact.

~~§~~ 6. As used in this section, "vulnerable person" has the meaning ascribed to it in subsection 7 of NRS 200.5092.

Sec. 16. NRS 193.1675 is hereby amended to read as follows:

193.1675 1. Except as otherwise provided in NRS 193.169, any person who willfully violates any provision of NRS 200.280, 200.310, 200.366, 200.380, 200.400, 200.460 to 200.465, inclusive, paragraph (b) of subsection 2 of NRS 200.471, NRS 200.508, 200.5099 or subsection 2 of NRS 200.575 because the actual or perceived race, color, religion, national origin, physical or mental disability or sexual orientation of the victim was different from that characteristic of the perpetrator may , in addition to the term of imprisonment prescribed by statute for the crime, be punished by imprisonment in the state prison for ~~[an additional term not to exceed 25 percent of the]~~ a minimum term of [imprisonment prescribed by statute for the crime.] not less than 1 year and a maximum term of not more than 20 years. In determining the length of any additional penalty imposed, the court shall consider the following information:

(a) The facts and circumstances of the crime;

(b) The criminal history of the person;

(c) The impact of the crime on any victim;

(d) Any mitigating factors presented by the person; and

(e) Any other relevant information.

↪ The court shall state on the record that it has considered the information described in paragraphs (a) to (e), inclusive, in determining the length of any additional penalty imposed.

2. A sentence imposed pursuant to this section:

(a) Must not exceed the sentence imposed for the crime; and

(b) Runs consecutively with the sentence prescribed by statute for the crime.

~~§~~ 3. This section does not create a separate offense but provides an additional penalty for the primary offense, whose imposition is contingent upon the finding of the prescribed fact.

Sec. 17. NRS 193.168 is hereby amended to read as follows:

193.168 1. Except as otherwise provided in NRS 193.169, any person who is convicted of a felony committed knowingly for the benefit of, at the direction of, or in affiliation with, a criminal gang, with the specific intent to promote, further or assist the activities of the criminal gang, shall , in addition to the term of imprisonment prescribed by statute for the crime, be punished by imprisonment in the state prison for a ~~[term equal to and in addition to the]~~ minimum term of [imprisonment prescribed by the statute for the crime.] not less than 1 year and a maximum term of not more than 20 years. In determining the length of the additional penalty imposed, the court shall consider the following information:

(a) The facts and circumstances of the crime;

(b) The criminal history of the person;

(c) The impact of the crime on any victim;

(d) Any mitigating factors presented by the person; and

(e) Any other relevant information.

↪ The court shall state on the record that it has considered the information described in paragraphs (a) to (e), inclusive, in determining the length of the additional penalty imposed.

2. The sentence prescribed by this section ~~(must run)~~ :

(a) Must not exceed the sentence imposed for the crime; and

(b) Runs consecutively with the sentence prescribed by statute for the crime.

~~2.~~ 3. This section does not create any separate offense but provides an additional penalty for the primary offense, whose imposition is contingent upon the finding of the prescribed fact.

~~3.~~ 4. The court shall not impose an additional penalty pursuant to this section unless:

(a) The indictment or information charging the defendant with the primary offense alleges that the primary offense was committed knowingly for the benefit of, at the direction of, or in affiliation with, a criminal gang, with the specific intent to promote, further or assist the activities of the criminal gang; and

(b) The trier of fact finds that allegation to be true beyond a reasonable doubt.

~~4.~~ 5. Except as otherwise provided in this subsection, the court shall not grant probation to or suspend the sentence of any person convicted of a felony committed for the benefit of, at the direction of, or in affiliation with a criminal gang if an additional term of imprisonment may be imposed for that primary offense pursuant to this section. The court may, upon the receipt of an appropriate motion, reduce or suspend the sentence imposed for the primary offense if it finds that the defendant rendered substantial assistance in the arrest or conviction of any other principals, accomplices, accessories or coconspirators to the crime, or of any other persons involved in the commission of a felony which was committed for the benefit of, at the direction of, or in affiliation with a criminal gang. The agency which arrested the defendant must be given an opportunity to support or oppose such a motion before it is granted or denied. If good cause is shown, the motion may be heard in camera.

~~5.~~ 6. In any proceeding to determine whether an additional penalty may be imposed pursuant to this section, expert testimony is admissible to show particular conduct, status and customs indicative of criminal gangs, including, but not limited to:

(a) Characteristics of persons who are members of criminal gangs;

(b) Specific rivalries between criminal gangs;

- (c) Common practices and operations of criminal gangs and the members of those gangs;
- (d) Social customs and behavior of members of criminal gangs;
- (e) Terminology used by members of criminal gangs;
- (f) Codes of conduct, including criminal conduct, of particular criminal gangs; and
- (g) The types of crimes that are likely to be committed by a particular criminal gang or by criminal gangs in general.

~~6.~~ 7. As used in this section, "criminal gang" means any combination of persons, organized formally or informally, so constructed that the organization will continue its operation even if individual members enter or leave the organization, which:

- (a) Has a common name or identifying symbol;
- (b) Has particular conduct, status and customs indicative of it; and
- (c) Has as one of its common activities engaging in criminal activity punishable as a felony, other than the conduct which constitutes the primary offense.

Sec. 18. NRS 193.1685 is hereby amended to read as follows:

193.1685 1. Except as otherwise provided in this section and NRS 193.169, any person who commits a felony with the intent to commit, cause, aid, further or conceal an act of terrorism shall , in addition to the term of imprisonment prescribed by statute for the crime, be punished by imprisonment in the state prison for a term equal to and in addition to the minimum term of imprisonment prescribed by statute for the crime. not less than 1 year and a maximum term of not more than 20 years. In determining the length of the additional penalty imposed pursuant to this section, the court shall consider the following information:

- (a) The facts and circumstances of the crime;
- (b) The criminal history of the person;
- (c) The impact of the crime on any victim;
- (d) Any mitigating factors presented by the person; and
- (e) Any other relevant information.

↪ The court shall state on the record that it has considered the information described in paragraphs (a) to (e), inclusive, in determining the length of the additional penalty imposed.

2. The sentence prescribed by this section ~~(must run)~~ :

- (a) Must not exceed the sentence imposed for the crime; and
- (b) Runs consecutively with the sentence prescribed by statute for the crime.

~~2.~~ 3. Unless a greater penalty is provided by specific statute and except as otherwise provided in NRS 193.169, in lieu of an additional term of imprisonment as provided pursuant to ~~subsection 1,~~ subsections 1 and 2, if a felony that resulted in death or substantial bodily harm to the victim was committed with the intent to commit, cause, aid, further or conceal an act of

terrorism, the felony may be deemed a category A felony and the person who committed the felony may be punished by imprisonment in the state prison:

- (a) For life without the possibility of parole;
- (b) For life with the possibility of parole, with eligibility for parole beginning when a minimum of 20 years has been served; or
- (c) For a definite term of 50 years, with eligibility for parole beginning when a minimum of 20 years has been served.

~~{3. Subsection 1 does}~~

~~4. Subsections 1 and 2 do~~ not create a separate offense but ~~{provides}~~ *provide* an additional penalty for the primary offense, the imposition of which is contingent upon the finding of the prescribed fact. Subsection ~~{2} 3~~ does not create a separate offense but provides an alternative penalty for the primary offense, the imposition of which is contingent upon the finding of the prescribed fact.

~~{4} 5.~~ The provisions of this section do not apply to an offense committed in violation of NRS 202.445.

~~{5} 6.~~ As used in this section, "act of terrorism" has the meaning ascribed to it in NRS 202.4415.

Sec. 19. NRS 193.169 is hereby amended to read as follows:

193.169 1. A person who is sentenced to an additional term of imprisonment pursuant to the provisions of subsection 1 of NRS 193.161, NRS 193.162, 193.163, 193.165, 193.166, 193.167, 193.1675, 193.168, subsection 1 of NRS 193.1685, NRS 453.3335, 453.3345, 453.3351 or subsection 1 of NRS 453.3353 must not be sentenced to an additional term of imprisonment pursuant to any of the other listed sections even if the person's conduct satisfies the requirements for imposing an additional term of imprisonment pursuant to another one or more of those sections.

2. A person who is sentenced to an alternative term of imprisonment pursuant to subsection ~~{2} 3~~ of NRS 193.161, subsection ~~{2} 3~~ of NRS 193.1685 or subsection 2 of NRS 453.3353 must not be sentenced to an additional term of imprisonment pursuant to subsection 1 of NRS 193.161, NRS 193.162, 193.163, 193.165, 193.166, 193.167, 193.1675, 193.168, 453.3335, 453.3345 or 453.3351 even if the person's conduct satisfies the requirements for imposing an additional term of imprisonment pursuant to another one or more of those sections.

3. This section does not:

(a) Affect other penalties or limitations upon probation or suspension of a sentence contained in the sections listed in subsection 1 or 2.

(b) Prohibit alleging in the alternative in the indictment or information that the person's conduct satisfies the requirements of more than one of the sections listed in subsection 1 or 2 and introducing evidence to prove the alternative allegations.

Sec. 20. Section 3 of Assembly Bill No. 508 of this session is hereby amended to read as follows:

Sec. 3. NRS 176.0125 is hereby amended to read as follows:

176.0125 The Commission shall:

1. Identify and study the elements of this State's system of criminal justice which affect the sentences imposed for felonies and gross misdemeanors.

2. Evaluate the effectiveness and fiscal impact of various policies and practices regarding sentencing which are employed in this State and other states, including, but not limited to, the use of plea bargaining, probation, programs of intensive supervision, programs of regimental discipline, imprisonment, sentencing recommendations, mandatory and minimum sentencing, mandatory sentencing for crimes involving the possession, manufacture and distribution of controlled substances, structured or tiered sentencing, enhanced penalties for habitual criminals, parole, credits against sentences, residential confinement and alternatives to incarceration.

3. Recommend changes in the structure of sentencing in this State which, to the extent practicable and with consideration for their fiscal impact, incorporate general objectives and goals for sentencing, including, but not limited to, the following:

(a) Offenders must receive sentences that increase in direct proportion to the severity of their crimes and their histories of criminality.

(b) Offenders who have extensive histories of criminality or who have exhibited a propensity to commit crimes of a predatory or violent nature must receive sentences which reflect the need to ensure the safety and protection of the public and which allow for the imprisonment for life of such offenders.

(c) Offenders who have committed offenses that do not include acts of violence and who have limited histories of criminality must receive sentences which reflect the need to conserve scarce economic resources through the use of various alternatives to traditional forms of incarceration.

(d) Offenders with similar histories of criminality who are convicted of similar crimes must receive sentences that are generally similar.

(e) Offenders sentenced to imprisonment must receive sentences which do not confuse or mislead the public as to the actual time those offenders must serve while incarcerated or before being released from confinement or supervision.

(f) Offenders must not receive disparate sentences based upon factors such as race, gender or economic status.

(g) Offenders must receive sentences which are based upon the specific circumstances and facts of their offenses, including the nature of the offense and any aggravating factors, the savagery of the offense, as evidenced by the extent of any injury to the victim, and the degree

of criminal sophistication demonstrated by the offender's acts before, during and after commission of the offense.

4. Evaluate the effectiveness and efficiency of the Department of Corrections and the State Board of Parole Commissioners with consideration as to whether it is feasible and advisable to establish an oversight or advisory board to perform various functions and make recommendations concerning:

- (a) Policies relating to parole;
- (b) Regulatory procedures and policies of the State Board of Parole Commissioners;
- (c) Policies for the operation of the Department of Corrections;
- (d) Budgetary issues; and
- (e) Other related matters.

5. Evaluate the effectiveness of specialty court programs in this State with consideration as to whether such programs have the effect of limiting or precluding reentry of offenders and parolees into the community.

6. Evaluate the policies and practices concerning presentence investigations and reports made by the Division of Parole and Probation of the Department of Public Safety, including, without limitation, the resources relied on in preparing such investigations and reports and the extent to which judges in this State rely on and follow the recommendations contained in such presentence investigations and reports.

7. Evaluate, review and comment upon issues relating to juvenile justice in this State, including, but not limited to:

- (a) The need for the establishment and implementation of evidence-based programs and a continuum of sanctions for children who are subject to the jurisdiction of the juvenile court; and
- (b) The impact on the criminal justice system of the policies and programs of the juvenile justice system.

8. Compile and develop statistical information concerning sentencing in this State.

9. Identify and study issues relating to the application of chapter 241 of NRS to meetings held by the:

- (a) State Board of Pardons Commissioners to consider an application for clemency; and
- (b) State Board of Parole Commissioners to consider an offender for parole.

10. Identify and study issues relating to the operation of the Department of Corrections, including, without limitation, the system for allowing credits against the sentences of offenders, the accounting of such credits and any other policies and procedures of the Department which pertain to the operation of the Department.

11. For each regular session of the Legislature, prepare a comprehensive report including the Commission's recommended changes pertaining to the administration of justice in this State, the Commission's findings and any recommendations of the Commission for proposed legislation. The report must be submitted to the Director of the Legislative Counsel Bureau for distribution to the Legislature not later than September 1 of each even-numbered year.

~~[Sec. 10.]~~ *Sec. 21.* 1. For the purpose of calculating the credits earned by an offender pursuant to NRS 209.4465, the amendatory provisions of section 5 of this act must be applied:

(a) Retroactively to July 1, 2000, to reduce the minimum term of imprisonment of an offender described in subsection 8 of NRS 209.4465 who was placed in the custody of the Department of Corrections before July 1, 2007, and who remains in such custody on July 1, 2007.

(b) Retroactively to July 1, 2006, to reduce the maximum term of imprisonment of an offender who was placed on parole before July 1, 2007.

(c) In the manner set forth in NRS 209.4465 for all offenders in the custody of the Department of Corrections commencing on July 1, 2007, and for all offenders who are on parole commencing on July 1, 2007.

2. For the purpose of calculating credits earned by an offender pursuant to NRS 209.448 and 209.449, the amendatory provisions of sections 6.2 and 6.4 of this act apply only to credits earned by an offender on or after July 1, 2007.

3. For the purpose of calculating credits earned by an offender pursuant to NRS 176A.500, the amendatory provisions of section 8.7 of this act must be applied retroactively to reduce the period of probation of such an offender commencing on July 1, 2006.

~~[Sec. 11.]~~ *Sec. 22.* ~~[This act becomes]~~

1. This section and sections 1 to 19, inclusive, and 21 of this act become effective on July 1, 2007.

2. Section 20 of this act becomes effective on July 1, 2007, only if Assembly Bill No. 508 of this session becomes effective.

Senator Amodei moved the adoption of the amendment.

Remarks by Senator Amodei.

Senator Carlton disclosed that her husband had been employed in parole and probation for the State of Nevada.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Raggio moved that Assembly Bill No. 627 be taken from the General File on the third agenda and be placed at the top of the General File on the second agenda.

Remarks by Senator Raggio.

Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 627.

Bill read third time.

Roll call on Assembly Bill No. 627:

YEAS—21.

NAYS—None.

Assembly Bill No. 627 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Senate Bill No. 123.

Bill read third time.

The following amendment was proposed by Senator Care:

Amendment No. 1107.

Section 6 of S.B. No. 123 is hereby amended as follows:

Sec. 6. *1. Except as otherwise provided in this subsection and subsection 3, notwithstanding any provision of law that has declared a public book or record, or a part thereof, to be confidential, if a public book or record has been in the legal custody or control of one or more governmental entities for at least 30 years, a person may apply to the district court of the county in which the governmental entity that currently has legal custody or control of the public book or record is located for an order directing that governmental entity to allow the person to inspect or copy the public book or record, or a part thereof. If the public book or record pertains to a natural person, a person may not apply for an order pursuant to this subsection until the public book or record has been in the legal custody or control of one or more governmental entities for at least 30 years or until the death of the person to whom the public book or record pertains, whichever is later.*

2. There is a rebuttable presumption that a person who applies for an order as described in subsection 1 is entitled to inspect or copy the public book or record, or a part thereof, that he seeks to inspect or copy.

3. The provisions of subsection 1 do not apply to any ~~public~~ book or record ~~[pertaining to an applicant that has been declared]~~ :

(a) Declared confidential pursuant to subsection 4 of NRS 463.120. ~~As used in this subsection, "applicant" has the meaning ascribed to it in NRS 463.0135.~~

(b) Containing personal information pertaining to a victim of crime that has been declared by law to be confidential.

Section 16 of S.B. No. 123 is hereby amended as follows:

Sec. 16. ~~[NRS 62D.440 is hereby amended to read as follows:~~

~~62D.440—1.—The prosecuting attorney shall disclose to the victim of an act committed by a child the disposition of the child's case regarding that act if:~~

~~(a) The victim requests such a disclosure; or~~

~~(b) If the victim is less than 18 years of age, the parent or guardian of the victim requests such a disclosure.~~

~~2.—[All] Except as otherwise provided in section 6 of this act, all personal information pertaining to the victim or the parent or guardian of the victim, including, but not limited to, a current or former address, which is obtained by the prosecuting attorney pursuant to this section, is confidential and must not be used for a purpose other than that provided for in this section.]~~
(Deleted by amendment.)

Section 32 of S.B. No. 123 is hereby amended as follows:

Sec. 32. ~~[NRS 176.156 is hereby amended to read as follows:~~

~~176.156 1. The Division shall disclose to the prosecuting attorney, the counsel for the defendant and the defendant the factual content of the report of:~~

~~(a) Any presentence investigation made pursuant to NRS 176.135 and the recommendations of the Division.~~

~~(b) Any general investigation made pursuant to NRS 176.151.~~
~~→ The Division shall afford an opportunity to each party to object to factual errors in any such report and to comment on any recommendations.~~

~~2.—Unless otherwise ordered by a court, upon request, the Division shall disclose the content of a report of a presentence investigation or general investigation to a law enforcement agency of this State or a political subdivision thereof and to a law enforcement agency of the Federal Government for the limited purpose of performing their duties, including, without limitation, conducting hearings that are public in nature.~~

~~3.—Unless otherwise ordered by a court, upon request, the Division shall disclose the content of a report of a presentence investigation or general investigation to the Division of Mental Health and Developmental Services of the Department of Health and Human Services for the limited purpose of performing its duties, including, without limitation, evaluating and providing any report or information to the Division concerning the mental health of:~~

~~(a) A sex offender as defined in NRS 213.107; or~~

~~(b) An offender who has been determined to be mentally ill.~~

~~4.—Unless otherwise ordered by a court, upon request, the Division shall disclose the content of a report of a presentence investigation or general investigation to the State Gaming Control Board for the limited purpose of performing its duties in the administration of the provisions of chapters 462 to 467, inclusive, of NRS.~~

~~5.—Except for the disclosures required by subsections 1 to 4, inclusive, and except as otherwise provided in section 6 of this act, a report of a presentence investigation or general investigation and the sources of information for such a report are confidential and must not be made a part of any public record.]~~ *(Deleted by amendment.)*

Section 33 of S.B. No. 123 is hereby amended as follows:

Sec. 33. ~~[NRS 176A.630 is hereby amended to read as follows:~~

~~176A.630~~ If the probationer is arrested, by or without warrant, in another judicial district of this state, the court which granted the probation may assign the case to the district court of that district, with the consent of that court. The court retaining or thus acquiring jurisdiction shall cause the defendant to be brought before it, consider the standards adopted pursuant to NRS 213.10988 and the recommendation, if any, of the Chief Parole and Probation Officer. Upon determining that the probationer has violated a condition of his probation, the court shall, if practicable, order the probationer to make restitution for any necessary expenses incurred by a governmental entity in returning him to the court for violation of his probation. The court may:

- ~~1.~~ Continue or revoke the probation or suspension of sentence;
- ~~2.~~ Order the probationer to a term of residential confinement pursuant to NRS 176A.660;
- ~~3.~~ Order the probationer to undergo a program of regimental discipline pursuant to NRS 176A.780;
- ~~4.~~ Cause the sentence imposed to be executed; or
- ~~5.~~ Modify the original sentence imposed by reducing the term of imprisonment and cause the modified sentence to be executed. The court shall not make the term of imprisonment less than the minimum term of imprisonment proscribed by the applicable penal statute. If the Chief Parole and Probation Officer recommends that the sentence of a probationer be modified and the modified sentence be executed, he shall provide notice of the recommendation to any victim of the crime for which the probationer was convicted who has requested in writing to be notified and who has provided his current address to the Division. The notice must inform the victim that he has the right to submit documents to the court and to be present and heard at the hearing to determine whether the sentence of a probationer who has violated a condition of his probation should be modified. The court shall not modify the sentence of a probationer and cause the sentence to be executed until it has confirmed that the Chief Parole and Probation Officer has complied with the provisions of this subsection. The Chief Parole and Probation Officer must not be held responsible when such notification is not received by the victim if the victim has not provided a current address. ~~[All] Except as otherwise provided in section 6 of this act, all personal information, including, but not limited to, a current or former address, which pertains to a victim and which is received by the Division pursuant to this subsection is confidential.~~ *(Deleted by amendment.)*

Section 34 of S.B. No. 123 is hereby amended as follows:

Sec. 34. ~~[NRS 178.5691 is hereby amended to read as follows:~~

~~178.5691~~ ~~[All] Except as otherwise provided in section 6 of this act, all personal information, including, but not limited to, a current or former address, which pertains to a victim, relative, witness or other person and which is received pursuant to the provisions of NRS 178.569 to 178.5698, inclusive, is confidential.~~ *(Deleted by amendment.)*

Section 36 of S.B. No. 123 is hereby amended as follows:

Sec. 36. ~~[NRS 179A.290 is hereby amended to read as follows:~~

~~179A.290 1. The Director of the Department shall establish within the Central Repository a program to compile and analyze data concerning offenders who commit sexual offenses. The program must be designed to:~~

~~(a) Provide statistical data relating to the recidivism of offenders who commit sexual offenses; and~~

~~(b) Use the data provided by the Division of Child and Family Services of the Department of Health and Human Services pursuant to NRS 62H.220 to:~~

~~(1) Provide statistical data relating to the recidivism of juvenile sex offenders after they become adults; and~~

~~(2) Assess the effectiveness of programs for the treatment of juvenile sex offenders.~~

~~2. The Division of Parole and Probation and the Department of Corrections shall assist the Director of the Department in obtaining data and in carrying out the program.~~

~~3. The Director of the Department shall report the statistical data and findings from the program to:~~

~~(a) The Legislature at the beginning of each regular session;~~

~~(b) The Advisory Commission on Sentencing on or before January 31 of each even numbered year.~~

~~4. [The] Except as otherwise provided in section 6 of this act, the data acquired pursuant to this section is confidential and must be used only for the purpose of research. The data and findings generated pursuant to this section must not contain information that may reveal the identity of a juvenile sex offender or the identity of an individual victim of a crime. (Deleted by amendment.)~~

Section 37 of S.B. No. 123 is hereby amended as follows:

Sec. 37. ~~[NRS 200.3771 is hereby amended to read as follows:~~

~~200.3771 1. Except as otherwise provided in this section [,] and section 6 of this act, any information which is contained in:~~

~~(a) Court records, including testimony from witnesses;~~

~~(b) Intelligence or investigative data, reports of crime or incidents of criminal activity or other information;~~

~~(c) Records of criminal history, as that term is defined in NRS 179A.070; and~~

~~(d) Records in the Central Repository for Nevada Records of Criminal History;~~

~~that reveals the identity of a victim of sexual assault is confidential, including but not limited to the victim's photograph, likeness, name, address or telephone number.~~

~~2. A defendant charged with a sexual assault and his attorney are entitled to all identifying information concerning the victim in order to prepare the defense of the defendant. The defendant and his attorney shall not disclose~~

~~this information except, as necessary, to those persons directly involved in the preparation of the defense.~~

~~3. A court of competent jurisdiction may authorize the release of the identifying information, upon application, if the court determines that:~~

~~(a) The person making the application has demonstrated to the satisfaction of the court that good cause exists for the disclosure;~~

~~(b) The disclosure will not place the victim at risk of personal harm; and~~

~~(c) Reasonable notice of the application and an opportunity to be heard have been given to the victim.~~

~~4. Nothing in this section prohibits:~~

~~(a) Any publication or broadcast by the media concerning a sexual assault.~~

~~(b) The disclosure of identifying information to any nonprofit organization or public agency whose purpose is to provide counseling, services for the management of crises or other assistance to the victims of crimes if:~~

~~(1) The organization or agency needs identifying information of victims to offer such services; and~~

~~(2) The court or a law enforcement agency approves the organization or agency for the receipt of the identifying information.~~

~~5. The willful violation of any provision of this section or the willful neglect or refusal to obey any court order made pursuant thereto is punishable as criminal contempt.] (Deleted by amendment.)~~

Section 38 of S.B. No. 123 is hereby amended as follows:

Sec. 38. ~~[NRS 200.3772 is hereby amended to read as follows:~~

~~200.3772 1. A victim of a sexual assault may choose a pseudonym to be used instead of the victim's name on all files, records and documents pertaining to the sexual assault, including, without limitation, criminal intelligence and investigative reports, court records and media releases.~~

~~2. A victim who chooses to use a pseudonym shall file a form to choose a pseudonym with the law enforcement agency investigating the offense. The form must be provided by the law enforcement agency.~~

~~3. If the victim files a form to use a pseudonym, as soon as practicable the law enforcement agency shall make a good faith effort to:~~

~~(a) Substitute the pseudonym for the name of the victim on all reports, files and records in the agency's possession; and~~

~~(b) Notify the prosecuting attorney of the pseudonym.~~

~~* The law enforcement agency shall maintain the form in a manner that protects the confidentiality of the information contained therein.~~

~~4. Upon notification that a victim has elected to be designated by a pseudonym, the court shall ensure that the victim is designated by the pseudonym in all legal proceedings concerning the sexual assault.~~

~~5. [The] Except as otherwise provided in section 6 of this act, the information contained on the form to choose a pseudonym concerning the actual identity of the victim is confidential and must not be disclosed to any person other than the defendant or his attorney unless a court of competent jurisdiction orders the disclosure of the information. The disclosure of~~

~~information to a defendant or his attorney is subject to the conditions and restrictions specified in subsection 2 of NRS 200.3771. A person who violates this subsection is guilty of a misdemeanor.~~

~~6. A court of competent jurisdiction may order the disclosure of the information contained on the form only if it finds that the information is essential in the trial of the defendant accused of the sexual assault or the identity of the victim is at issue.~~

~~7. A law enforcement agency that complies with the requirements of this section is immune from civil liability for unknowingly or unintentionally:~~

~~(a) Disclosing any information contained on the form filed by a victim of sexual assault pursuant to this section that reveals the identity of the victim;~~
~~or~~

~~(b) Failing to substitute the pseudonym of the victim for the name of the victim on all reports, files and records in the agency's possession.] (*Deleted by amendment.*)~~

Section 39 of S.B. No. 123 is hereby amended as follows:

Sec. 39. ~~[NRS 200.5095 is hereby amended to read as follows:~~

~~200.5095 1. [Reports] Except as otherwise provided in section 6 of this act, reports made pursuant to NRS 200.5093, 200.50935 and 200.5094, and records and investigations relating to those reports, are confidential.~~

~~2. A person, law enforcement agency or public or private agency, institution or facility who willfully releases data or information concerning the reports and investigation of the abuse, neglect, exploitation or isolation of older persons or vulnerable persons, except:~~

~~(a) Pursuant to a criminal prosecution;~~

~~(b) Pursuant to NRS 200.50982; or~~

~~(c) To persons or agencies enumerated in subsection 3;~~

~~is guilty of a misdemeanor.~~

~~3. Except as otherwise provided in subsection 2 and NRS 200.50982 [,] and section 6 of this act, data or information concerning the reports and investigations of the abuse, neglect, exploitation or isolation of an older person or a vulnerable person is available only to:~~

~~(a) A physician who is providing care to an older person or a vulnerable person who may have been abused, neglected, exploited or isolated;~~

~~(b) An agency responsible for or authorized to undertake the care, treatment and supervision of the older person or vulnerable person;~~

~~(c) A district attorney or other law enforcement official who requires the information in connection with an investigation of the abuse, neglect, exploitation or isolation of the older person or vulnerable person;~~

~~(d) A court which has determined, in camera, that public disclosure of such information is necessary for the determination of an issue before it;~~

~~(e) A person engaged in bona fide research, but, except as otherwise provided in section 6 of this act, the identity of the subjects of the report must remain confidential;~~

~~(f) A grand jury upon its determination that access to such records is necessary in the conduct of its official business;~~

~~(g) Any comparable authorized person or agency in another jurisdiction;~~

~~(h) A legal guardian of the older person or vulnerable person, if the identity of the person who was responsible for reporting the alleged abuse, neglect, exploitation or isolation of the older person or vulnerable person to the public agency is protected, and the legal guardian of the older person or vulnerable person is not the person suspected of such abuse, neglect, exploitation or isolation;~~

~~(i) If the older person or vulnerable person is deceased, the executor or administrator of his estate, if the identity of the person who was responsible for reporting the alleged abuse, neglect, exploitation or isolation of the older person or vulnerable person to the public agency is protected, and the executor or administrator is not the person suspected of such abuse, neglect, exploitation or isolation; or~~

~~(j) The older person or vulnerable person named in the report as allegedly being abused, neglected, exploited or isolated, if that person is not legally incompetent.~~

~~4. If the person who is reported to have abused, neglected, exploited or isolated an older person or a vulnerable person is the holder of a license or certificate issued pursuant to chapters 449, 630 to 641B, inclusive, or 654 of NRS, information contained in the report must be submitted to the board that issued the license. (Deleted by amendment.)~~

Section 41 of S.B. No. 123 is hereby amended as follows:

Sec. 41. ~~[NRS 209.392 is hereby amended to read as follows:~~

~~209.392 1. Except as otherwise provided in NRS 209.3925 and 209.429, the Director may, at the request of an offender who is eligible for residential confinement pursuant to the standards adopted by the Director pursuant to subsection 3 and who has:~~

~~(a) Established a position of employment in the community;~~

~~(b) Enrolled in a program for education or rehabilitation; or~~

~~(c) Demonstrated an ability to pay for all or part of the costs of his confinement and to meet any existing obligation for restitution to any victim of his crime;~~

~~→ assign the offender to the custody of the Division of Parole and Probation of the Department of Public Safety to serve a term of residential confinement, pursuant to NRS 213.380, for not longer than the remainder of his sentence.~~

~~2. Upon receiving a request to serve a term of residential confinement from an eligible offender, the Director shall notify the Division of Parole and Probation. If any victim of a crime committed by the offender has, pursuant to subsection 4 of NRS 213.130, requested to be notified of the consideration of a prisoner for parole and has provided a current address, the Division of Parole and Probation shall notify the victim of the offender's request and advise the victim that he may submit documents regarding the request to the~~

~~Division of Parole and Probation. If a current address has not been provided as required by subsection 4 of NRS 213.130, the Division of Parole and Probation must not be held responsible if such notification is not received by the victim. [All] Except as otherwise provided in section 6 of this act, all personal information, including, but not limited to, a current or former address, which pertains to a victim and which is received by the Division of Parole and Probation pursuant to this subsection is confidential.~~

~~3. The Director, after consulting with the Division of Parole and Probation, shall adopt, by regulation, standards providing which offenders are eligible for residential confinement. The standards adopted by the Director must provide that an offender who:~~

~~(a) Is not eligible for parole or release from prison within a reasonable period;~~

~~(b) Has recently committed a serious infraction of the rules of an institution or facility of the Department;~~

~~(c) Has not performed the duties assigned to him in a faithful and orderly manner;~~

~~(d) Has ever been convicted of:~~

~~(1) Any crime involving the use or threatened use of force or violence against the victim; or~~

~~(2) A sexual offense;~~

~~(e) Has more than one prior conviction for any felony in this State or any offense in another state that would be a felony if committed in this State, not including a violation of NRS 484.379, 484.3795 or 484.37955;~~

~~(f) Has escaped or attempted to escape from any jail or correctional institution for adults; or~~

~~(g) Has not made an effort in good faith to participate in or to complete any educational or vocational program or any program of treatment, as ordered by the Director;~~

~~is not eligible for assignment to the custody of the Division of Parole and Probation to serve a term of residential confinement pursuant to this section.~~

~~4. If an offender assigned to the custody of the Division of Parole and Probation pursuant to this section escapes or violates any of the terms or conditions of his residential confinement:~~

~~(a) The Division of Parole and Probation may, pursuant to the procedure set forth in NRS 213.410, return the offender to the custody of the Department.~~

~~(b) The offender forfeits all or part of the credits for good behavior earned by him before the escape or violation, as determined by the Director. The Director may provide for a forfeiture of credits pursuant to this paragraph only after proof of the offense and notice to the offender and may restore credits forfeited for such reasons as he considers proper. The decision of the Director regarding such a forfeiture is final.~~

~~5. The assignment of an offender to the custody of the Division of Parole and Probation pursuant to this section shall be deemed:~~

~~(a) A continuation of his imprisonment and not a release on parole; and~~

~~(b) For the purposes of NRS 209.341, an assignment to a facility of the Department,~~

~~except that the offender is not entitled to obtain any benefits or to participate in any programs provided to offenders in the custody of the Department.~~

~~6. An offender does not have a right to be assigned to the custody of the Division of Parole and Probation pursuant to this section, or to remain in that custody after such an assignment, and it is not intended that the provisions of this section or of NRS 213.371 to 213.410, inclusive, create any right or interest in liberty or property or establish a basis for any cause of action against the State, its political subdivisions, agencies, boards, commissions, departments, officers or employees. (Deleted by amendment.)~~

Section 42 of S.B. No. 123 is hereby amended as follows:

Sec. 42. ~~[NRS 209.3925 is hereby amended to read as follows:~~

~~209.3925 1. Except as otherwise provided in subsection 6, the Director may assign an offender to the custody of the Division of Parole and Probation of the Department of Public Safety to serve a term of residential confinement pursuant to NRS 213.380 or other appropriate supervision as determined by the Division of Parole and Probation, for not longer than the remainder of his sentence, if:~~

~~(a) The Director has reason to believe that the offender is:~~

~~(1) Physically incapacitated or in ill health to such a degree that he does not presently, and likely will not in the future, pose a threat to the safety of the public; or~~

~~(2) In ill health and expected to die within 12 months, and does not presently, and likely will not in the future, pose a threat to the safety of the public; and~~

~~(b) At least two physicians licensed pursuant to chapter 630 or 633 of NRS, one of whom is not employed by the Department, verify, in writing, that the offender is:~~

~~(1) Physically incapacitated or in ill health; or~~

~~(2) In ill health and expected to die within 12 months.~~

~~2. If the Director intends to assign an offender to the custody of the Division of Parole and Probation pursuant to this section, at least 45 days before the date the offender is expected to be released from the custody of the Department, the Director shall notify:~~

~~(a) If the offender will reside within this State after he is released from the custody of the Department, the board of county commissioners of the county in which the offender will reside; and~~

~~(b) The Division of Parole and Probation.~~

~~3. If any victim of a crime committed by the offender has, pursuant to subsection 4 of NRS 213.130, requested to be notified of the consideration of a prisoner for parole and has provided a current address, the Division of Parole and Probation shall notify the victim that:~~

~~(a) The Director intends to assign the offender to the custody of the Division of Parole and Probation pursuant to this section; and~~

~~(b) The victim may submit documents to the Division of Parole and Probation regarding such an assignment.~~

~~➤ If a current address has not been provided by a victim as required by subsection 4 of NRS 213.130, the Division of Parole and Probation must not be held responsible if notification is not received by the victim. [All] Except as otherwise provided in section 6 of this act, all personal information, including, but not limited to, a current or former address, which pertains to a victim and which is received by the Division of Parole and Probation pursuant to this subsection is confidential.~~

~~4. If an offender assigned to the custody of the Division of Parole and Probation pursuant to this section escapes or violates any of the terms or conditions of his residential confinement or other appropriate supervision as determined by the Division of Parole and Probation:~~

~~(a) The Division of Parole and Probation may, pursuant to the procedure set forth in NRS 213.410, return the offender to the custody of the Department.~~

~~(b) The offender forfeits all or part of the credits for good behavior earned by him before the escape or violation, as determined by the Director. The Director may provide for a forfeiture of credits pursuant to this paragraph only after proof of the offense and notice to the offender and may restore credits forfeited for such reasons as he considers proper. The decision of the Director regarding such a forfeiture is final.~~

~~5. The assignment of an offender to the custody of the Division of Parole and Probation pursuant to this section shall be deemed:~~

~~(a) A continuation of his imprisonment and not a release on parole; and~~

~~(b) For the purposes of NRS 209.241, an assignment to a facility of the Department;~~

~~➤ except that the offender is not entitled to obtain any benefits or to participate in any programs provided to offenders in the custody of the Department.~~

~~6. The Director may not assign an offender to the custody of the Division of Parole and Probation pursuant to this section if the offender is sentenced to death or imprisonment for life without the possibility of parole.~~

~~7. An offender does not have a right to be assigned to the custody of the Division of Parole and Probation pursuant to this section, or to remain in that custody after such an assignment, and it is not intended that the provisions of this section or of NRS 213.371 to 213.410, inclusive, create any right or interest in liberty or property or establish a basis for any cause of action against the State, its political subdivisions, agencies, boards, commissions, departments, officers or employees.] (Deleted by amendment.)~~

Section 44 of S.B. No. 123 is hereby amended as follows:

Sec. 44. ~~[NRS 209.521 is hereby amended to read as follows:~~

~~209.521 1. If a victim of an offender provides his current address to the Director and makes a written request for notification of the offender's release or escape, the Director shall notify the victim if the offender:~~

~~(a) Will be released into the community for the purpose of employment, training or education, or for any other purpose for which release is authorized; or~~

~~(b) Has escaped from the custody of the Department.~~

~~2. An offender must not be temporarily released into the community for any purpose unless notification of the release has been given to every victim of the offender who has requested notification and has provided his current address.~~

~~3. The Director may not be held responsible for any injury proximately caused by his failure to give any notice required pursuant to subsection 1 or 2 if no address was provided to the Director or the address provided is inaccurate or not current.~~

~~4. [All] Except as otherwise provided in section 6 of this act, all personal information, including, but not limited to, a current or former address, which pertains to a victim and which is received by the Director pursuant to this section is confidential.~~

~~5. As used in this section, "victim" has the meaning ascribed to it in NRS 213.005. (Deleted by amendment.)~~

Section 46 of S.B. No. 123 is hereby amended as follows:

Sec. 46. ~~[NRS 213.010 is hereby amended to read as follows:~~

~~213.010 1. The State Board of Pardons Commissioners consists of the Governor, the justices of the Supreme Court and the Attorney General.~~

~~2. Meetings of the Board for the purpose of considering applications for clemency may be held semiannually or oftener, on such dates as may be fixed by the Board.~~

~~3. The Board shall give written notice at least 15 days before a meeting to each victim of the crimes committed by each person whose application for clemency will be considered at the meeting, if the victim so requests in writing and provides his current address. If a current address is not provided, the Board may not be held responsible if the notice is not received by the victim. The victim may submit a written response to the Board at any time before the meeting. [All] Except as otherwise provided in section 6 of this act, all personal information, including, but not limited to, a current or former address, which pertains to a victim and which is received by the Board pursuant to this subsection is confidential. (Deleted by amendment.)~~

Section 47 of S.B. No. 123 is hereby amended as follows:

Sec. 47. ~~[NRS 213.040 is hereby amended to read as follows:~~

~~213.040 All district attorneys receiving notice of an application for a pardon, or commutation of punishment, or remission of fine or forfeiture, shall transmit forthwith to:~~

~~1. The Board a statement in writing of facts surrounding the commission of the offense for which the applicant is incarcerated or subject to penalty and any information affecting the merits of the application.~~

~~2. Each victim of the person applying for clemency a copy of the notice of the application, if the victim so requests in writing and provides his current address. If a current address is not provided, the district attorney may not be held responsible if a copy of the notice is not received by the victim. [All] Except as otherwise provided in section 6 of this act, all personal information, including, but not limited to, a current or former address, which pertains to a victim and which is received by the district attorney pursuant to this subsection is confidential.] (Deleted by amendment.)~~

Section 48 of S.B. No. 123 is hereby amended as follows:

Sec. 48. ~~[NRS 213.095 is hereby amended to read as follows:~~

~~213.095 If the Board remits a fine or forfeiture, commutes a sentence or grants a pardon, it shall give written notice of its action to the victim of the person granted clemency, if the victim so requests in writing and provides his current address. If a current address is not provided, the Board may not be held responsible if the notice is not received by the victim. [All] Except as otherwise provided in section 6 of this act, all personal information, including, but not limited to, a current or former address, which pertains to a victim and which is received by the Board pursuant to this section is confidential.] (Deleted by amendment.)~~

Section 49 of S.B. No. 123 is hereby amended as follows:

Sec. 49. ~~[NRS 213.130 is hereby amended to read as follows:~~

~~213.130 1. The Department of Corrections shall:~~

~~(a) Determine when a prisoner sentenced to imprisonment in the state prison is eligible to be considered for parole;~~

~~(b) Notify the State Board of Parole Commissioners of the eligibility of the prisoner to be considered for parole; and~~

~~(c) Before a meeting to consider the prisoner for parole, compile and provide to the Board data that will assist the Board in determining whether parole should be granted.~~

~~2. If a prisoner is being considered for parole from a sentence imposed for conviction of a crime which involved the use of force or violence against a victim and which resulted in bodily harm to a victim and if original or duplicate photographs that depict the injuries of the victim or the scene of the crime were admitted at the trial of the prisoner or were part of the report of the presentence investigation and are reasonably available, a representative sample of such photographs must be included with the information submitted to the Board at the meeting. A prisoner may not bring a cause of action against the State of Nevada, its political subdivisions, agencies, boards, commissions, departments, officers or employees for any action that is taken pursuant to this subsection or for failing to take any action pursuant to this subsection, including, without limitation, failing to include photographs or~~

~~including only certain photographs. As used in this subsection, "photograph" includes any video, digital or other photographic image.~~

~~3.—Meetings to consider prisoners for parole may be held semiannually or more often, on such dates as may be fixed by the Board. All meetings must be open to the public.~~

~~4.—Not later than 5 days after the date on which the Board fixes the date of the meeting to consider a prisoner for parole, the Board shall notify the victim of the prisoner who is being considered for parole of the date of the meeting and of his rights pursuant to this subsection, if the victim has requested notification in writing and has provided his current address or if the victim's current address is otherwise known by the Board. The victim of a prisoner being considered for parole may submit documents to the Board and may testify at the meeting held to consider the prisoner for parole. A prisoner must not be considered for parole until the Board has notified any victim of his rights pursuant to this subsection and he is given the opportunity to exercise those rights. If a current address is not provided to or otherwise known by the Board, the Board must not be held responsible if such notification is not received by the victim.~~

~~5.—The Board may deliberate in private after a public meeting held to consider a prisoner for parole.~~

~~6.—The Board of State Prison Commissioners shall provide suitable and convenient rooms or space for use of the Board.~~

~~7.—If a victim is notified of a meeting to consider a prisoner for parole pursuant to subsection 4, the Board shall, upon making a final decision concerning the parole of the prisoner, notify the victim of its final decision.~~

~~8.—[All] Except as otherwise provided in section 6 of this act, all personal information, including, but not limited to, a current or former address, which pertains to a victim and which is received by the Board pursuant to this section is confidential.~~

~~9.—For the purposes of this section, "victim" has the meaning ascribed to it in NRS 213.005.} (Deleted by amendment.)~~

Section 50 of S.B. No. 123 is hereby amended as follows:

Sec. 50. ~~{NRS 217.105 is hereby amended to read as follows:~~

~~217.105—[Any] Except as otherwise provided in section 6 of this act, any information which a compensation officer obtains in the investigation of a claim for compensation pursuant to NRS 217.090 or which is submitted pursuant to NRS 217.100 is confidential and must not be disclosed except:~~

~~1.—Upon the request of the applicant or his attorney;~~

~~2.—In the necessary administration of this chapter; or~~

~~3.—Upon the lawful order of a court of competent jurisdiction;~~

~~→ unless the disclosure is otherwise prohibited by law.} (Deleted by amendment.)~~

Section 51 of S.B. No. 123 is hereby amended as follows:

Sec. 51. ~~{NRS 217.110 is hereby amended to read as follows:~~

~~217.110 1. Upon receipt of an application for compensation, the compensation officer shall review the application to determine whether the applicant qualifies for compensation. The compensation officer shall deny the claim within 5 days after receipt of the application if the applicant's ineligibility is apparent from the facts stated in the application. The applicant may appeal the denial to a hearing officer within 15 days after the decision. If the hearing officer determines that the applicant may be entitled to compensation, the hearing officer shall order the compensation officer to complete an investigation and render a decision pursuant to subsection 2. If the hearing officer denies the appeal, the applicant may appeal to an appeals officer pursuant to NRS 217.117.~~

~~2. If the compensation officer does not deny the application pursuant to subsection 1, or if he is ordered to proceed by the hearing officer, he shall conduct an investigation and, except as otherwise provided in subsection 4, render a decision within 60 days after his receipt of the application or order. If in conducting his investigation the compensation officer believes that:~~

- ~~(a) Reports on the previous medical history of the victim;~~
 - ~~(b) An examination of the victim and a report of that examination;~~
 - ~~(c) A report on the cause of death of the victim by an impartial medical expert; or~~
 - ~~(d) Investigative or police reports,~~
- ~~that would aid him in making his decision, the compensation officer may order the reports.~~

~~3. Upon the request of a compensation officer pursuant to subsection 2 for investigative or police reports which concern a minor who committed a crime against the victim, a juvenile court or a law enforcement agency shall provide the compensation officer with a copy of the requested investigative or police reports. [Any] Except as otherwise provided in section 6 of this act, any reports obtained by a compensation officer pursuant to this subsection are confidential and must not be disclosed except upon the lawful order of a court of competent jurisdiction.~~

~~4. When additional reports are requested pursuant to subsection 2, the compensation officer shall render a decision in the case, including an order directing the payment of compensation, if compensation is due, within 15 days after receipt of the reports. (Deleted by amendment.)~~

Section 54 of S.B. No. 123 is hereby amended as follows:

Sec. 54. ~~[NRS 228.450 is hereby amended to read as follows:~~

~~228.450 1. The Ombudsman for Victims of Domestic Violence shall:~~

- ~~(a) Prepare quarterly reports relating to victims of domestic violence from information collected from the Central Repository for Nevada Records of Criminal History, if any such information is available.~~
- ~~(b) Provide necessary assistance to victims of domestic violence.~~
- ~~(c) Provide education to the public concerning domestic violence, including, without limitation, the prevention of domestic violence, available~~

~~assistance to victims of domestic violence and available treatment for persons who commit domestic violence.~~

~~(d) Perform such other tasks as are necessary to carry out his duties and the functions of his office.~~

~~2. Except as otherwise provided in this subsection [,] and section 6 of this act, information collected pursuant to paragraph (a) of subsection 1 is confidential and must not be disclosed to any person under any circumstances, including, without limitation, pursuant to a subpoena, search warrant or discovery proceeding. Such information may be used for statistical purposes if the identity of the person is not discernible from the information disclosed.~~

~~3. Any grant received by the Office of the Attorney General for assistance to victims of domestic violence may be used to compensate the Ombudsman for Victims of Domestic Violence. (Deleted by amendment.)~~

If this amendment is adopted, the Legislative Counsel's Digest will be changed as follows:

Legislative Counsel's Digest:

Under existing law, all public books and records of a governmental entity, the contents of which are not otherwise declared by law to be confidential or which the governmental entity determines pursuant to a balancing test must not be disclosed, must be open at all times during office hours for inspection and copying. (NRS 239.010; *Donrey v. Bradshaw*, 106 Nev. 630 (1990))

Section 4 of this bill provides that if a governmental entity receives a written request to inspect or copy a public book or record, the governmental entity must, within 5 business days after the date on which the person who has legal custody or control of the book or record has received the request: (1) allow the requester to inspect or copy the public book or record; (2) if the governmental entity does not have legal custody or control of the public book or record, notify the requester of that fact and where, if known, the public book or record is located; (3) if the governmental entity cannot make the public book or record available within 5 business days, notify the requester of the date and time when the book or record will be available; or (4) if the public book or record is confidential, notify the requester of that fact in writing, including a citation to the legal authority that makes the book or record confidential.

With ~~the exception of public books or records pertaining to applicants for gaming licenses,~~ certain exceptions, section 6 of this bill provides that, notwithstanding any provision of law that has declared a public book or record, or a part thereof, to be confidential, once a public book or record has been in the legal custody or control of one or more governmental entities for a period of at least 30 years, a person may apply to the appropriate district court for an order allowing him to inspect or copy the public book or record. If the public book or record pertains to a natural person, a person may not apply for such a court order until 30 years after the book or record has been in the legal custody or control of a governmental entity or the death of the

person to whom the book or record pertains, whichever is later. Section 218 of this bill clarifies that a person may apply for such an order on or after October 1, 2007, the effective date of the bill, to inspect or copy public books or records that already meet the conditions set forth in section 6.

Section 5 of this bill provides that in any judicial or administrative proceeding in which the confidentiality of a public book or record is at issue and the governmental entity that has legal custody or control of the public book or record asserts that the public book or record is confidential, the governmental entity has the burden of proving such confidentiality.

Sections 3 and 7 of this bill provide that although a nongovernmental entity which performs certain functions for or on behalf of a governmental entity is considered a governmental entity for the purposes of Nevada's public records law (chapter 239 of NRS), the records of a nongovernmental entity that are directly related to the administration, management or regulation of an activity, program, institution or facility for or on behalf of a governmental entity are public records that must be open for inspection and copying. Section 3 specifically excludes financial or other proprietary records of a nongovernmental entity from this requirement.

Section 8 of this bill provides that a governmental entity shall not deny a request to inspect or copy a public book or record because the public book or record contains information that is confidential if the governmental entity can redact the confidential information.

Senator Care moved the adoption of the amendment.

Remarks by Senator Care.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Senate Bill No. 191.

Bill read third time.

Roll call on Senate Bill No. 191:

YEAS—21.

NAYS—None.

Senate Bill No. 191 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 547.

Bill read third time.

Roll call on Senate Bill No. 547:

YEAS—21.

NAYS—None.

Senate Bill No. 547 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 584.

Bill read third time.

Roll call on Assembly Bill No. 584:

YEAS—21.

NAYS—None.

Assembly Bill No. 584 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 626.

Bill read third time.

Roll call on Assembly Bill No. 626:

YEAS—21.

NAYS—None.

Assembly Bill No. 626 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

UNFINISHED BUSINESS
REPORTS OF CONFERENCE COMMITTEES

Mr. President:

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.

Conference Amendment.

"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, ~~it~~ *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 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.

~~((v))~~ (v) 3,4-Methylenedioxy-phenyl-2-propanone.

~~((w))~~ (w) N-Methylephedrine, its salts, isomers and salts of isomers.

~~((x))~~ (x) Methyl isobutyl ketone (MIBK).

~~((y))~~ (y) N-Methylpseudoephedrine, its salts, isomers and salts of isomers.

~~((z))~~ (z) Nitroethane, its salts, isomers and salts of isomers.

~~((aa))~~ (aa) Norpseudoephedrine, its salts, isomers and salts of isomers.

~~((ab))~~ (bb) Phenylacetic acid, its esters and its salts.

~~((bc))~~ (cc) Phenylpropanolamine, its salts, isomers and salts of isomers.

~~((cd))~~ (dd) Piperidine and its salts.

~~((de))~~ (ee) Piperonal, its salts, isomers and salts of isomers.

~~((ef))~~ (ff) Potassium permanganate.

~~((fg))~~ (gg) Propionic anhydride, its salts, isomers and salts of isomers.

~~((gh))~~ (hh) Pseudoephedrine, its salts, isomers and salts of isomers.

~~((hi))~~ (ii) Red phosphorous.

~~((ij))~~ (ji) Safrole, its salts, isomers and salts of isomers.

~~((jk))~~ (kk) Sodium metal.

(ll) Sulfuric acid.

~~((lm))~~ (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, ~~or~~ 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, befoils, 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 ~~6.7.~~ "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. ~~---~~

(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. ~~---~~

(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. ~~---~~

(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 ~~4~~ 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 ~~;~~

(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.

MAURICE E. WASHINGTON

SHEILA LESLIE

JOYCE WOODHOUSE

BERNIE ANDERSON

JOSEPH J. HECK

JOE HARDY

Senate Conference Committee

Assembly Conference Committee

Senator Washington moved that the Senate adopt the report of the first Conference Committee concerning Assembly Bill No. 148.

Remarks by Senator Washington.

Motion carried by a constitutional majority.

APPOINTMENT OF CONFERENCE COMMITTEES

President Krolicki appointed Senators Townsend, Hardy and Schneider as a first Conference Committee to meet with a like committee of the Assembly for the further consideration of Senate Bill No. 18.

President Krolicki appointed Senators Heck, Schneider and Townsend as a first Conference Committee to meet with a like committee of the Assembly for the further consideration of Senate Bill No. 412.

President Krolicki appointed Senators Amodei, Washington and Mathews as a first Conference Committee to meet with a like committee of the Assembly for the further consideration of Senate Bill No. 487.

President Krolicki appointed Senators Washington, Wiener and Heck as a first Conference Committee to meet with a like committee of the Assembly for the further consideration of Senate Bill No. 536.

Mr. President announced that if there were no objections, the Senate would recess subject to the call of the Chair.

Senate in recess at 5:26 p.m.

SENATE IN SESSION

At 5:37 p.m.

President Krolicki presiding.

Quorum present.

MESSAGES FROM THE ASSEMBLY

ASSEMBLY CHAMBER, Carson City, June 1, 2007

To the Honorable the Senate:

I have the honor to inform your honorable body that the Assembly on this day passed Senate Bill No. 342; Assembly Bill No. 144.

Also, I have the honor to inform your honorable body that the Assembly on this day passed, as amended, Assembly Bills Nos. 280, 565, 595.

Also, I have the honor to inform your honorable body that the Assembly amended, and on this day passed, as amended, Senate Bill No. 404, Amendment No. 1082; Senate Bill No. 499, Amendment No. 1090, and respectfully requests your honorable body to concur in said amendments.

Also, I have the honor to inform your honorable body that the Assembly on this day concurred in the Senate Amendment No. 802 to Assembly Bill No. 593; Senate Amendment No. 1070 to Assembly Bill No. 624.

Also, I have the honor to inform your honorable body that the Assembly on this day concurred in the Senate Amendment No. 695 to Assembly Bill No. 428 and respectfully refused to concur in Senate Amendment No. 948 to Assembly Bill No. 428.

Also, I have the honor to inform your honorable body that the Assembly on this day respectfully refused to concur in the Senate Amendment No. 1056 to Assembly Bill No. 182.

Also, I have the honor to inform your honorable body that the Assembly on this day respectfully refused to recede from its action on Senate Bill No. 131, Assembly Amendment No. 964, and requests a conference, and appointed Assemblymen Horne, Ohrenschall and Allen as a first Conference Committee to meet with a like committee of the Senate.

Also, I have the honor to inform your honorable body that the Assembly on this day respectfully refused to recede from its action on Senate Bill No. 274, Assembly Amendments Nos. 945, 993, and requests a conference, and appointed Assemblymen Kirkpatrick, Bobzien and Goicoechea as a first Conference Committee to meet with a like committee of the Senate.

Also, I have the honor to inform your honorable body that the Assembly on this day respectfully refused to recede from its action on Senate Bill No. 303, Assembly Amendment No. 836, and requests a conference, and appointed Assemblymen Anderson, Manendo and Carpenter as a first Conference Committee to meet with a like committee of the Senate.

Also, I have the honor to inform your honorable body that the Assembly on this day respectfully refused to recede from its action on Senate Bill No. 328, Assembly Amendments Nos. 848, 1027, and requests a conference, and appointed Assemblymen Segerblom, Smith and Stewart as a first Conference Committee to meet with a like committee of the Senate.

Also, I have the honor to inform your honorable body that the Assembly on this day respectfully refused to recede from its action on Senate Bill No. 436, Assembly Amendments Nos. 944, 1006, and requests a conference, and appointed Assemblymen Horne, Parks and Allen as a first Conference Committee to meet with a like committee of the Senate.

Also, I have the honor to inform your honorable body that the Assembly on this day respectfully refused to recede from its action on Senate Bill No. 509, Assembly Amendment No. 853, and requests a conference, and appointed Assemblymen Smith, Kihuen and Stewart as a first Conference Committee to meet with a like committee of the Senate.

Also, I have the honor to inform your honorable body that the Assembly on this day appointed Assemblymen Conklin, Gerhardt and Christensen as a first Conference Committee concerning Assembly Bill No. 50.

Also, I have the honor to inform your honorable body that the Assembly on this day appointed Assemblymen Anderson, Smith and Beers as a first Conference Committee concerning Assembly Bill No. 127.

Also, I have the honor to inform your honorable body that the Assembly on this day appointed Assemblymen Conklin, Horne and Mabey as a first Conference Committee concerning Assembly Bill No. 385.

Also, I have the honor to inform your honorable body that the Assembly on this day appointed Assemblymen Parnell, Kihuen and Beers as a first Conference Committee concerning Assembly Bill No. 460.

Also, I have the honor to inform your honorable body that the Assembly on this day appointed Assemblymen Parks, Pierce and Allen as a first Conference Committee concerning Assembly Bill No. 461.

Also, I have the honor to inform your honorable body that the Assembly on this day appointed Assemblymen Anderson, Segerblom and Mabey as a first Conference Committee concerning Assembly Bill No. 521.

Also, I have the honor to inform your honorable body that the Assembly on this day adopted the reports of the first Conference Committees concerning Senate Bills Nos. 115, 143.

LUCINDA BENJAMIN

Assistant Chief Clerk of the Assembly

INTRODUCTION, FIRST READING AND REFERENCE

Assembly Bill No. 144.

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

Motion carried.

Assembly Bill No. 280.

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

Motion carried.

Assembly Bill No. 565.

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

Motion carried.

Assembly Bill No. 595.

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

Motion carried.

SECOND READING AND AMENDMENT

Assembly Bill No. 619.

Bill read second time.

The following amendment was proposed by the Committee on Transportation and Homeland Security:

Amendment No. 1096.

~~"SUMMARY {Creates the Nevada Automobile Theft Authority.}~~
Revises provisions governing the crime of grand larceny of a motor vehicle.
(BDR ~~{43-1503}~~) 15-1503)

~~"AN ACT relating to motor vehicles; {creating the Nevada Automobile Theft Authority within the Department of Motor Vehicles; providing the membership and duties of the Authority; creating the Fund for the Nevada Automobile Theft Authority; authorizing the Authority to award grants of money from the Fund to public agencies for programs to prevent motor vehicle theft; imposing certain reporting requirements on the Authority; imposing a fee on insurers that issue motor vehicle liability insurance in this State for deposit in the Fund;}~~ revising the provisions governing the crime of grand larceny of a motor vehicle; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

~~{Section 6 of this bill creates the Nevada Automobile Theft Authority within the Department of Motor Vehicles. The Authority consists of 13 voting members and the Director of the Department who serves as a nonvoting member. Section 8 of this bill describes the duties of the Authority, which include: (1) determining the scope of the problem of motor vehicle theft in this State and in various political subdivisions of this State; (2) analyzing various methods of reducing motor vehicle theft in this State; (3) developing and carrying out a plan to reduce motor vehicle theft in this State; and (4) developing and carrying out a plan for funding the activities of the Authority, including, without limitation, the receipt of grants and gifts for the use of the Authority. Section 9 of this bill creates the Fund for the Nevada Automobile Theft Authority in the State Treasury. Section 8 authorizes the Authority to award grants of money from the Fund to public agencies for programs that are designed to prevent motor vehicle theft in this State. Section 10 of this bill imposes on an insurer that issues policies of motor vehicle liability insurance in this State a semiannual fee of 50 cents for each vehicle insured under such a policy issued by the insurer in this State. The money collected from the fees must be deposited in the Fund. If an insurer fails to pay the required fee, the Commissioner of Insurance is authorized to refuse to continue, suspend or revoke the insurer's certificate of authority to transact insurance in this State or to impose on the insurer a civil penalty of not more than 120 percent of the amount due, or both.}~~ Under existing law, a person who commits grand larceny of a motor vehicle is guilty of a category C felony, unless the value of the motor vehicle involved in the grand

larceny is proven to be \$2,500 or more in which case the person is guilty of a category B felony. (NRS 205.228) Section 12 of this bill provides that a person who is convicted of grand larceny of a motor vehicle and who has twice previously been convicted of grand larceny of a motor vehicle must not be released on probation or granted a suspension of his sentence. For purposes of determining whether a person has twice previously been convicted of grand larceny of a motor vehicle, section 15 of this bill clarifies that offenses committed before October 1, 2007, must be included in such determination.

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

Section 1. ~~{Chapter 481 of NRS is hereby amended by adding thereto the provisions set forth as sections 1.5 to 10, inclusive, of this act.} (Deleted by amendment.)~~

Sec. 1.5. ~~{As used in sections 1.5 to 10, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 2 and 5 of this act have the meanings ascribed to them in those sections.} (Deleted by amendment.)~~

Sec. 2. ~~{“Authority” means the Nevada Automobile Theft Authority created by section 6 of this act.} (Deleted by amendment.)~~

Sec. 3. (Deleted by amendment.)

Sec. 4. (Deleted by amendment.)

Sec. 5. ~~{“Fund” means the Fund for the Nevada Automobile Theft Authority created by section 9 of this act.} (Deleted by amendment.)~~

Sec. 6. ~~{1. The Nevada Automobile Theft Authority is hereby created within the Department. The Authority consists of the following 13 voting members:~~

~~(a) The Commissioner of Insurance, or his designee, who is an ex officio member;~~

~~(b) The Director of the Department of Public Safety, or his designee, who is an ex officio member;~~

~~(c) The sheriff of a county whose population is 400,000 or more, appointed by the Nevada Sheriffs' and Chiefs' Association, or a successor organization;~~

~~(d) The sheriff of a county whose population is 100,000 or more but less than 400,000, appointed by the Nevada Sheriffs' and Chiefs' Association, or a successor organization;~~

~~(e) The sheriff of a county whose population is less than 100,000, appointed by the Nevada Sheriffs' and Chiefs' Association, or a successor organization;~~

~~(f) The chief of police of a city whose population is 100,000 or more or the undersheriff of a metropolitan police department which includes a city whose population is 100,000 or more, appointed by the Nevada Sheriffs' and Chiefs' Association, or a successor organization;~~

~~(g) The chief of police of a city whose population is less than 100,000 or the undersheriff of a metropolitan police department which does not include a city whose population is 100,000 or more, appointed by the Nevada Sheriffs' and Chiefs' Association, or a successor organization;~~

~~(h) The district attorney of a county whose population is 400,000 or more, appointed by the governing body of the Nevada District Attorneys Association;~~

~~(i) The district attorney of a county whose population is less than 400,000, appointed by the governing body of the Nevada District Attorneys Association;~~

~~(j) Two representatives of insurers that write motor vehicle liability insurance in this State, appointed by the Governor; and~~

~~(k) Two representatives of the general public, appointed by the Governor.~~

~~2. The Director of the Department of Motor Vehicles or his designee shall serve as a nonvoting member of the Authority.~~

~~3. The Director of the Department of Motor Vehicles shall serve as the Chairman of the Authority for the limited purpose of calling and conducting the initial meeting of the Authority. At its initial meeting and annually thereafter the voting members of the Authority shall elect a Chairman from among the voting members.~~

~~4. The Authority shall meet regularly at least quarterly and may meet at other times upon the call of the Chairman or a majority of the voting members of the Authority. Any seven voting members of the Authority constitute a quorum for the purpose of voting. A majority vote of the quorum is required to take action with respect to any matter.~~

~~5. The Authority shall adopt rules for its own management.~~

~~6. After their initial terms, the appointed members of the Authority shall serve terms of 4 years. An appointed member shall continue to serve on the Authority until his successor is appointed. Members may be reappointed for additional terms of 4 years in the same manner as the original appointments. Any vacancy occurring in the appointed membership of the Authority must be filled in the same manner as the original appointment. There is no limit on the number of terms that a member may serve.~~

~~7. Members of the Authority:~~

~~(a) Serve without compensation; and~~

~~(b) To the extent that money for the administrative expenses of the Authority is available in the Fund, while engaged in the business of the Authority, are entitled to receive the per diem allowance and travel expenses provided for state officers and employees generally.~~

~~8. The members of the Authority who are public employees must be relieved from their duties without loss of their regular compensation to perform their duties relating to the Authority in the most timely manner practicable. The public employees may not be required to make up the time they are absent from work to fulfill their obligations as members of the~~

~~Authority or take annual leave or compensatory time for the absence.]
(Deleted by amendment.)~~

~~Sec. 7. [An appointed member of the Authority may be removed before the expiration of his term by the Governor if the Governor determines that the member:~~

~~1. Did not possess the qualifications to serve on the Authority at the time he was appointed;~~

~~2. Has ceased to possess the qualifications to serve on the Authority;~~

~~3. Will be unable to perform competently his duties for a substantial part of his remaining term because of illness or disability; or~~

~~4. Has been absent from more than one-half of the regularly scheduled meetings of the Authority during a calendar year and the absences have not been excused by a majority vote of the Authority.] (Deleted by amendment.)~~

~~Sec. 8. [1. To the extent of available existing resources, the Department shall provide:~~

~~(a) Administrative support;~~

~~(b) Equipment; and~~

~~(c) Office space;~~

~~as is necessary for the Authority to carry out its duties.~~

~~2. To the extent that money for the administrative expenses of the Authority is available in the Fund, the Authority may:~~

~~(a) Provide for any administrative support, equipment and office space that is not provided by the Department; and~~

~~(b) Employ such staff members as it determines necessary, including, without limitation, an Executive Director. Such staff members serve at the pleasure of the Authority. If the Authority employs an Executive Director, his salary must not exceed \$75,000.~~

~~3. The Authority may:~~

~~(a) Apply for and accept grants and gifts for use in carrying out its duties; and~~

~~(b) Accept donations of goods and services for use in carrying out its duties, including, without limitation, the services of natural persons, office and secretarial assistance, printing and mailing services, and office equipment, facilities and supplies.~~

~~4. The Authority shall:~~

~~(a) Determine the scope of the problem of motor vehicle theft in this State and in various political subdivisions of this State;~~

~~(b) Analyze various methods of reducing motor vehicle theft in this State;~~

~~(c) Develop and carry out a plan to reduce motor vehicle theft in this State; and~~

~~(d) Develop and carry out a plan for funding the activities of the Authority, including, without limitation, the receipt of grants and gifts for the use of the Authority.~~

~~5. The Authority may award grants of money from the Fund to public agencies for the purpose of establishing, maintaining and supporting~~

~~programs that are designed to prevent motor vehicle theft in this State, including, without limitation:~~

~~(a) Financial support for law enforcement relating to, and prosecution of, motor vehicle theft, including, without limitation, equipment, work facilities and personnel for programs that are designed to increase the effectiveness of such law enforcement and prosecution.~~

~~(b) Financial support for programs that are designed to educate and assist the public in the prevention of motor vehicle theft.~~

~~6.—Grants of money awarded by the Authority pursuant to subsection 5 must be used to supplement and not replace money that would otherwise be expended by the recipient of the grant for the prevention of motor vehicle theft.~~

~~7.—The Authority shall, on or before December 31, 2009, and each year thereafter, submit a report concerning its activities during the immediately preceding fiscal year to the:~~

~~(a) Governor;~~

~~(b) Secretary of State;~~

~~(c) State Library and Archives Administrator; and~~

~~(d) Director of the Legislative Counsel Bureau for transmittal to the Legislative Commission.~~

~~8.—In addition to the reports required by subsection 7, the Authority shall, on or before February 15, 2011, and each odd numbered year thereafter, submit a consolidated report concerning its activities during the immediately preceding 2 fiscal years to the Director of the Legislative Counsel Bureau for posting on the public website of the Legislature on the Internet and for transmittal to the:~~

~~(a) Speaker of the Assembly;~~

~~(b) Majority Leader of the Senate;~~

~~(c) Legislative Commission;~~

~~(d) Assembly Standing Committee on Judiciary;~~

~~(e) Senate Standing Committee on Judiciary;~~

~~(f) Assembly Standing Committee on Transportation; and~~

~~(g) Senate Standing Committee on Transportation and Homeland Security.} (Deleted by amendment.)~~

~~Sec. 9. 1.—The Fund for the Nevada Automobile Theft Authority is hereby created in the State Treasury.~~

~~2.—The Authority shall administer the Fund.~~

~~3.—All public and private money received for the use of the Authority must be deposited in the Fund.~~

~~4.—The money in the Fund may only be used to pay the administrative expenses of the Authority and to carry out the provisions of sections 6 to 10, inclusive, of this act. Not more than 10 percent of the money in the Fund in any fiscal year may be used to pay the administrative expenses of the Authority.~~

~~5. The Authority shall cause an audit to be made of the Fund every 2 years. The audit must be conducted by the Audit Division of the Legislative Counsel Bureau. A copy of the audit must be submitted to the Governor and the Legislative Commission. (Deleted by amendment.)~~

Sec. 10. ~~1. Each insurer shall pay a semiannual fee of 50 cents for each vehicle insured under a policy of motor vehicle liability insurance issued by the insurer in this State.~~

~~2. The fee for a vehicle becomes due and nonrefundable upon the acceptance by the insurer of any portion of the premium charged for the policy.~~

~~3. If an insurer chooses to collect the fee from its insureds, the insurer may include the fee on its billing statements for the payment of premiums and indicate the purpose of the fee.~~

~~4. Each insurer shall, on or before January 31 and July 31 of each year, pay to the Authority for deposit in the Fund the fees due pursuant to this section as follows:~~

~~(a) The payment due on or before January 31 must cover all vehicles that are insured by the insurer on October 31 of the immediately preceding calendar year.~~

~~(b) The payment due on or before July 31 must cover all vehicles that are insured by the insurer on April 30 of the calendar year in which the payment is due.~~

~~5. If an insurer fails to pay the fee required by this section on or before the date due, the Authority shall notify the Commissioner of Insurance of the nonpayment. Upon receiving notice of an insurer's failure to pay the fee, the Commissioner may, in accordance with the provisions of NRS 680A.190, refuse to continue, suspend or revoke the insurer's certificate of authority to transact insurance in this State, or impose a civil penalty of not more than 120 percent of the amount due, or both. The insurer shall pay the civil penalty together with the amount of fees due to the Commissioner, who shall deposit the civil penalty and fees in the Fund.~~

~~6. As used in this section:~~

~~(a) "Insurer" has the meaning ascribed to it in NRS 679A.100.~~

~~(b) "Vehicle" does not include any vehicle with a declared gross weight in excess of 26,000 pounds or any combination of vehicles with a gross combination weight rating in excess of 26,000 pounds. (Deleted by amendment.)~~

Sec. 11. (Deleted by amendment.)

Sec. 12. NRS 205.228 is hereby amended to read as follows:

205.228 1. A person who intentionally steals, takes and carries away, drives away or otherwise removes a motor vehicle owned by another person commits grand larceny of a motor vehicle.

2. Except as otherwise provided in ~~subsection 3,~~ *this section*, a person who commits grand larceny of a motor vehicle is guilty of a category C felony and shall be punished as provided in NRS 193.130. *A person who is*

convicted of grand larceny of a motor vehicle and who has twice previously been convicted of grand larceny of a motor vehicle must not be released on probation or granted a suspension of his sentence.

3. If the prosecuting attorney proves that the value of the motor vehicle involved in the grand larceny is \$2,500 or more, the person who committed the grand larceny of the motor vehicle 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 10 years, and by a fine of not more than \$10,000.

4. In addition to any other penalty, the court shall order the person who committed the grand larceny of the motor vehicle to pay restitution.

Sec. 13. ~~[Section 12 of this act is hereby amended to read as follows:~~

~~Sec. 12. NRS 205.228 is hereby amended to read as follows:~~

~~205.228 1. A person who intentionally steals, takes and carries away, drives away or otherwise removes a motor vehicle owned by another person commits grand larceny of a motor vehicle.~~

~~2. Except as otherwise provided in this section, a person who commits grand larceny of a motor vehicle is guilty of a category C felony and shall be punished as provided in NRS 193.130. A person who is convicted of grand larceny of a motor vehicle and who has twice previously been convicted of grand larceny of a motor vehicle must not be released on probation or granted a suspension of his sentence.~~

~~3. If the prosecuting attorney proves that the value of the motor vehicle involved in the grand larceny is \$2,500 or more, the person who committed the grand larceny of the motor vehicle 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 10 years, and by a fine of not more than \$10,000.~~

~~4. In addition to any other penalty, the court shall order the person who committed the grand larceny of the motor vehicle [to]:~~

~~(a) To pay restitution [.] ; and~~

~~(b) To pay a civil penalty of \$500 to the Nevada Automobile Theft Authority for deposit in the Fund for the Nevada Automobile Theft Authority created by section 9 of this act. (Deleted by amendment.)~~

Sec. 14. ~~[The members of the Nevada Automobile Theft Authority created by section 6 of this act must be appointed by their respective appointing authorities as soon as practicable after July 1, 2008, as follows:~~

~~1. The members appointed pursuant to paragraphs (c), (d) and (e) of subsection 1 of section 6 of this act must be appointed to initial terms that expire on June 30, 2012.~~

~~2. The members appointed pursuant to paragraphs (f) and (g) of subsection 1 of section 6 of this act must be appointed to initial terms that expire on June 30, 2011.~~

~~3. The members appointed pursuant to paragraphs (h) and (i) of subsection 1 of section 6 of this act must be appointed to initial terms that expire on June 30, 2010.~~

~~4. The members appointed pursuant to paragraphs (j) and (k) of subsection 1 of section 6 of this act must be appointed to initial terms that expire on June 30, 2009. (Deleted by amendment.)~~

Sec. 15. The provisions of NRS 205.228, as amended by section 12 of this act, apply to offenses committed before October 1, 2007, for the purpose of determining whether a person is subject to the provisions of subsection 2 of NRS 205.228, as amended by section 12 of this act.

Sec. 16. ~~1. Notwithstanding the provisions of section 10 of this act:~~

~~(a) The initial fee due from an insurer pursuant to section 10 of this act:~~

~~(1) Is payable on or before July 31, 2008, and must cover all vehicles that are insured by the insurer on April 30, 2008; and~~

~~(2) Must be paid to the Commissioner of Insurance for deposit in the Fund for the Nevada Automobile Theft Authority created by section 9 of this act.~~

~~(b) The Commissioner of Insurance may take any action specified in subsection 5 of section 10 of this act if the fee is not paid on or before July 31, 2008.~~

~~2. The Director of the Department of Motor Vehicles may, on behalf of the Nevada Automobile Theft Authority, exercise all powers and duties of the Authority to the extent necessary until such time as the initial meeting of the Authority is held pursuant to section 6 of this act. (Deleted by amendment.)~~

Sec. 17. ~~[Notwithstanding any provision of law to the contrary, an insurer that is required pursuant to section 10 of this act to pay a fee for each vehicle insured under a policy of motor vehicle liability insurance issued by the insurer in this State may begin collecting the fee from its insureds under those policies on April 30, 2008.] (Deleted by amendment.)~~

Sec. 18. ~~1. This section and sections 12 and 15 of this act become effective on October 1, 2007.~~

~~2. Section 17 of this act becomes effective on January 1, 2008.~~

~~3. Sections 1 to 11, inclusive, 13, 14 and 16 of this act become effective on July 1, 2008. (Deleted by amendment.)~~

Senator Nolan moved the adoption of the amendment.

Remarks by Senator Nolan.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

GENERAL FILE AND THIRD READING

Senate Bill No. 123.

Bill read third time.

Roll call on Senate Bill No. 123:

YEAS—21.

NAYS—None.

Senate Bill No. 123 having received a constitutional majority,
Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 197.

Bill read third time.

Roll call on Assembly Bill No. 197:

YEAS—21.

NAYS—None.

Assembly Bill No. 197 having received a constitutional majority,
Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 200.

Bill read third time.

Roll call on Assembly Bill No. 200:

YEAS—21.

NAYS—None.

Assembly Bill No. 200 having received a constitutional majority,
Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 203.

Bill read third time.

Roll call on Assembly Bill No. 203:

YEAS—21.

NAYS—None.

Assembly Bill No. 203 having received a constitutional majority,
Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 204.

Bill read third time.

Roll call on Assembly Bill No. 204:

YEAS—21.

NAYS—None.

Assembly Bill No. 204 having received a constitutional majority,
Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 206.

Bill read third time.

Roll call on Assembly Bill No. 206:

YEAS—21.

NAYS—None.

Assembly Bill No. 206 having received a constitutional majority,
Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 271.

Bill read third time.

Roll call on Assembly Bill No. 271:

YEAS—21.

NAYS—None.

Assembly Bill No. 271 having received a constitutional majority,
Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 272.

Bill read third time.

Roll call on Assembly Bill No. 272:

YEAS—21.

NAYS—None.

Assembly Bill No. 272 having received a constitutional majority,
Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 510.

Bill read third time.

Roll call on Assembly Bill No. 510:

YEAS—16.

NAYS—Carlton, Coffin, Heck, Schneider, Titus—5.

Assembly Bill No. 510 having received a constitutional majority,
Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 539.

Bill read third time.

Roll call on Assembly Bill No. 539:

YEAS—21.

NAYS—None.

Assembly Bill No. 539 having received a constitutional majority,
Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 594.

Bill read third time.

Roll call on Assembly Bill No. 594:

YEAS—21.

NAYS—None.

Assembly Bill No. 594 having received a two-thirds majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 615.

Bill read third time.

Roll call on Assembly Bill No. 615:

YEAS—21.

NAYS—None.

Assembly Bill No. 615 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 618.

Bill read third time.

Roll call on Assembly Bill No. 618:

YEAS—21.

NAYS—None.

Assembly Bill No. 618 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 621.

Bill read third time.

Remarks by Senators Titus, Townsend, Carlton, Care and Schneider.

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

SENATOR TITUS:

Thank you, Mr. President. I have a question that was not clarified last night when we discussed this. The amendment deals with people who are grandfathered. There are some who are complaining, today, that they did not get grandfathered, even though no one meets the deadline.

Page 19, subsection 6(a), mentioned a duration of 10 years and an amount that equals 35 percent. As I recall, in A.B. 3 of the Twenty-second Special Session, you could have the abatement forever, and you could receive up to 50 percent.

We have grandfathered people, but we have decreased their benefits. That does not seem to create a liability problem; I do not understand that. I am not a lawyer, but how do you justify decreasing the benefits and yet eliminate the benefits with a "clean-sweep," a starting all over, as was the proposed amendment last night from my colleague from District 7? That was mentioned as creating a huge liability problem. Why would this not create a huge liability problem as well?

SENATOR TOWNSEND:

I will try to answer that. The bright-line test that our Legal Counsel asked us to utilize has little to do with page 19, subsection 6(a). However, once you have established that, we had to be extremely careful as we looked at two options for those that, as previously stated, might be considered grandfathered.

The first was sales tax. Those that have the three elements discussed last night and received by the cut-off date. A certification from the Department of Taxation by February 1, 2007—those properties are considered grandfathered. They are allowed to have the sales-tax abatement minus the DSA component. They also receive, under A.B. 3 of the Twenty-second Special Session, a

silver, gold, or platinum standard. The Commission on Economic Development put in place a regulation that allowed you to get up to 10 years for up to 50 percent. It was decided that those properties that were being grandfathered would all be considered for ad-velorum purposes to be 10 years at 35 percent so all of those grandfathered were treated equal.

Those that come after do not get any sales-tax exemption. They only get ad-velorum opportunities minus land, minus the DSA and a smaller increment as described in section 2 of the bill.

I hope that is a satisfactory explanation.

SENATOR CARLTON:

Thank you, Mr. President. In committee, we talked about the future savings these energy efficiencies will have. That was really the goal of A.B. 3 of the Twenty-second Special Session: to get people to use less energy. I had asked a question in committee, how much do we think we are going to save with this? Now that you have spent the money and put the time and effort into building "green," how much slower is your electric meter going to spin? Because, that is really the goal of this. I asked that question and did not get an answer.

Now, these are smart, sophisticated companies. They are not going to build "green" unless they know there is going to be a real savings in the future. We know how long those buildings are going to sit on the Las Vegas Strip. We know how many times those rooms are going to be rented out so not getting that answer makes me apprehensive about this because I think that should be part of this debate as far as how we are impacting business. Are we going backwards; are we going forwards; is it an unstable environment? We know business loves stability. I believe, they can project that energy savings, and I think that should have been a bigger part of the discussion.

SENATOR TITUS:

I hate to sound obtuse, but I want to ask this question again. In the original bill, under which six or eight companies that were named yesterday that are grandfathered, they are entitled to get the sales-tax exemptions and the property-tax abatements forever, up to 50 percent. Is that right?

SENATOR TOWNSEND:

First of all, please do not confuse sales tax with property tax. Those that have theoretically been grandfathered, they met three standards, and they receive the sales tax exemptions for building the building or buildings. That is minus the portion that goes to the DSA. It does not go on forever. It is when you build the building; that is the sales tax you get.

The ad-velorum abatement, that is minus the land and minus the DSA, is for 10 years at 35 percent. Then, it is over. It does not go on forever. Neither one of them run forever.

SENATOR TITUS:

Under the original bill, you have the sales tax for the materials that you used to build but. If you continue to build and continue to grow, expand and add on, you continue to get the sales tax. There was no time certain when you were no longer eligible to get sales tax exemptions for when you continue to build.

You also have the ad-velorum property tax without the exemption for the DSA, and that ad-velorum property tax applied to everything including the land. Now, we have grandfathered six or eight companies; do those rules apply to these companies. I do not think so. I think the rules that you just listed about the DSA and the tenures and the ad-velorum minus the land, apply to those companies that are grandfathered.

I am saying that if you can change the rules on them from the previous A.B. 3 of the Twenty-second Special Session, why does that not create just as big of a liability problem as does taking away the rebate and starting all over? They are still getting something, but they are not getting what they thought they were going to get under the original bill.

SENATOR TOWNSEND:

There are two questions here, and I will answer the substantive one, and I will attempt to answer the legal one after that.

I will reiterate. In order to qualify as a grandfathered individual, you have to meet three standards; (1) you have to have a construction or preconstruction contract signed before

December 31, 2005, (2) you must have registered with the Office of Energy, and (3) you must have received a certificate from the Department of Taxation by February 1, 2007. If you do not have those, you do not qualify to be grandfathered.

Having answered that, if you are grandfathered, the DSA is protected on both sales tax exemptions and ad-velorum abatements. With regard to ad-velorum, it also adds the reduction of the land; that is all for individuals who are grandfathered. If they decide to develop properties past those dates, they come under the new rules. The new rules are no sales tax exemptions. And, the new rules have graduated exemptions for ad-velorum abatements for a specific period.

To the legal question, why can you do it that way and not go back to the original? I guess the legal opinion presented here on May 22, 2007, I believe was the date that was provided by Legal Counsel. It is simple. On further review of six to eight days, our Legal Counsel said to us, "I am more comfortable defending a bright-line test rather than eliminating everyone."

That is our Counsel; that is who we have to listen to; that is who I have listened to. That is why the bill is drafted in that manner.

SENATOR CARE:

I do not have a question, but, rather a statement. Yesterday, I offered an amendment that would have, had it been adopted, muted the issue of who is in and who is out. I lost the motion, but what to do now? Like everyone else here just a few days before the end of Session, I have participated in a panel discussion of what do you think the issues will be this next coming legislative session? I never heard anyone on the panel suggest anything doing with, what I am just going to call, green energy, abatements, whatever. But, here we have it. It is with some reluctance that I will support this bill because the alternative is A.B. 3 of the Twenty-second Special Session, and the Majority Leader pointed out yesterday the ramifications of that.

I think it is a fair question that if we did not fully comprehend or appreciate the impact of A.B. 3 of the Twenty-second Special Session, how do we know that we fully appreciate or comprehend the impacts of this bill? I do not know that we do. I am not criticizing anybody when I say that because I know this has been quite a task for the Commerce and Labor Committee and, in particular, the Chair of the Committee and their counterparts in the Assembly.

SENATOR SCHNEIDER:

The 50 percent for not more than 10 years in A.B. 3 of the Twenty-second Special Session applied to chapter 361 abatement, which is, as I recall, the real-property tax. I think that just helped the Chair to qualify that.

Also, I wanted to ask about the six or eight people grandfathered here. This morning, I believe everyone got a request from the Wynn property. Is the Wynn property grandfathered? Did they have all their bids out in 2005, and now that they have started construction in 2006, is that another one that we add here? I think the message said that they were already pouring the 28th floor of their new high-rise. They were trying to seek the silver standard which I believe is what the message said.

SENATOR TOWNSEND:

In an analysis done by our Legal Counsel in consultation with our Fiscal Division and the Department of Taxation, according to the three standards which create the bright-line test, they do not qualify on the basis of, I believe it is the third thing, in which you have to receive something from the Department of Taxation by February 1, 2007.

Roll call on Assembly Bill No. 621:

YEAS—20.

NAYS—Carlton.

Assembly Bill No. 621 having received a two-thirds majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

UNFINISHED BUSINESS
CONSIDERATION OF ASSEMBLY AMENDMENTS

Senate Bill No. 498.

The following Assembly amendment was read:

Amendment No. 854.

"SUMMARY—Revises the authority of ~~the Virgin Valley Water District~~ certain water and improvement districts to borrow money and incur indebtedness. (BDR ~~[S 964]~~ 25-964)

"AN ACT relating to ~~water~~ special districts; revising the authority of certain local improvement districts to borrow money and incur indebtedness; revising the authority of the Virgin Valley Water District to borrow money and incur indebtedness; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Pursuant to the Nevada Improvement District Act (Chapter 309 of NRS), local improvement districts organized under the provisions of that Act on or before May 1, 1967, may incur general obligation indebtedness for the acquisition, construction, installation or completion of works or other improvements or facilities. (NRS 309.331-309.339) Sections 1-6 of this bill allow the board of such a district, in issuing general obligation bonds or other general obligation securities, to opt to carry out such activities pursuant to NRS 350.020 to 350.070, inclusive, instead of pursuant to the applicable provisions of chapter 309 of NRS.

Existing law provides that, in the event of a conflict between the provisions of NRS 309.332 to 309.339, inclusive, and the provisions of the Local Government Securities Law (NRS 350.500-350.720), the provisions of NRS 309.332 to 309.339, inclusive, control. (NRS 309.337) Section 7 of this bill provides instead that, in the event of such a conflict, the provisions of the Local Government Securities Law control.

Under existing law, the Virgin Valley Water District is authorized to incur indebtedness, issue bonds and provide for medium-term obligations to carry out its powers. (Chapter 100, Statutes of Nevada 1993, p. 160, as last amended by chapter 203, Statutes of Nevada 1997, p. 560) ~~[[This bill expands and clarifies]]~~ Sections 8 and 9 of this bill expand and clarify that authority to allow the District to borrow money and incur indebtedness in any manner permitted by law for such a district and, subject to monitoring and oversight by the Clark County Debt Management Commission, to issue and retire bonds, warrants, notes and other securities in the same manner as a municipality. This bill also clarifies the authority of the District to provide for medium-term obligations and installment-purchase agreements in accordance with current statutes.

Under existing law, the Virgin Valley Water District is required to hold an election before incurring any general obligations. ~~[[This bill specifies]]~~ Sections 8 and 9 of this bill specify various types of securities which may be issued by the District without an election, including a general obligation only

if the payment of that obligation is additionally secured by a pledge of and lien on the revenues of the District.

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

Section 1. Chapter 309 of NRS is hereby amended by adding thereto a new section to read as follows:

1. If the board of a district organized pursuant to the provisions of this chapter proposes to issue general obligation bonds or other general obligation securities that are payable from general ad valorem taxes, the board may do so, at its option, pursuant to:

(a) NRS 309.332 to 309.339, inclusive; or

(b) NRS 350.020 to 350.070, inclusive.

2. If the board of a district organized pursuant to the provisions of this chapter elects to exercise the option described in paragraph (b) of subsection 1:

(a) The general obligation bonds or other general obligation securities must be secured additionally by a pledge of and lien on net revenues;

(b) The general obligation bonds or other general obligation securities must be issued in compliance with NRS 350.020 to 350.070, inclusive; and

(c) The provisions of NRS 309.333 to 309.336, inclusive, do not apply to the issuance or authorization of those general obligation bonds or other general obligation securities.

Sec. 2. NRS 309.331 is hereby amended to read as follows:

309.331 *1.* Any district heretofore or hereafter organized pursuant to the provisions of this chapter ~~shall have~~ *has* the power to borrow money either as a general obligation of the district or as a special obligation of the district, to evidence the same and to apply the proceeds thereof as hereinafter provided in NRS 309.332 to 309.339, inclusive. NRS 309.332 to 309.339, inclusive, without reference to other parts of this chapter, ~~is~~ *is* except as otherwise expressly provided in NRS 309.332 to 309.339, inclusive, ~~it~~ *it* ~~shall~~ constitute full authority for the exercise of the powers therein granted and shall be deemed to constitute a mode of financing and making improvements additional to and separate from all other methods and procedures. Without limiting the generality of the foregoing, such financing ~~shall~~ *must* take place without adherence to the following provisions: NRS 309.050 to 309.110, inclusive, ~~and~~ subsection 3 of NRS 309.130, ~~and~~ and NRS 309.170 to 309.330, inclusive.

2. The provisions of this section do not prohibit the board of a district organized pursuant to the provisions of this chapter from exercising the option to issue general obligation bonds or other general obligation securities in accordance with NRS 350.020 to 350.070, inclusive, as described in section 1 of this act.

Sec. 3. NRS 309.333 is hereby amended to read as follows:

309.333 *Except as otherwise provided in section 1 of this act:*

1. Whenever any board determines, by resolution, that the interest of the district and the public interest or necessity demand the acquisition, construction, installation or completion of any works or other improvements or facilities, to carry out the objects or purposes hereof, requiring the creation of a general obligation indebtedness of \$5,000 or more, the board shall submit the proposition of issuing general obligation bonds to the electors of the district at an election held for that purpose or at the next district election or primary state election.

2. As used in this section, "elector" means any person entitled to vote as described in NRS 309.110 and includes a person who is obligated to pay general taxes under a contract to purchase real property within the district. Registration pursuant to the general election ~~(statutes or any other statutes)~~ statutes is not required. Residence in the county is not required. The election officials may in their discretion require the execution of voter affidavits in determining qualifications to vote at such bond elections.

3. Any such election may be held separately, or may be consolidated or held concurrently with any other election authorized by this chapter.

4. There must be no absentee voting at any such election.

5. The resolution required by subsection 1 must include:

(a) A declaration of public interest or necessity;

(b) The objects and purposes for which the indebtedness is proposed to be incurred;

(c) The estimated cost of the works or improvements, including interest on the general obligation bonds for a period not exceeding 12 months after their date and including the total of all estimated expenses incidental to their issuance;

(d) The amount of principal of the indebtedness to be incurred therefor;

(e) The maximum rate of interest to be paid on the indebtedness; and

(f) The date of the special election or the next district election or primary state election at which the proposition of issuing general obligation bonds will be submitted to the electors of the district.

Sec. 4. NRS 309.334 is hereby amended to read as follows:

309.334 ~~The~~ Except as otherwise provided in section 1 of this act, the board shall prescribe the form of the notice of election, and direct the publication of the same for 3 weeks, the first of the three publications of ~~the notice to~~ which must be not less than 20 days ~~prior to~~ before the election.

Sec. 5. NRS 309.335 is hereby amended to read as follows:

309.335 ~~At~~ Except as otherwise provided in section 1 of this act, at any regular or special meeting of the board held within 5 days following the date of such election, the returns thereof ~~shall~~ must be canvassed and the results thereof declared.

Sec. 6. NRS 309.336 is hereby amended to read as follows:

309.336 Except as otherwise provided in section 1 of this act:

1. If it appears from the returns that a majority of the electors of the district who have voted on any proposition submitted pursuant to the

provisions of NRS 309.332 to 309.339, inclusive, at the election voted in favor of the proposition, the district may issue and sell general obligation bonds of the district for the purpose or purposes and object or objects provided for in the proposition submitted and in the resolution therefor, and in the amount so provided and at a rate of interest not exceeding the rate of interest recited in the resolution.

2. Submission of the proposition of incurring the general obligation indebtedness at a special election, district election or primary state election does not prohibit the submission of the same proposition or other propositions at a subsequent special election, district election or primary state election.

Sec. 7. NRS 309.337 is hereby amended to read as follows:

309.337 The provisions of the Local Government Securities Law apply to any securities authorized to be issued under NRS 309.332 to 309.339, inclusive, ~~but~~ *and* in the event of conflict ~~the provisions of NRS 309.332 to 309.339, inclusive,~~ *the Local Government Securities Law* control.

~~Section 1.~~ *Sec. 8. The Virgin Valley Water District Act, being chapter 100, Statutes of Nevada 1993, at page 159, is hereby amended by adding thereto a new section to be designated as section 10.5, immediately following section 10, to read as follows:*

Sec. 10.5. 1. The District may, subject to the provisions of NRS 350.011 to 350.0165, inclusive:

(a) Issue and retire bonds, warrants, notes and other securities, as if the District was a municipality, in accordance with and by the exercise of the powers conferred by:

- (1) Chapter 271 of NRS;*
- (2) NRS 350.020 to 350.070, inclusive;*
- (3) NRS 350.350 to 350.490, inclusive;*
- (4) NRS 350.500 to 350.720, inclusive; and*
- (5) Any other applicable law;*

(b) Provide for medium-term obligations and installment-purchase agreements in accordance with and by the exercise of the powers conferred by NRS 350.087 to 350.095, inclusive; and

(c) Conduct any transaction described in NRS 350.800, as if the District was a municipality, in accordance with and by the exercise of the powers conferred by that section,

to pay, in whole or in part, the costs of acquiring, constructing and operating any lands, easements, water rights, water, waterworks or projects, conduits, pipelines, wells, reservoirs, structures, machinery and other property or equipment useful or necessary to store, convey, supply or otherwise deal with water, and otherwise to carry out the powers set forth in section 3 of this act.

2. For the purposes of:

(a) NRS 350.011 to 350.0165, inclusive, the District shall be deemed to be a municipality within the meaning of those provisions.

(b) NRS 350.572, sections 1 to 15, inclusive, of this act do not expressly or impliedly require an election before the issuance of a security or indebtedness pursuant to NRS 350.500 to 350.720, inclusive, if the obligation is:

(1) Payable solely from pledged revenues;

(2) A general obligation payable from general ad valorem taxes, the payment of which obligation is additionally secured by a pledge of and lien on designated revenues;

(3) A medium-term obligation; or

(4) Any combination of the obligations described in subparagraphs (1), (2) and (3),

↳ but an election must be held before incurring a general obligation payable solely from general ad valorem taxes.

~~Sec. 2]~~ Sec. 9. Section 3 of the Virgin Valley Water District Act, being chapter 100, Statutes of Nevada 1993, as last amended by chapter 203, Statutes of Nevada 1997, at page 560, is hereby amended to read as follows:

Sec. 3. The District has the following powers:

1. To have perpetual succession.

2. To sue and be sued in the name of the District in all courts or tribunals of competent jurisdiction.

3. To adopt a seal and alter it at the District's pleasure.

4. To enter into contracts, and employ and fix the compensation of staff and professional advisers.

5. To *borrow money and incur indebtedness* ~~pursuant to chapter 271 of NRS, issue bonds pursuant to chapter 350 of NRS and provide for medium term obligations pursuant to chapter 350 of NRS to pay, in whole or in part, the costs of acquiring, constructing and operating any lands, easements, water rights, water, waterworks or projects, conduits, pipelines, wells, reservoirs, structures, machinery and other property or equipment useful or necessary to store, convey, supply or otherwise deal with water, and otherwise to carry out the powers set forth in this section. For the purposes of NRS 350.572, sections 1 to 15, inclusive, of this act do not expressly or impliedly require an election before the issuance of a security or indebtedness pursuant to NRS 350.500 to 350.572, inclusive, if the obligation is payable solely from pledged revenues, but an election must be held before incurring a general obligation.]~~ *to the extent permitted by law.*

6. To acquire, by purchase, grant, gift, devise, lease, construction, contract or otherwise, lands, rights-of-way, easements, privileges, water and water rights, and property of every kind, whether real or personal, to construct, maintain and operate, within or without the District, any and all works and improvements necessary or proper to carry out any of the objects or purposes of

sections 1 to 15, inclusive, of this act, and to complete, extend, add to, repair or otherwise improve any works, improvements or property acquired by it as authorized by sections 1 to 15, inclusive, of this act.

7. To sell, lease, encumber, hypothecate or otherwise dispose of property, whether real or personal, including water and water rights, as is necessary or convenient to the full exercise of the district's powers.

8. To adopt ordinances, rules, regulations and bylaws necessary for the exercise of the powers and conduct of the affairs of the Board and District.

9. Except as otherwise provided in this subsection, to exercise the power of eminent domain in the manner prescribed by law, within or without the service area of the District, to take any property, including, without limitation, the property specified in subsections 6 and 15, necessary or convenient for the exercise of the powers of the District or for the provision of adequate water service to the service area. The District shall not exercise the power of eminent domain to acquire the water rights or waterworks facilities of any nonprofit purveyor delivering water for domestic use whose service area is adjacent to the district without first obtaining the consent of the purveyor.

10. To enter upon any land, to make surveys and locate any necessary improvements, including, without limitation, lines for channels, conduits, canals, pipelines, roadways and other rights-of-way, to acquire property necessary or convenient for the construction, use, supply, maintenance, repair and improvement of such improvements, including works constructed and being constructed by private owners, lands for reservoirs for the storage of necessary water, and all necessary appurtenances, and, where necessary and for the purposes and uses set forth in this section, to acquire and hold the stock of corporations, domestic or foreign, owning water or water rights, canals, waterworks, franchises, concessions or other rights.

11. To enter into and do any acts necessary or proper for the performance of any agreement with the United States, or any state, county or district of any kind, public or private corporation, association, firm or natural person, or any number of them, for the joint acquisition, construction, leasing, ownership, disposition, use, management, maintenance, repair or operation of any rights, works or other property of a kind which may be lawfully acquired or owned by the District.

12. To acquire the right to store water in any reservoirs, or to carry water through any canal, ditch or conduit not owned or controlled by the District, and to grant to any owner or lessee the

right to the use of any water or right to store such water in any reservoir of the District, or to carry such water through any tunnel, canal, ditch or conduit of the District.

13. To enter into and do any acts necessary or proper for the performance of any agreement with any district of any kind, public or private corporation, association, firm or natural person, or any number of them, for the transfer or delivery to any district, corporation, association, firm or natural person of any water right or water pumped, stored, appropriated or otherwise acquired or secured for the use of the District, or for the purpose of exchanging the water or water right for any other water, water right or water supply to be delivered to the district by the other party to the agreement.

14. To cooperate and act in conjunction with the State of Nevada or any of its engineers, officers, boards, commissions, departments or agencies, with the government of the United States or any of its engineers, officers, boards, commissions, departments or agencies, or with any public or private corporation, to construct any work for the development, importation or distribution of water of the District, for the protection of life or property therein, or for the conservation of its water for beneficial use within the district, or to carry out any other works, acts or purposes provided for in sections 1 to 15, inclusive, of this act, and to adopt and carry out any definite plan or system of work for any of the purposes described in sections 1 to 15, inclusive, of this act.

15. To store water in surface or underground reservoirs within or without the District for the common benefit of the District, to conserve and reclaim water for present and future use within the District, to appropriate and acquire water and water rights and import water into the District for any useful purpose to the District, and to commence, maintain, intervene in and compromise in the name of the District, or otherwise, and assume the costs and expenses of any action or proceeding involving or affecting:

(a) The ownership or use of water or water rights within or without the District used or useful for any purpose of the District or of common benefit to any land situated therein;

(b) The wasteful use of water within the District;

(c) The interference with or diminution of water or water rights within the District;

(d) The contamination or pollution of the surface or subsurface water used in the District or any other act that otherwise renders such water unfit for beneficial use; and

(e) The interference with this water that may endanger or damage the residents, lands or use of water in the District.

16. To sell and distribute water under the control of the District, without preference, to any natural person, firm, corporation, association, district, agency or inhabitant, public or private, for use within the service area, to fix, establish and adjust rates, classes of rates, terms and conditions for the sale and use of such water, and to sell water for use outside the service area upon a finding by the board that there is a surplus of water above that amount required to serve customers within the service area.

17. To cause taxes to be levied and collected for the purposes prescribed in sections 1 to 15, inclusive, of this act, including the payment of any obligation of the District during its organizational state and thereafter, and necessary engineering costs, and to assist in the operational expenses of the District, until such taxes are no longer required.

18. To supplement the surface and groundwater resources of Virgin Valley by the importation and use of water from other sources for industrial, irrigation, municipal and domestic uses.

19. To restrict the use of district water during any emergency caused by drought or other threatened or existing water shortage, and to prohibit the waste of district water at any time through the adoption of ordinances, rules or regulations and the imposition of fines for violations of those ordinances, rules and regulations.

20. To annex area into the District in the manner prescribed for cities in chapter 268 of NRS.

21. To supply water under contract or agreement, or in any other manner, to the United States or any department or agency thereof, the State of Nevada, Clark County, Nevada, and any city, town, corporation, association, partnership or natural person situated in Clark County, Nevada, and to deliver water to those users in Mohave County, Arizona, who are located in the Virgin Valley in accordance with the provisions of NRS 533.515 and 533.520, for an appropriate charge, consideration or exchange made therefor, when such supply is available or can be developed as an incident of or in connection with the primary functions and operations of the District.

22. To create assessment districts to extend mains, improve distribution systems and acquire presently operating private water companies and mutual water distribution systems.

23. To accept from the Government of the United States or any of its agencies financial assistance or participation in the form of grants-in-aid or any other form in connection with any of the functions of the District.

24. To assume the obligations of the Bunkerville Water User's Association, a nonprofit corporation, in providing water service to users in the District's service area.

25. To assume the obligations of the Mesquite Farmstead Water Association, a nonprofit corporation, in providing water service to users in the District's service area and in its certificated service area in Mohave County, Arizona, pursuant to the certificate of public convenience and necessity granted to the Mesquite Farmstead Water Association by the State of Arizona.

26. To conduct business in Mohave County, Arizona, upon qualifying to do so pursuant to the laws of that state.

27. To do all acts and things reasonably implied from and necessary for the full exercise of all powers of the district granted by sections 1 to 15, inclusive, of this act.

~~Sec. 3.~~ *Sec. 10.* This act becomes effective on July 1, 2007.

Senator Hardy moved that the Senate concur in the Assembly amendment to Senate Bill No. 498.

Remarks by Senator Hardy.

Motion carried by a constitutional majority.

Bill ordered enrolled.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Amodei moved that Senate Bill No. 542 be taken from Unfinished Business and placed on Unfinished Business on the next legislative day.

Remarks by Senator Amodei.

Motion carried.

REPORTS OF CONFERENCE COMMITTEES

Mr. President:

The first Conference Committee concerning Senate Bill No. 352, consisting of the undersigned members, has met and reports that:

It has agreed to recommend that the Amendment Nos. 676 and 750 of the Assembly be concurred in.

It has agreed to recommend that the bill be further amended as set forth in Conference Amendment No. 5, which is attached to and hereby made a part of this report.

Conference Amendment.

"SUMMARY—Makes various changes relating to the Southern Nevada Enterprise Community. (BDR S-1315)"

"AN ACT relating to economic development; requiring the Southern Nevada Enterprise Community Advisory Board to develop a project to make certain improvements to infrastructure in and near the Community; extending the temporary tax incentive for locating or expanding businesses that are or will become grocery stores within the Community; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

This bill enacts the Southern Nevada Enterprise Community Infrastructure Improvement Act and requires the Southern Nevada Enterprise Community Advisory Board to develop a project to make certain improvements to infrastructure in and near the Southern Nevada Enterprise Community. This bill also extends the temporary tax incentive for locating or expanding businesses that are or will become grocery stores within the Southern Nevada Enterprise Community. (Chapter 198, Statutes of Nevada 2005, p. 639)

WHEREAS, On December 21, 1994, President William Jefferson Clinton designated nine census tracts in the urban core of the Las Vegas Valley as an "enterprise community"; and

WHEREAS, The designation was accompanied by an award of \$2,950,000 in Title XX funds to be used for projects in the enterprise community; and

WHEREAS, The Southern Nevada Enterprise Community so created includes the target areas of West Las Vegas, East Las Vegas, Meadows Village and North Las Vegas; and

WHEREAS, The Southern Nevada Enterprise Community involves a partnership among the cities of Las Vegas and North Las Vegas, and Clark County, working together to harness resources from the public, private and nonprofit sectors to provide programs, services and facilities to the target areas; and

WHEREAS, The empowerment of persons and neighborhoods within the Southern Nevada Enterprise Community includes "weed and seed" strategies to "weed" out violence, gangs, drug trafficking and drug-related crime, and to "seed" neighborhoods with social services and economic revitalization; and

WHEREAS, Efforts to revitalize neighborhoods economically, to be successful, require a certain minimum level of "infrastructure" in the form of the basic facilities, services and installations needed for the proper functioning of a community; now, therefore,

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

Section 1. This act may be cited as the Southern Nevada Enterprise Community Infrastructure Improvement Act.

Sec. 2. As used in sections 1 to 14, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 3 to 7, inclusive, of this act have the meanings ascribed to them in those sections.

Sec. 3. "Advisory Board" means the Southern Nevada Enterprise Community Advisory Board created pursuant to section 8 of this act.

Sec. 4. (Deleted by amendment.)

Sec. 5. "Community" means the Southern Nevada Enterprise Community, nine census tracts designated by President William Jefferson Clinton on December 21, 1994.

Sec. 6. "Infrastructure" means publicly owned or publicly supported facilities that are necessary or desirable to support intense habitation within a region, including, without limitation, parks, roads, schools, libraries, community centers, police and fire protection, sanitary sewers, facilities for mass transit and facilities for the conveyance of water and the treatment of wastewater.

Sec. 7. "Project" means the Southern Nevada Enterprise Community Improvement Project developed pursuant to section 11 of this act.

Sec. 8. 1. The Southern Nevada Enterprise Community Advisory Board is hereby created.

2. The Advisory Board consists of nine members, appointed in consultation with residents of the Community, as follows:

(a) One member of the Nevada Congressional Delegation selected from among its membership or his designee;

(b) One member of the Nevada Legislature who represents the Community; ~~(or his designee)~~

(c) One member of the Clark County Board of County Commissioners selected from among its membership or his designee;

(d) One member of the Las Vegas City Council from among its membership or his designee;

(e) One member of the North Las Vegas City Council from among its membership or his designee;

(f) Two residents of the Community, recommended and selected jointly by the Clark County Board of County Commissioners, the Las Vegas City Council and the North Las Vegas City Council;

(g) A representative of the private sector appointed by the Chamber of Commerce established in the Community; and

(h) A representative of the nonprofit charitable, educational and religious organizations in the Community, recommended and selected jointly by the Clark County Board of County Commissioners, the Las Vegas City Council and the North Las Vegas City Council.

3. Each member of the Advisory Board serves for a term of 3 years. A vacancy on the Advisory Board must be filled in the same manner as the original appointment. A member may be reappointed to the Advisory Board.

4. The members of the Advisory Board shall elect a Chairman and Vice Chairman by majority vote. After the initial election, the Chairman and Vice Chairman shall hold office for a term of 1 year beginning on August 1 of each year. If a vacancy occurs in the chairmanship or vice chairmanship, the members of the Advisory Board shall elect a Chairman or Vice Chairman, as appropriate, from among its members for the remainder of the unexpired term.

5. The City of North Las Vegas shall provide administrative support for the Advisory Board.

Sec. 9. The primary purposes of the Advisory Board are to:

1. Advise the governmental entities that have members on the Advisory Board with respect to the Project; and

2. Ensure that the needs and opinions of the residents of the Community are reflected adequately by the Project.

Sec. 10. (Deleted by amendment.)

Sec. 11. 1. On or before January 31, 2008, the Advisory Board shall prepare a written plan to carry out the Project to address the needs and issues of the Community.

2. The Advisory Board shall, within 120 days after preparing the written plan:

(a) Hold at least two public hearings on the written plan, each of which must be preceded by at least 30 days' notice within the Community; and

(b) Approve or reject the written plan based on input from the Community received at the public hearings.

3. A written plan adopted by the Advisory Board must:

(a) Set forth an adequate framework for carrying out the Project;

(b) Set forth a reasonable period in which to accomplish the goals of the Project; and

(c) Incorporate each of the required elements of the Project, as set forth in section 12 of this act.

4. If the Advisory Board rejects the written plan, the Advisory Board shall:

(a) Provide to the appropriate officers of the governmental entities that have members on the Advisory Board a written explanation of its reasons for the rejection; and

(b) Prepare a revised written plan and repeat the notice and hearings required by subsection 2 before approving or rejecting the revised written plan.

Sec. 12. The Project must include, without limitation, goals, objectives and policies relating to, and feasible timeframes for achieving:

1. The construction, repair and refurbishment of streets, buildings and other facilities as necessary to attract and maintain the viability of successful businesses within the Community;

2. The incorporation within the Community of open space, facilities for recreation, facilities for medical care and other measures as necessary to ensure that the Community develops with mixed uses;

3. The eradication of brownfields, the rehabilitation of condemned properties and the removal of structures and facilities that create a disincentive for development; and

4. The identification of sources of money to carry out the Project.

Sec. 13. The Advisory Board may accept any gifts, grants or donations for the purpose of preparing, developing and carrying out the Project.

Sec. 14. On or before February 1, 2009, the Advisory Board shall submit to the Director of the Legislative Counsel Bureau for transmission to the 75th Session of the Nevada Legislature a report that summarizes the activities of the Advisory Board during the period between the effective date of this act and December 31, 2008.

Sec. 15. The provisions of NRS 354.599 do not apply to any additional expenses of a local government that are related to the provisions of this act.

Sec. 16. Section 6 of chapter 198, Statutes of Nevada 2005, at page 643, is hereby amended to read as follows:

Sec. 6. 1. A person who intends to locate a grocery store within the Southern Nevada Enterprise Community established pursuant to 24 C.F.R. Part 597 during Fiscal Year 2004-2005, ~~for~~ 2005-2006, 2006-2007, 2007-2008 or 2008-2009 may submit a request to the governing body of the county, city or town in which the grocery store would operate for endorsement of an application by the person to the Commission on Economic Development for a partial abatement of one or more of the taxes imposed pursuant to chapter 361 or 374 of NRS. The governing body

of the county, city or town shall provide notice of the request to the board of trustees of the school district in which the business would operate. The notice must set forth the date, time and location of the hearing at which the governing body will consider whether to endorse the application.

2. The governing body of a county, city or town shall develop procedures for:

(a) Evaluating whether such an abatement would be beneficial for the economic development of the county, city or town.

(b) Issuing a certificate of endorsement for an application for such an abatement that is found to be beneficial for the economic development of the county, city or town.

3. A person whose application has been endorsed by the governing body of the county, city or town, as applicable, pursuant to this section may submit the application to the Commission. The Commission shall approve the application if the Commission makes the following determinations:

(a) The applicant has executed an agreement with the Commission which states that the grocery store will, after the date on which a certificate of eligibility for the abatement is issued pursuant to subsection 4:

(1) Commence operation and continue in operation in the Southern Nevada Enterprise Community established pursuant to 24 C.F.R. Part 597 for a period specified by the Commission, which must be at least 5 years; and

(2) Continue to meet the eligibility requirements set forth in this subsection.

↪ The agreement must bind successors in interest of the grocery store for the specified period.

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

(c) The applicant invested or commits to invest a minimum of \$500,000 in capital.

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

(a) The Department of Taxation;

(b) The Nevada Tax Commission; and

(c) If the partial abatement is from the property tax imposed pursuant to chapter 361 of NRS, the county treasurer of the county in which the grocery store will be located.

5. The Commission on Economic Development may adopt such regulations as the Commission determines to be necessary or advisable to carry out the provisions of this section.

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

7. As used in this section:

(a) "Grocery store" means a business selling at retail groceries, including, without limitation, food for human consumption, articles used in the preparation of food, household supplies, dairy products, meat and produce, and having more than 10,000 square feet of floor space available to the public.

(b) "Selling at retail" has the meaning ascribed to it in NRS 372.050.

Sec. 17. Section 7 of chapter 198, Statutes of Nevada 2005, at page 644, is hereby amended to read as follows:

Sec. 7. 1. A person who intends to expand a grocery store or expand a business to become a grocery store within the Southern Nevada Enterprise Community established pursuant to 24 C.F.R. Part 597 during Fiscal Year 2004-2005, ~~for~~ 2005-2006, 2006-2007, 2007-2008 or 2008-2009 may submit a request to the governing body of the county, city or town in which the business operates for endorsement of an application by the person to the Commission on Economic Development for a partial abatement of the taxes imposed on capital equipment pursuant to chapter 374 of NRS. The governing body of the county, city or town shall provide notice of the request to the board of trustees of the school district in which the business operates. The notice must set forth the date, time and location of the hearing at which the governing body will consider whether to endorse the application.

2. The governing body of a county, city or town shall develop procedures for:

(a) Evaluating whether such an abatement would be beneficial for the economic development of the county, city or town.

(b) Issuing a certificate of endorsement for an application for such an abatement that is found to be beneficial for the economic development of the county, city or town.

3. A person whose application has been endorsed by the governing body of the county, city or town, as applicable, pursuant to this section may submit the application to the Commission. The Commission shall approve the application if the Commission makes the following determinations:

(a) The applicant has executed an agreement with the Commission which states that the grocery store will, after the date on which a certificate of eligibility for the abatement is issued pursuant to subsection 4:

(1) Continue in operation in the Southern Nevada Enterprise Community established pursuant to 24 C.F.R. Part 597 for a period specified by the Commission, which must be at least 5 years; and

(2) Continue to meet the eligibility requirements set forth in this subsection.

↳ The agreement must bind successors in interest of the grocery store for the specified period.

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

(c) The applicant invested or commits to invest a minimum of \$250,000 in capital equipment.

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

(a) The Department of Taxation; and

(b) The Nevada Tax Commission.

5. The Commission on Economic Development may adopt such regulations as the Commission determines to be necessary or advisable to carry out the provisions of this section.

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

7. As used in this section:

(a) "Grocery store" means a business selling at retail groceries, including, without limitation, food for human consumption, articles used in the preparation of food, household supplies, dairy products, meat and produce, and having more than 10,000 square feet of floor space available to the public.

(b) "Selling at retail" has the meaning ascribed to it in NRS 372.050.

Sec. 18. Section 8 of chapter 198, Statutes of Nevada 2005, at page 646, is hereby amended to read as follows:

Sec. 8. During the Fiscal Years ~~{2005-2006 and}~~ 2006-2007, 2007-2008 and 2008-2009, the Commission on Economic Development shall, until the Commission has granted \$1,000,000 in partial abatements pursuant to sections 2, 3, 6 and 7 of this act, give priority to and expedite the processing of applications received by the Commission pursuant to section 6 or 7 of this act.

Sec. 19. This act becomes effective upon passage and approval.

STEVEN A. HORSFORD

RUBEN KIHUEN

WARREN B. HARDY II

HARVEY J. MUNFORD

DINA TITUS

LYNN STEWART

Senate Conference Committee

Assembly Conference Committee

Senator Horsford moved that the Senate adopt the report of the first Conference Committee concerning Senate Bill No. 352.

Remarks by Senator Horsford.

Motion carried by a constitutional majority.

SIGNING OF BILLS AND RESOLUTIONS

There being no objections, the President and Secretary signed Senate Bill No. 310; Senate Resolution No. 9; Assembly Bills Nos. 139, 212, 569, 579.

REMARKS FROM THE FLOOR

Senator Horsford requested that his remarks be entered in the Journal.

Thank you, Mr. President. I know I am not quite the sports enthusiast that my colleague from Clark 12 is as it relates to baseball, but I was watching with interest the other night the National Spelling Bee Competition. To see the many bright minds of young people struggle to spell out words they have learned may not seem like a sport to some, but it is an accomplishment, and one that I am sure many children would aspire to if they had the chance.

The reason I am bringing this up is that we voted for the Distributive School Account Bill a few minutes ago, and while I applaud the many hours and the amount of compromise that went into the final decision, I could not leave without putting some comment on the record regarding the insufficient amount of funding in this bill.

In the spirit of the National Spelling Bee and learning the true meaning of a few words, I wanted to share with this body the following definitions:

Equitable—Fair, applicable under the law, reasonable.

Adequate—Enough, sufficient in quality or quantity to meet a need, barely enough.

Sufficient—Acceptable, adequate, "all right," unexceptional, tolerable.

For some reason, when our Governor was advocating for the passage of the Education First Initiative, he used a word that is not in the original version of the Nevada Constitution and which changes the standard for how funds should be allocated by this Legislature to schools throughout the state. The word was sufficient.

What is interesting is that an editorial from the *Las Vegas Review Journal*, which is not a publication I quote from often, it explained that the Education First Initiative was the brainchild of then-Republican U.S. Congressman Jim Gibbons. The editorial went on to say the initiative is worthwhile on its merits since public education is the only program not run out of Carson City that the Legislature is obliged by the Constitution to finance. They said this ballot measure would force state lawmakers to set spending priorities, and that future legislatures could not repeat the shenanigans of the 2003 Session.

Well, Education First has failed to make education a priority. The gamesmanship has been repeated, and pork barrel spending has occurred.

While there is much to be proud of this Session related to education, there is more that could have been done. There is funding to assist students who are English deficient, a topic we have talked a lot about this Session. There is more money for career and technical education that could have happened. We could have given teachers a larger raise, and we could have expanded full-day kindergarten even further.

But, instead, we have settled for sufficiently funding education. Based on a new report from the *Congressional Quarterly*, as my colleague from Clark 11 has cited, Nevada is 50th.

So, Nevada education funding is sufficient, and we are 50th in the Nation.

GUESTS EXTENDED PRIVILEGE OF SENATE FLOOR

On request of Senator Amodei, the privilege of the floor of the Senate Chamber for this day was extended to Joel D. Wortman, Sarah E. Langley and the following students and teacher from the 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 Pruett, Jessica Riley, Josue Pineda, Thomas Chill, Luis Madrid, Chris Roman, Valerie White and teacher: Austin Osborne.

On request of Senator Heck, the privilege of the floor of the Senate Chamber for this day was extended to the following students and chaperones

from the 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, Lily Bernaur, Elizabeth Schulenburg, Kaitlyn Lombardo, Sydnee Morency, Sam Cox, Daniel Siciliano, Jarrett Alipio, 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, 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, Owen Hurley, Caden Marshall, Nick Moneo, Monet Salazar, Lexi Lyman, Madison Zobrist, 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; chaperones: Tim Mikita, Robert Gower, Steven Anderson, Jolene Jones, Rebecca Campbell, Jayne Krashin, Mike Smith, Jeanette Smith, Cami Bech, Susan Stemmerik, Staci Bernaur, Diane Manzano, Matthew Cox, Rich Morency, Keith Lombardo, Jana Stewart, Julie Curi, Giselle Moreno, Dora Frixione, Pablo Villanueva, Chuck Iwertz, Juan Boeckh, Maurice Montiero, Julie Jensen, Michelle Dunn, Sherry Christensen, Chip Christensen, Laura Mulholland, Cecilia Andrade, Leo Gamboa, Bobby Martinez, Kenny Kelly, Peggy Kelly, Mighael Angelo, Helen Welte, Mrs. Hunt, Sarah Mainor, Peter Hurley, SarahJane Salazar, Stacy Mahan, Richard Elwell, Shad Saromines, Bill Wood, Patti Jo Iwata, Jannette Sookiassian, Michael Siwec, Richard Bennett, Kerry Bennett and Bryan Sisson.

On request of Senator Rhoads, the privilege of the floor of the Senate Chamber for this day was extended to former Senator Sue Lowden.

Senator Raggio moved that the Senate adjourn until Saturday, June 2, 2007, at 11 a.m.

Motion carried.

Senate adjourned at 6:15 p.m.

Approved:

BRIAN K. KROLICKI
President of the Senate

Attest: CLAIRE J. CLIFT
Secretary of the Senate