

ONE HUNDRED AND EIGHTEENTH DAY

CARSON CITY (Saturday), June 2, 2007

Senate called to order at 11:59 a.m.

President Krolicki presiding.

Roll called.

All present.

Prayer by Senator Cegavske.

DO IT ANYWAY

by Mother Teresa

People are often unreasonable, illogical and self-centered;

Forgive them anyway.

If you are kind, people may accuse you of selfish, ulterior motives;

Be kind anyway.

If you are successful, you will win some false friends and some true enemies;

Succeed anyway.

If you are honest and frank, people may cheat you;

Be honest and frank anyway.

What you spend years building, someone could destroy overnight;

Build anyway.

If you find serenity and happiness, they may be jealous;

Be happy anyway.

The good you do today, people will often forget tomorrow;

Do good anyway.

Give the world the best you have, and it may never be enough;

Give the world the best you've got anyway.

You see, in the final analysis, it is between you and God;

It was never between you and them anyway.

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 were referred Assembly Bills Nos. 275, 551, 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 was referred Senate Bill No. 562, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

Also, your Committee on Finance, to which was rereferred Senate Bill No. 185, 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 Taxation, to which was referred Assembly Bill No. 595, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

MIKE MCGINNESS, *Chair*

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, as amended, Assembly Bills Nos. 158, 232.

Also, I have the honor to inform your honorable body that the Assembly on this day concurred in the Senate Amendment No. 1064 to Assembly Bill No. 440.

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. 869 to Assembly Bill No. 319.

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. 266, Assembly Amendment No. 862, and requests a conference, and appointed Assemblymen Gerhardt, Womack 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 McClain, Home and Weber as a first Conference Committee concerning Assembly Bill No. 585.

LUCINDA BENJAMIN

Assistant Chief Clerk of the Assembly

MOTIONS, RESOLUTIONS AND NOTICES

Senator Raggio moved that for the remainder of the legislative Session, all bills and resolutions that have been passed or adopted be immediately transmitted to the Assembly, time permitting.

Remarks by Senator Raggio.

Motion carried.

Senator Townsend moved that Assembly Bill No. 161 be taken from the Secretary's desk and placed on the General File on the third agenda.

Remarks by Senator Townsend.

Motion carried.

Senator Nolan moved that Assembly Bill No. 619 be taken from the General File and placed on the General File on the third agenda.

Remarks by Senator Nolan.

Motion carried.

Senator McGinness moved that Assembly Bill No. 595 be taken from the General File and placed on the General File on the third agenda.

Remarks by Senator McGinness.

Motion carried.

INTRODUCTION, FIRST READING AND REFERENCE

Assembly Bill No. 158.

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

Motion carried.

Assembly Bill No. 232.

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

Motion carried.

GENERAL FILE AND THIRD READING

Senate Bill No. 380.

Bill read third time.

The following amendment was proposed by the Committee on Finance:

Amendment No. 1042.

"SUMMARY—Makes various changes concerning *certain* defendants ~~in criminal actions;~~ *who are found to be incompetent.* (BDR 14-279)"

"AN ACT relating to criminal procedure; ~~authorizing a plea and verdict of guilty but mentally ill under certain circumstances; establishing the requirements for determining whether a person is insane for purposes of the plea of not guilty by reason of insanity and for the insanity defense; revising provisions governing the commitment to and the discharge or conditional release from the custody of the Administrator of the Division of Mental Health and Developmental Services of the Department of Health and Human Services of a criminal defendant following an acquittal based on the insanity defense; revising provisions governing~~ *establishing procedures for* the commitment to and conditional release from the custody of the Administrator *of the Division of Mental Health and Developmental Services of the Department of Health and Human Services* of certain ~~other~~ criminal defendants ~~who~~ *whom* the court finds to be incompetent; *making an appropriation;* and providing other matters properly relating thereto."

Legislative Counsel's Digest:

~~In 1995, the Legislature enacted Senate Bill No. 314 which abolished the insanity defense in criminal cases and instead authorized the plea of guilty but mentally ill. In 2001, the Nevada Supreme Court interpreted the provisions of Senate Bill No. 314 and ruled that the federal and state constitutions require the State to provide to criminal defendants the option of raising the insanity defense for crimes that require an element of intent. Based on this reasoning and because the Court did not believe the Legislature would wish to preserve the plea of guilty but mentally ill under these circumstances, the Court struck Senate Bill No. 314 in its entirety and reinstated the insanity defense as it existed before Senate Bill No. 314. (Finger v. State, 117 Nev. 548, 575 (2001)) In response to Finger, the Legislature enacted legislation in 2003, Assembly Bill No. 156, which statutorily abolished the plea of guilty but mentally ill and reinstated the insanity defense.~~

~~Section 4 of this bill reinstates the plea of guilty but mentally ill as an additional plea. Section 4 also provides that a defendant who pleads guilty but mentally ill bears the burden of establishing his mental illness by a preponderance of the evidence and that generally such a defendant is subject~~

~~to the same penalties and procedures as a defendant who pleads guilty. (NRS 174.035)~~

~~Section 10 of this bill authorizes the verdict of guilty but mentally ill under certain circumstances. Specifically, section 10 authorizes a judge or jury to find a defendant guilty but mentally ill if the defendant entered a plea of not guilty by reason of insanity and the judge or jury finds that the defendant: (1) is guilty of the offense; (2) has proven that he was mentally ill at the time the offense was committed; and (3) has not established that he was insane for the purposes of the defense of insanity. Generally, a defendant who is found guilty but mentally ill is subject to the same penalties and procedures as a defendant who is found guilty.~~

~~Section 18 of this bill provides the types of sentences a court may impose upon a defendant who pleads or is found guilty but mentally ill. Regardless of whether a defendant is mentally ill at the time of sentencing, the court is required to impose any sentence available to the court for a defendant who pleads or is found guilty of the same offense. However, if the defendant is mentally ill at the time of sentencing, the court is also required, under certain circumstances, to direct the Department of Corrections to provide to the defendant such treatment as is available for his mental illness during his confinement or probation. This bill contains many of the same provisions that were included in Senate Bill No. 314 of the 1995 Legislative Session, as well as many new sections that were included to provide for the plea and verdict of guilty but mentally ill.~~

~~Sections 15 and 31 37.5 of this bill establish the procedures governing the discharge or conditional release from custody of a person who is committed to the custody of the Administrator of the Division of Mental Health and Developmental Services of the Department of Health and Human Services following an acquittal by reason of insanity. Section 15 amends the provisions governing the insanity defense to provide that a defendant who is acquitted by reason of insanity must be committed to the custody of the Division until he is eligible for discharge or conditional release. Section 34 provides that such a person is eligible for discharge or conditional release from custody if he establishes by a preponderance of the evidence that he would not be a danger, as a result of any mental disorder, to himself or others. Section 35 provides the procedure for the initial hearing to determine whether a person is eligible for discharge or conditional release. Section 36 provides that the court must enter an order within 15 days after the conclusion of such a hearing. Section 37 provides that if a person is not discharged or conditionally released from the custody of the Administrator following his initial hearing, the person may petition annually for a discharge or conditional release. Section 37 further provides that the Division may petition for a discharge or conditional release at any time if the petition is accompanied by the affidavit of a physician or licensed psychologist which states that the person's mental condition has improved since the most recent hearing concerning the discharge or conditional release of the person.~~

~~Under existing case law in Nevada, a defendant in a criminal case who asserts the insanity defense must prove his insanity at the time of the alleged crime by proving: (1) that he was in a delusional state due to a disease or defect of the mind; and (2) that he did not understand the nature or capacity of his act or appreciate that his act was wrong, meaning that the act is not authorized by law. (Finger, 117 Nev. at 576) This standard for establishing insanity is commonly referred to as the "M'Naghten Rule." The Nevada Supreme Court has recognized that the Legislature may determine that legal insanity be proven by the defendant by any one of the established standards, including the M'Naghten Rule. (Finger, 117 Nev. at 575) Section 4 of this bill codifies the M'Naghten Rule, as stated above, as the standard for establishing insanity for purposes of the insanity defense. (NRS 174.035)~~

~~Sections 38-45 of this bill establish the procedures for commitment to and conditional release from the custody of the Administrator of a defendant if: (1) the court finds the defendant to be incompetent to stand trial or receive pronouncement of judgment, with no substantial probability of attaining competency in the foreseeable future; and (2) based on such a finding of incompetency, the court ordered the dismissal of the criminal proceedings brought against him.]~~

~~*Existing law provides that if a court finds that a defendant is incompetent to stand trial or to receive punishment for a crime and that there is not a substantial probability the defendant will attain competency in the foreseeable future, the court must dismiss the proceedings against the defendant. (NRS 178.425) Moreover, if the court has dismissed the proceedings against the defendant, the court must release the defendant from custody if a petition to involuntarily commit the defendant is not filed within 10 days. (NRS 178.460)*~~

~~*This bill establishes procedures for the commitment to and conditional release from the custody of the Administrator of the Division of Mental Health and Developmental Services of the Department of Health and Human Services of certain defendants. Under section 42 of this bill, if a court dismisses the proceedings against a defendant who is charged with a category A or category B felony because the court finds that the defendant is incompetent with no substantial probability of attaining competence in the foreseeable future, the prosecuting attorney may file a motion to determine whether the court should commit the person to the custody of the Administrator. If the court finds that the person has a mental disorder and is a danger to himself or others, the court must order that the person be committed to the custody of the Administrator until he is eligible for conditional release or 10 years has passed, whichever is shorter. At least once every 12 months, the court must review the person's eligibility for conditional release.*~~

~~*Section 43 of this bill provides the manner for determining eligibility for conditional release of a person committed to the custody of the Administrator pursuant to section 42. Section 43 further provides that the court must review*~~

the person's eligibility for discharge from conditional release at least once every 12 months. If, at the conclusion of this review, the court finds that the defendant no longer has a mental disorder and is not a danger to himself or others, the court is required to discharge the person from conditional release.

Section 44 of this bill requires the Division to notify the court if the defendant violates a condition of his release. After receiving such a notification, the court must consult with the defendant's attorney, the prosecuting attorney and the Division concerning the risk the defendant poses to the community and the court may order the defendant to be taken into protective custody or to jail. Within 10 days after such an order, the court must hold a hearing to determine whether the court should continue, modify or terminate the conditional release of the defendant.

Section 129.5 of this bill makes an appropriation to the Division of Mental Health and Developmental Services of the Department of Health and Human Services for the costs associated with implementing the provisions of this bill.

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

Section 1-29. (Deleted by amendment.)

Sec. 30. Chapter 178 of NRS is hereby amended by adding thereto the provisions set forth as sections 31 to 45, inclusive, of this act.

Secs. 31-37.5. (Deleted by amendment.)

Sec. 38. As used in NRS 178.399 to 178.460, inclusive, and sections 38 to 45, inclusive, of this act, unless the context otherwise requires, the words and terms defined in NRS 178.399 and sections 39, 40 and 41 of this act have the meanings ascribed to them in those sections.

Sec. 39. "Division" means the Division of Mental Health and Developmental Services of the Department of Health and Human Services.

Sec. 40. (Deleted by amendment.)

Sec. 41. "Mental disorder" means a mental illness that results from a psychiatric or neurological disorder that so substantially impairs the mental or emotional functioning of a person as to make care or treatment necessary or advisable for the welfare of the person or for the safety of the person or property of another and includes, without limitation, mental retardation and related conditions.

Sec. 42. 1. If the proceedings against a defendant who is charged with a category A or category B felony are ~~required to be~~ dismissed pursuant to subsection 5 of NRS 178.425, the prosecuting attorney may, within ~~30~~ 10 judicial days after the dismissal, file a motion with the court for a hearing to determine ~~if the court should retain jurisdiction over the defendant.~~ whether to commit the person to the custody of the Administrator of the Division pursuant to subsection 2. The court shall hold the hearing within ~~30~~ 10 judicial days after the motion is filed with the court.

2. At a hearing held pursuant to subsection 1, if the court finds by clear and convincing evidence that the ~~defendant committed the crime with which~~

~~the defendant is charged and that the defendant suffers from~~ person has a mental disorder ~~+~~ and that he is a danger to himself or others, the court must order:

(a) ~~A peace officer~~ The sheriff to take the ~~defendant~~ person into protective custody and transport him to a secure facility operated by the Division; and

(b) That the ~~defendant~~ person be committed to the custody of the Administrator of the Division and kept under observation until the person is eligible for conditional release pursuant to section 43 of this act ~~+~~ or until the maximum length of commitment described in subsection 3 has expired.

3. ~~The length of commitment of a defendant person pursuant to subsection 2 must not exceed the longest period of incarceration provided for the crime or crimes with which the defendant is charged.~~ 10 years, including any time that the person has been on conditional release pursuant to section 43 of this act.

4. At least once every 12 months, the court shall review the eligibility of the defendant for conditional release.

Sec. 43. 1. A ~~defendant~~ person who is committed to the custody of the Administrator of the Division pursuant to section 42 of this act is eligible for conditional release only after:

(a) ~~A~~ The Division has completed a comprehensive risk assessment ~~has been completed by the Division;~~ concerning the person;

(b) A decision to release the ~~defendant~~ person from commitment with conditions imposed by the court in consultation with the Division has been made based on input from the ~~defendant's~~ person's treatment team, the prosecuting attorney, the counsel for the ~~defendant~~ person and the team that will supervise the ~~defendant~~ person in the community; and

(c) The court which committed the ~~defendant~~ person has approved the conditional release.

2. ~~If the court which ordered the commitment of the defendant pursuant to section 42 of this act is located in a judicial district that has established a program pursuant to NRS 176A.250, the court shall assign the defendant to the program.~~

3. ~~Unless the defendant is assigned to a program established pursuant to NRS 176A.250, the court which ordered the commitment of the defendant pursuant to section 42 of this act shall supervise the conditional release of the defendant.~~

4. ~~If the defendant has been assigned to a program established pursuant to NRS 176A.250, the court which assigned the defendant to the program shall supervise the conditional release of the defendant, subject to the completion of the terms and conditions established by the program.~~

5. ~~The conditions imposed by the court for the release of the defendant from commitment must include intensive supervision by a forensic assertive community treatment team. The forensic assertive community treatment team shall at least once every 6 months provide a report concerning the progress~~

~~of the defendant to the court which ordered the commitment of the defendant or the court which supervises the conditional release of the defendant pursuant to subsection 4, as applicable.] If a person is serving a period of conditional release pursuant to this section, the court must, at least once every 12 months, review the eligibility of the defendant for discharge from conditional release. If, at the conclusion of the review required by this subsection, the court finds by clear and convincing evidence that the person no longer has a mental disorder and that he is not a danger to himself or others, the court must discharge the person from conditional release.~~

3. The length of the period of conditional release must not exceed 10 years, including any time that the person has been committed to the custody of the Administrator of the Division pursuant to sections 42 and 44 of this act.

~~Sec. 44. 1. The forensic assertive community treatment team required to supervise a defendant who is conditionally released from commitment pursuant to section 43 of this act] Division shall notify the court which ordered the commitment of the [defendant or the court which supervises the conditional release of the defendant pursuant to subsection 4 of section 43 of this act, as applicable.] person pursuant to section 42 of this act if the [defendant] person violates a condition of his release from commitment.~~

2. If the court is notified pursuant to subsection 1 of a violation, the court shall consult with the [forensic assertive community treatment team,] Division, the counsel for the [defendant] person and the prosecuting attorney concerning the potential risk to the community that is posed by the noncompliance of the [defendant] person with the conditions of release from commitment.

3. After consulting with the persons required by subsection 2 [and] and considering the risks to the community, the court may issue a temporary order of detention to commit the [defendant] person to [the] custody [of the Administrator of the Division for evaluation.] , pending the hearing described in subsection 4. If the court issues such an order, the court must:

(a) Order [a peace officer] the sheriff to take the [defendant into] person:

(1) Into protective custody and transport him to a forensic facility operated by the Division; or

(2) To a jail where the person must remain in protective custody; and

(b) [Order that the defendant be committed to the custody of the Administrator for evaluation; and

(c)] Provide a copy of the order to the counsel for the [defendant] person and the prosecuting attorney.

4. Within 10 days after a [defendant] person has been committed to the custody of the Administrator for evaluation pursuant to subsection 3, the court shall hold a hearing [to consider any relevant information that will enable the court] to determine whether [the] to continue, modify or terminate the conditional release of the defendant . [should be continued, modified or terminated.]

5. As used in this section, "forensic facility" has the meaning ascribed to it in NRS 175.539.

Secs. 45-46. *(Deleted by amendment.)*

Sec. 47. NRS 178.399 is hereby amended to read as follows:

178.399 ~~{As used in NRS 178.400 to 178.460, inclusive, unless the context otherwise requires, "treatment}~~ "Treatment to competency" means treatment provided to a defendant to attempt to cause him to attain competency to stand trial or receive pronouncement of judgment.

Secs. 48-52. *(Deleted by amendment.)*

Sec. 53. NRS 178.453 is hereby amended to read as follows:

178.453 1. The Administrator of the Division ~~{of Mental Health and Developmental Services of the Department of Health and Human Services}~~ or his designee may request from the Department of Corrections access to any records in its possession which contain information that may assist in evaluating and treating a defendant who previously has served a term of imprisonment under the supervision of the Department of Corrections and who is committed to the custody of or ordered to report to the Administrator or his designee pursuant to NRS 178.425 or 178.460 ~~{}~~ or section 42 or 44 of this act.

2. Unless otherwise ordered by a court, upon request of the Administrator or his designee for access to records of a defendant pursuant to subsection 1, the Department of Corrections, through the designated medical director, shall provide access to any such records, including, without limitation, relevant medical and mental health records, for the limited purpose of allowing the Administrator or his designee to evaluate and treat the defendant.

3. No oral or written consent of the defendant is required for the Administrator or his designee to obtain access to records from the Department of Corrections pursuant to this section.

4. As used in this section, "designated medical director" means the designated administrative officer of the Department of Corrections who is responsible for the medical treatment of offenders.

Sec. 54. *(Deleted by amendment.)*

Sec. 55. NRS 178.460 is hereby amended to read as follows:

178.460 1. If requested by the district attorney or counsel for the defendant within 10 days after the report by the Administrator of the Division ~~{of Mental Health and Developmental Services of the Department of Health and Human Services}~~ or his designee is sent to them, the judge shall hold a hearing within 10 days after the request at which the district attorney and the defense counsel may examine the members of the treatment team on their report.

2. If the judge orders the appointment of a licensed psychiatrist or psychologist who is not employed by the Division ~~{of Mental Health and Developmental Services of the Department of Health and Human Services}~~

to perform an additional evaluation and report concerning the defendant, the cost of the additional evaluation and report is a charge against the county.

3. Within 10 days after the hearing or 20 days after the report is sent, if no hearing is requested, the judge shall make and enter his finding of competence or incompetence, and if he finds the defendant to be incompetent:

(a) Whether there is substantial probability that the defendant can receive treatment to competency and will attain competency to stand trial or receive pronouncement of judgment in the foreseeable future; and

(b) Whether the defendant is at that time a danger to himself or to society.

4. If the judge finds the defendant:

(a) Competent, the judge shall, within 10 days, forward his finding to the prosecuting attorney and counsel for the defendant. Upon receipt thereof, the prosecuting attorney shall notify the sheriff of the county or chief of police of the city that the defendant has been found competent and prearrange with the facility for the return of the defendant to that county or city for trial upon the offense there charged or the pronouncement of judgment, as the case may be.

(b) Incompetent, but there is a substantial probability that he can receive treatment to competency and will attain competency to stand trial or receive pronouncement of judgment in the foreseeable future and finds that he is dangerous to himself or to society, the judge shall recommit the defendant and may order the involuntary administration of medication for the purpose of treatment to competency.

(c) Incompetent, but there is a substantial probability that he can receive treatment to competency and will attain competency to stand trial or receive pronouncement of judgment in the foreseeable future and finds that he is not dangerous to himself or to society, the judge shall order that the defendant remain an outpatient or be transferred to the status of an outpatient under the provisions of NRS 178.425.

(d) Incompetent, with no substantial probability of attaining competency in the foreseeable future, the judge shall order the defendant released from custody or if the defendant is an outpatient, released from his obligations as an outpatient if, within 10 *judicial* days, *the prosecuting attorney has not filed a motion pursuant to section 42 of this act or if, within 10 judicial days,* a petition is not filed to commit the person pursuant to NRS 433A.200. After the initial 10 *judicial* days, the ~~defendant~~ *person* may remain an outpatient or in custody under the provisions of this chapter only as long as the *motion or petition* is pending unless the ~~defendant~~ *person* is committed to the custody of the Administrator pursuant to section 42 ~~for 45~~ of this act or involuntarily committed pursuant to chapter 433A of NRS.

5. ~~No~~ *Except as otherwise provided in subsection 3 of section 42 of this act, no* person who is committed under the provisions of this chapter may be held in the custody of the Administrator ~~of the Division of Mental Health and Developmental Services of the Department of Health and Human Services~~ or his designee longer than the longest period of incarceration

provided for the crime or crimes with which he is charged or 10 years, whichever period is shorter. Upon expiration of the applicable period ~~+~~ provided in this section ~~for~~, subsection 3 of section 42 of this act ~~+~~ or subsection 3 of section 43 of this act, the ~~defendant~~ person must be returned to the committing court for a determination as to whether or not involuntary commitment pursuant to chapter 433A of NRS is required.

Secs. 56-129. *(Deleted by amendment.)*

Sec. 129.5. *1. There is hereby appropriated from the State General Fund to the Division of Mental Health and Developmental Services of the Department of Health and Human Services the sums of:*

For the Fiscal Year 2007-2008.....\$138,607

For the Fiscal Year 2008-2009.....\$133,747

2. Any balance of the sums appropriated by subsection 1 remaining at the end of the respective fiscal years must not be committed for expenditure after June 30 of the respective fiscal years by the entity to which the appropriation is made or any entity to which money from the appropriation is granted or otherwise transferred in any manner, and any portion of the appropriated money remaining must not be spent for any purpose after September 19, 2008, and September 18, 2009, respectively, by either the entity to which the money was appropriated or the entity to which the money was subsequently granted or transferred, and must be reverted to the State General Fund on or before September 19, 2008, and September 18, 2009, respectively.

Sec. 130. *1. ~~The amendatory provisions of sections 15 and 31 to 37.5, inclusive, of this act concerning the discharge or conditional release of a person committed to the custody of the Administrator of the Division of Mental Health and Developmental Services of the Department of Health and Human Services pursuant to NRS 175.539 apply to any such person who is in the custody of the Administrator on or after October 1, 2007.~~ This section and section 129.5 of this act become effective on July 1, 2007.*

2. The amendatory provisions of sections ~~38~~ 30 to ~~45~~ 55, inclusive, of this act ~~concerning the commitment and conditional release of a person committed to the custody of the Administrator pursuant to NRS 178.400 to 178.460, inclusive,~~ become effective on October 1, 2007, and apply to ~~any such person who is in the custody of the Administrator~~ a defendant who, on or after October 1, 2007 ~~+~~, is found incompetent with no substantial probability of attaining competency in the foreseeable future pursuant to subsection 5 of NRS 178.425.

Sec. 131. *(Deleted by amendment.)*

Senator Amodei moved the adoption of the amendment.

Remarks by Senator Amodei.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

UNFINISHED BUSINESS
CONSIDERATION OF ASSEMBLY AMENDMENTS

Senate Bill No. 404.

The following Assembly amendment was read:

Amendment No. 1082.

"SUMMARY—Revises provisions governing homeschooled children. (BDR 34-738)"

"AN ACT relating to education; revising provisions governing homeschooled children; requiring the board of trustees of each school district to post certain information concerning examinations on its Internet website and ensure that homeschooled children have notice of the website; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under existing law, compulsory attendance in public school is required of children between the ages of 7 and 17 years. (NRS 392.040) Compulsory attendance is excused if satisfactory written evidence is presented to the board of trustees of the school district in which the child resides that the child is receiving at home or in some other school equivalent instruction of the kind and amount approved by the State Board of Education. (NRS 392.070) Sections 3 and 5 of this bill excuse compulsory attendance if a child is enrolled in a private school or if a notice of intent to homeschool the child is filed with the superintendent of schools of the school district in which the child resides. Sections 1 and 5 of this bill authorize the board of trustees of a school district or the governing body of a charter school, as applicable, to require a birth certificate or other documentation to prove the identity of the homeschooled child who wishes to participate in certain activities and classes offered by the public schools in this State and requires such proof under certain circumstances.

Section 3 of this bill sets forth requirements concerning a notice of intent to homeschool and establishes certain rights for a child that is being homeschooled and the parents of that child.

Under existing law, the State Board of Education is required to prescribe the courses of study required for promotion to high school. (NRS 392.033) Section 4 of this bill prescribes the information that must be provided by a homeschooled child who wishes to enroll in a public high school to demonstrate competency in those courses of study or successful completion of those courses.

Section 2.5 of this bill requires the board of trustees of each school district to maintain on its Internet website pertinent information concerning the examinations available to children in the school district. Section 3 of this bill requires each school district to ensure that homeschooled children who reside in the school district have adequate notice of the availability of the website.

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

Section 1. NRS 386.580 is hereby amended to read as follows:

386.580 1. An application for enrollment in a charter school may be submitted to the governing body of the charter school by the parent or legal guardian of any child who resides in this State. Except as otherwise provided in this subsection and subsection 2, a charter school shall enroll pupils who are eligible for enrollment in the order in which the applications are received. If the board of trustees of the school district in which the charter school is located has established zones of attendance pursuant to NRS 388.040, the charter school shall, if practicable, ensure that the racial composition of pupils enrolled in the charter school does not differ by more than 10 percent from the racial composition of pupils who attend public schools in the zone in which the charter school is located. If a charter school is sponsored by the board of trustees of a school district located in a county whose population is 100,000 or more, except for a program of distance education provided by the charter school, the charter school shall enroll pupils who are eligible for enrollment who reside in the school district in which the charter school is located before enrolling pupils who reside outside the school district. Except as otherwise provided in subsection 2, if more pupils who are eligible for enrollment apply for enrollment in the charter school than the number of spaces which are available, the charter school shall determine which applicants to enroll pursuant to this subsection on the basis of a lottery system.

2. Before a charter school enrolls pupils who are eligible for enrollment, a charter school that is dedicated to providing educational programs and opportunities to pupils who are at risk may enroll a child who:

- (a) Is a sibling of a pupil who is currently enrolled in the charter school; or
- (b) Resides within the school district and within 2 miles of the charter school if the charter school is located in an area that the sponsor of the charter school determines includes a high percentage of children who are at risk. If space is available after the charter school enrolls pupils pursuant to this paragraph, the charter school may enroll children who reside outside the school district but within 2 miles of the charter school if the charter school is located within an area that the sponsor determines includes a high percentage of children who are at risk.

↪ If more pupils described in this subsection who are eligible apply for enrollment than the number of spaces available, the charter school shall determine which applicants to enroll pursuant to this subsection on the basis of a lottery system.

3. Except as otherwise provided in subsection 7, a charter school shall not accept applications for enrollment in the charter school or otherwise discriminate based on the:

- (a) Race;
- (b) Gender;
- (c) Religion;
- (d) Ethnicity; or

(e) Disability,
↳ of a pupil.

4. If the governing body of a charter school determines that the charter school is unable to provide an appropriate special education program and related services for a particular disability of a pupil who is enrolled in the charter school, the governing body may request that the board of trustees of the school district of the county in which the pupil resides transfer that pupil to an appropriate school.

5. Except as otherwise provided in this subsection, upon the request of a parent or legal guardian of a child who is enrolled in a public school of a school district or a private school, or a parent or legal guardian of a homeschooled child, the governing body of the charter school shall authorize the child to participate in a class that is not otherwise available to the child at his school or home school or participate in an extracurricular activity at the charter school if:

(a) Space for the child in the class or extracurricular activity is available; and

(b) The parent or legal guardian demonstrates to the satisfaction of the governing body that the child is qualified to participate in the class or extracurricular activity.

↳ If the governing body of a charter school authorizes a child to participate in a class or extracurricular activity pursuant to this subsection, the governing body is not required to provide transportation for the child to attend the class or activity. A charter school shall not authorize such a child to participate in a class or activity through a program of distance education provided by the charter school pursuant to NRS 388.820 to 388.874, inclusive.

6. The governing body of a charter school may revoke its approval for a child to participate in a class or extracurricular activity at a charter school pursuant to subsection 5 if the governing body determines that the child has failed to comply with applicable statutes, or applicable rules and regulations. If the governing body so revokes its approval, neither the governing body nor the charter school is liable for any damages relating to the denial of services to the child.

7. *The governing body of a charter school may, before authorizing a homeschooled child to participate in a class or extracurricular activity pursuant to subsection 5, require proof of the identity of the child, including, without limitation, the birth certificate of the child or other documentation sufficient to establish the identity of the child.*

8. This section does not preclude the formation of a charter school that is dedicated to provide educational services exclusively to pupils:

(a) With disabilities;

(b) Who pose such severe disciplinary problems that they warrant a specific educational program, including, without limitation, a charter school specifically designed to serve a single gender that emphasizes personal responsibility and rehabilitation; or

(c) Who are at risk.

↪ If more eligible pupils apply for enrollment in such a charter school than the number of spaces which are available, the charter school shall determine which applicants to enroll pursuant to this subsection on the basis of a lottery system.

Sec. 2. NRS 388.850 is hereby amended to read as follows:

388.850 1. A pupil may enroll in a program of distance education only if the pupil satisfies the requirements of any other applicable statute and the pupil:

(a) Is participating in a program for pupils at risk of dropping out of high school pursuant to NRS 388.537;

(b) Is participating in a program of independent study pursuant to NRS 389.155;

(c) Is enrolled in a public school that does not offer certain advanced or specialized courses that the pupil desires to attend;

(d) Has a physical or mental condition that would otherwise require an excuse from compulsory attendance pursuant to NRS 392.050;

(e) Would otherwise be excused from compulsory attendance pursuant to NRS 392.080;

(f) Is otherwise prohibited from attending public school pursuant to NRS 392.264, 392.4642 to 392.4648, inclusive, 392.466, 392.467 or 392.4675;

(g) Is otherwise permitted to enroll in a program of distance education provided by the board of trustees of a school district if the board of trustees determines that the circumstances warrant enrollment for the pupil; or

(h) Is otherwise permitted to enroll in a program of distance education provided by the governing body of a charter school if the governing body of the charter school determines that the circumstances warrant enrollment for the pupil.

2. In addition to the eligibility for enrollment set forth in subsection 1, a pupil must satisfy the qualifications and conditions for enrollment in a program of distance education adopted by the State Board pursuant to NRS 388.874.

3. A child who is exempt from compulsory attendance and ~~receiving equivalent instruction authorized by the State Board pursuant to subsection 1 of NRS 392.070~~ is enrolled in a private school pursuant to chapter 394 of NRS or is being homeschooled is not eligible to enroll in or otherwise attend a program of distance education, regardless of whether he is otherwise eligible for enrollment pursuant to subsection 1.

4. If a pupil who is prohibited from attending public school pursuant to NRS 392.264 enrolls in a program of distance education, the enrollment and attendance of that pupil must comply with all requirements of NRS 62F.100 to 62F.140, inclusive, and 392.251 to 392.271, inclusive.

5. If a pupil is eligible for enrollment in a program of distance education pursuant to paragraph (c) of subsection 1, he may enroll in the program of

distance education only to take those advanced or specialized courses that are not offered at the public school he otherwise attends.

Sec. 2.5. Chapter 389 of NRS is hereby amended by adding thereto a new section to read as follows:

The board of trustees of each school district shall maintain on its Internet website, and shall post in a timely manner, all pertinent information concerning the examinations available to children who reside in the school district, including, without limitation, the dates and times of, and contact information concerning, such examinations. The examinations posted must include, without limitation:

1. The high school proficiency examination administered pursuant to NRS 389.015; and

2. All college entrance examinations offered in this State, including, without limitation, the Scholastic Aptitude Test, the American College Test, the Preliminary Scholastic Aptitude Test and the National Merit Scholarship Qualifying Test.

Sec. 3. Chapter 392 of NRS is hereby amended by adding thereto a new section to read as follows:

1. If the parent of a child who is subject to compulsory attendance wishes to homeschool the child, the parent must file with the superintendent of schools of the school district in which the child resides a written ~~for electronic~~ notice of intent to homeschool the child. The Department shall develop a standard form for the notice of intent to homeschool. The form must not require any information or assurances that are not otherwise required by this section or other specific statute. The board of trustees of each school district shall, in a timely manner, make only the form developed by the Department available to parents who wish to homeschool their child.

2. The initial notice of intent to homeschool must be filed before beginning to homeschool the child or:

(a) Not later than 10 days after the child has been formally withdrawn from enrollment in public school; or

(b) Not later than 30 days after establishing residency in this State.

~~2.3.~~ 3. The purpose of the notice of intent to homeschool is to inform the school district in which the child resides that the child is exempt from the requirement of compulsory attendance. ~~A notice of intent to homeschool that is filed with a school district remains valid in that school district without renewal until:~~

~~(a) The child is no longer subject to compulsory attendance; or~~

~~(b) The child is enrolled in a public or private school in this State.~~

~~3.4.~~ 4. A subsequent notice of intent to homeschool must be filed annually with the school district, beginning with the school year immediately following the school year in which the initial notice of intent to homeschool was filed. If the name or address of the parent or child as indicated on a notice of intent to homeschool changes, the parent must, not later than

30 days after the change, file a new notice of intent to homeschool with the superintendent of schools of the school district in which the child resides.

~~4.~~ 5. A notice of intent to homeschool must include only the following:

- (a) The full name, age and gender of the child;
- (b) The name and address of each parent filing the notice of intent to homeschool;
- (c) A statement signed and dated by each such parent declaring that the parent has control or charge of the child and the legal right to direct the education of the child, and assumes full responsibility for the education of the child while the child is being homeschooled;
- (d) If the notice is the initial notice of intent to homeschool, an educational plan for the child that is prepared pursuant to subsection 12;
- (e) If applicable, the name of the public school in this State which the child most recently attended; and

~~(e)~~ (f) An optional statement that the parent may sign which provides:

I expressly prohibit the release of any information contained in this document, including, without limitation, directory information as defined in 20 U.S.C. § 1232g(a)(5)(A), without my prior written consent.

~~5.~~ 6. Each superintendent of schools of a school district shall accept ~~(any)~~ a notice of intent to homeschool that is filed with him pursuant to this section and meets the requirements of subsection ~~4.~~ 5. and shall not require or request any additional information or assurances from the parent who filed the notice.

7. The school district shall provide to a parent who files a notice a written acknowledgment which clearly indicates that the parent has provided notification required by law and that the child is being homeschooled for the duration of the school year. The written acknowledgment shall be deemed proof of compliance with Nevada's compulsory school attendance law. A written acknowledgment that a child is being homeschooled is effective for 1 school year. The school district shall provide a written acknowledgment that a child is being homeschooled for every school year for the which the parent demonstrates compliance with this section.

~~6. The superintendent of schools of a school district with whom a notice of intent to homeschool is filed shall:~~

- ~~(a) Upon receipt, indicate on the notice the date of receipt; and~~
- ~~(b) Retain a copy of the notice for not less than 15 years. The copy of the notice may be retained in an electronic format.~~

~~7.~~ 8. The superintendent of schools of a school district shall process a written request for a copy of the records of the school district, or any information contained therein, relating to a child who is being or has been homeschooled not later than 5 days after receiving the request. The superintendent of schools may only release such records or information:

(a) To a person or entity specified by the parent of the child, or by the child if he is at least 18 years of age, upon suitable proof of identity of the parent or child; or

(b) If required by specific statute.

~~§ 9.~~ 9. If a child who is or was homeschooled seeks admittance or entrance to any school in this State, the school may use only commonly used practices in determining the academic ability, placement or eligibility of the child. A homeschooled child seeking admittance to public high school must comply with NRS 392.033.

~~§ 10.~~ 10. A school or organization shall not discriminate in any manner against a child who is or was homeschooled.

~~§ 11.~~ 11. Each school district shall allow homeschooled children to participate in the high school proficiency examination administered pursuant to NRS 389.015 and all college entrance examinations offered in this State, including, without limitation, the Scholastic Aptitude Test, the American College Test, the Preliminary Scholastic Aptitude Test and the National Merit Scholarship Qualifying Test. Each school district shall ~~maintain on its Internet website a tab for homeschooling, and shall post in a timely manner all pertinent information concerning such examinations available to homeschooled children within the school district, including, without limitation, the dates and times of, and contact information concerning, such examinations.~~

~~§ 11.~~ ensure that the homeschooled children who reside in the school district have adequate notice of the availability of information concerning such examinations on the Internet website of the school district maintained pursuant to section 2.5 of this act.

12. The parent of a child who is being homeschooled shall prepare an educational plan of instruction for the child in the subject areas of English, including reading, composition and writing, mathematics, science and social studies, including history, geography, economics and government, as appropriate for the age and level of skill of the child as determined by the parent. The educational plan must be included in the initial notice of intent to homeschool filed pursuant to this section. If the educational plan contains the requirements of this section, the educational plan must not be used in any manner as a basis for denial of an initial notice of intent to homeschool that is otherwise complete. The parent must be prepared to present the educational plan of instruction and proof of the identity of the child to a court of law if required by the court. This subsection does not require a parent to ensure that each subject area is taught each year that the child is homeschooled.

~~§ 13.~~ 13. No regulation or policy of the State Board, any school district or any other governmental entity may infringe upon the right of a parent to educate his child based on religious preference unless it is:

(a) Essential to further a compelling governmental interest; and

(b) The least restrictive means of furthering that compelling governmental interest.

~~13.~~ 14. *As used in this section, "parent" means the parent, custodial parent, legal guardian or other person in this State who has control or charge of a child and the legal right to direct the education of the child.*

Sec. 4. NRS 392.033 is hereby amended to read as follows:

392.033 1. The State Board shall adopt regulations which prescribe the courses of study required for promotion to high school, which may include the credits to be earned.

2. The board of trustees of a school district shall not promote a pupil to high school if the pupil does not complete the course of study or credits required for promotion. The board of trustees of the school district in which the pupil is enrolled may provide programs to complete the courses of study required for promotion to high school.

3. The board of trustees of each school district shall adopt a procedure for evaluating the course of study or credits completed by a pupil who transfers to a junior high or middle school from a junior high or middle school in this State or from a school outside of this State.

4. *A homeschooled child who enrolls in a public high school shall, upon initial enrollment:*

(a) Provide documentation sufficient to prove that the child has successfully completed the courses of study required for promotion to high school through an accredited program of homeschool study recognized by the board of trustees of the school district;

(b) Demonstrate proficiency in the courses of study required for promotion to high school through an examination prescribed by the board of trustees of the school district; or

(c) Provide other proof satisfactory to the board of trustees of the school district demonstrating competency in the courses of study required for promotion to high school.

Sec. 5. NRS 392.070 is hereby amended to read as follows:

392.070 1. Attendance of a child required by the provisions of NRS 392.040 must be excused when ~~satisfactory written evidence is presented to the board of trustees of the school district in which the child resides that the child is receiving at home or in some other school equivalent instruction of the kind and amount approved by the State Board.~~ :

(a) The child is enrolled in a private school pursuant to chapter 394 of NRS; or

(b) A parent of the child chooses to provide education to the child and files a notice of intent to homeschool the child with the superintendent of schools of the school district in which the child resides in accordance with section 3 of this act.

2. The board of trustees of each school district shall provide programs of special education and related services for homeschooled children. The

programs of special education and related services required by this section must be made available:

(a) Only if a child would otherwise be eligible for participation in programs of special education and related services pursuant to NRS 388.440 to 388.520, inclusive;

(b) In the same manner that the board of trustees provides, as required by 20 U.S.C. § 1412, for the participation of pupils with disabilities who are enrolled in private schools within the school district voluntarily by their parents or legal guardians; and

(c) In accordance with the same requirements set forth in 20 U.S.C. § 1412 which relate to the participation of pupils with disabilities who are enrolled in private schools within the school district voluntarily by their parents or legal guardians.

3. Except as otherwise provided in subsection 2 for programs of special education and related services, upon the request of a parent or legal guardian of a child who is enrolled in a private school or a parent or legal guardian of a homeschooled child, the board of trustees of the school district in which the child resides shall authorize the child to participate in ~~in a class that is not available to the child at the private school or home school or to participate in an extracurricular activity,~~ *any classes and extracurricular activities*, excluding sports, at a public school within the school district if:

(a) Space for the child in the class or extracurricular activity is available; and

(b) The parent or legal guardian demonstrates to the satisfaction of the board of trustees that the child is qualified to participate in the class or extracurricular activity.

↪ If the board of trustees of a school district authorizes a child to participate in a class or extracurricular activity, excluding sports, pursuant to this subsection, the board of trustees is not required to provide transportation for the child to attend the class or activity. A homeschooled child must be allowed to participate in interscholastic activities and events governed by ~~an association~~ *the Nevada Interscholastic Activities Association* pursuant to NRS 386.420 to 386.470, inclusive, and interscholastic activities and events, including sports, pursuant to subsection 5.

4. The board of trustees of a school district may revoke its approval for a pupil to participate in a class or extracurricular activity at a public school pursuant to subsection 3 if the board of trustees or the public school determines that the pupil has failed to comply with applicable statutes, or applicable rules and regulations of the board of trustees. If the board of trustees revokes its approval, neither the board of trustees nor the public school is liable for any damages relating to the denial of services to the pupil.

5. In addition to those interscholastic activities and events governed by ~~an association~~ *the Nevada Interscholastic Activities Association* pursuant to NRS 386.420 to 386.470, inclusive, homeschooled children must be allowed to participate in interscholastic activities and events, including sports. A

homeschooled child who participates in interscholastic activities and events at a public school pursuant to this subsection must participate within the school district of the child's residence through the public school which the child is otherwise zoned to attend. Any rules or regulations that apply to pupils enrolled in public schools who participate in interscholastic activities and events, including sports, apply in the same manner to homeschooled children who participate in interscholastic activities and events, including, without limitation, provisions governing:

- (a) Eligibility and qualifications for participation;
- (b) Fees for participation;
- (c) Insurance;
- (d) Transportation;
- (e) Requirements of physical examination;
- (f) Responsibilities of participants;
- (g) Schedules of events;
- (h) Safety and welfare of participants;
- (i) Eligibility for awards, trophies and medals;
- (j) Conduct of behavior and performance of participants; and
- (k) Disciplinary procedures.

6. If a homeschooled child participates in interscholastic activities and events pursuant to subsection 5:

(a) No challenge may be brought by ~~an association,~~ *the Association*, a school district, a public school or a private school, a parent or guardian of a pupil enrolled in a public school or a private school, a pupil enrolled in a public school or a private school, or any other entity or person claiming that an interscholastic activity or event is invalid because the homeschooled child is allowed to participate.

(b) Neither the school district nor a public school may prescribe any regulations, rules, policies, procedures or requirements governing the eligibility or participation of the homeschooled child that are more restrictive than the provisions governing the eligibility and participation of pupils enrolled in public schools.

7. The programs of special education and related services required by subsection 2 may be offered at a public school or another location that is appropriate.

8. *The board of trustees of a school district:*

(a) *May, before providing programs of special education and related services to a homeschooled child pursuant to subsection 2, require proof of the identity of the child, including, without limitation, the birth certificate of the child or other documentation sufficient to establish the identity of the child.*

(b) *May, before authorizing a homeschooled child to participate in a class or extracurricular activity, excluding sports, pursuant to subsection 3, require proof of the identity of the child, including, without limitation, the*

birth certificate of the child or other documentation sufficient to establish the identity of the child.

(c) Shall, before allowing a homeschooled child to participate in interscholastic activities and events governed by the Nevada Interscholastic Activities Association pursuant to NRS 386.420 to 386.470, inclusive, and interscholastic activities and events pursuant to subsection 5, require proof of the identity of the child, including, without limitation, the birth certificate of the child or other documentation sufficient to establish the identity of the child.

9. The Department ~~may~~ shall adopt such regulations as are necessary for the boards of trustees of school districts to provide the programs of special education and related services required by subsection 2.

~~9.~~ 10. As used in this section, "related services" has the meaning ascribed to it in 20 U.S.C. § ~~1401(22).~~ 1401.

Sec. 6. NRS 392.466 is hereby amended to read as follows:

392.466 1. Except as otherwise provided in this section, any pupil who commits a battery which results in the bodily injury of an employee of the school or who sells or distributes any controlled substance while on the premises of any public school, at an activity sponsored by a public school or on any school bus must, for the first occurrence, be suspended or expelled from that school, although he may be placed in another kind of school, for at least a period equal to one semester for that school. For a second occurrence, the pupil must be permanently expelled from that school and:

(a) ~~Receive equivalent instruction authorized by the State Board pursuant to subsection 1 of NRS 392.070;~~ Enroll in a private school pursuant to chapter 394 of NRS or be homeschooled; or

(b) Enroll in a program of independent study provided pursuant to paragraph (b) of subsection 3 of NRS 389.155 or a program of distance education provided pursuant to NRS 388.820 to 388.874, inclusive, if he qualifies for enrollment and is accepted for enrollment in accordance with the applicable requirements.

2. Except as otherwise provided in this section, any pupil who is found in possession of a firearm or a dangerous weapon while on the premises of any public school, at an activity sponsored by a public school or on any school bus must, for the first occurrence, be expelled from the school for a period of not less than 1 year, although he may be placed in another kind of school for a period not to exceed the period of the expulsion. For a second occurrence, the pupil must be permanently expelled from the school and:

(a) ~~Receive equivalent instruction authorized by the State Board pursuant to subsection 1 of NRS 392.070;~~ Enroll in a private school pursuant to chapter 394 of NRS or be homeschooled; or

(b) Enroll in a program of independent study provided pursuant to paragraph (b) of subsection 3 of NRS 389.155 or a program of distance education provided pursuant to NRS 388.820 to 388.874, inclusive, if he

qualifies for enrollment and is accepted for enrollment in accordance with the applicable requirements.

↪ The superintendent of schools of a school district may, for good cause shown in a particular case in that school district, allow a modification to the expulsion requirement of this subsection if such modification is set forth in writing.

3. Except as otherwise provided in this section, if a pupil is deemed a habitual disciplinary problem pursuant to NRS 392.4655, the pupil must be suspended or expelled from the school for a period equal to at least one semester for that school. For the period of his suspension or expulsion, the pupil must:

(a) ~~Receive equivalent instruction authorized by the State Board pursuant to subsection 1 of NRS 392.070;~~ *Enroll in a private school pursuant to chapter 394 of NRS or be homeschooled; or*

(b) Enroll in a program of independent study provided pursuant to paragraph (b) of subsection 3 of NRS 389.155 or a program of distance education provided pursuant to NRS 388.820 to 388.874, inclusive, if he qualifies for enrollment and is accepted for enrollment in accordance with the applicable requirements.

4. This section does not prohibit a pupil from having in his possession a knife or firearm with the approval of the principal of the school. A principal may grant such approval only in accordance with the policies or regulations adopted by the board of trustees of the school district.

5. Any pupil in grades 1 to 6, inclusive, except a pupil who has been found to have possessed a firearm in violation of subsection 2, may be suspended from school or permanently expelled from school pursuant to this section only after the board of trustees of the school district has reviewed the circumstances and approved this action in accordance with the procedural policy adopted by the board for such issues.

6. A pupil who is participating in a program of special education pursuant to NRS 388.520, other than a pupil who is gifted and talented, may, in accordance with the procedural policy adopted by the board of trustees of the school district for such matters, be:

(a) Suspended from school pursuant to this section for not more than 10 days. Such a suspension may be imposed pursuant to this paragraph for each occurrence of conduct proscribed by subsection 1.

(b) Suspended from school for more than 10 days or permanently expelled from school pursuant to this section only after the board of trustees of the school district has reviewed the circumstances and determined that the action is in compliance with the Individuals with Disabilities Education Act, 20 U.S.C. §§ 1400 et seq.

7. As used in this section:

(a) "Battery" has the meaning ascribed to it in paragraph (a) of subsection 1 of NRS 200.481.

(b) "Dangerous weapon" includes, without limitation, a blackjack, slungshot, billy, sand-club, sandbag, metal knuckles, dirk or dagger, a nunchaku, switchblade knife or trefoil, as defined in NRS 202.350, a butterfly knife or any other knife described in NRS 202.350, or any other object which is used, or threatened to be used, in such a manner and under such circumstances as to pose a threat of, or cause, bodily injury to a person.

(c) "Firearm" includes, without limitation, any pistol, revolver, shotgun, explosive substance or device, and any other item included within the definition of a "firearm" in 18 U.S.C. § 921, as that section existed on July 1, 1995.

8. The provisions of this section do not prohibit a pupil who is suspended or expelled from enrolling in a charter school that is designed exclusively for the enrollment of pupils with disciplinary problems if he is accepted for enrollment by the charter school pursuant to NRS 386.580. Upon request, the governing body of a charter school must be provided with access to the records of the pupil relating to his suspension or expulsion in accordance with applicable federal and state law before the governing body makes a decision concerning the enrollment of the pupil.

Sec. 7. The regulations adopted by the State Board of Education which are codified as NAC 392.011 to 392.065, inclusive, are hereby declared void. In preparing the supplements to the Nevada Administrative Code on or after July 1, 2007, the Legislative Counsel shall remove those regulations.

Sec. 8. This act becomes effective on July 1, 2007.

Senator Raggio moved that the Senate do not concur in the Assembly amendment to Senate Bill No. 404.

Remarks by Senator Raggio.

Motion carried.

Bill ordered transmitted to the Assembly.

RECEDE FROM SENATE AMENDMENTS

Senator Cegavske moved that the Senate recede from its action on Assembly Bill No. 604.

Remarks by Senator Cegavske.

Motion carried.

Bill ordered transmitted to the Assembly.

Senator Washington moved that the Senate do not recede from its action on Assembly Bill No. 182, that a conference be requested, and that Mr. President appoint a first Conference Committee consisting of three members to meet with a like committee of the Assembly.

Remarks by Senator Washington.

Motion carried.

Bill ordered transmitted to the Assembly.

APPOINTMENT OF CONFERENCE COMMITTEES

President Krolicki appointed Senators Washington, Woodhouse and Heck as a first Conference Committee to meet with a like committee of the Assembly for the further consideration of Assembly Bill No. 182.

RECEDE FROM SENATE AMENDMENTS

Senator Raggio moved that the Senate do not recede from its action on Assembly Bill No. 244, that a conference be requested, and that Mr. President appoint a first Conference Committee consisting of three members to meet with a like committee of the Assembly.

Remarks by Senator Raggio.

Motion carried.

Bill ordered transmitted to the Assembly.

APPOINTMENT OF CONFERENCE COMMITTEES

President Krolicki appointed Senators Horsford, Mathews and Hardy as a first Conference Committee to meet with a like committee of the Assembly for the further consideration of Assembly Bill No. 244.

RECEDE FROM SENATE AMENDMENTS

Senator Amodei moved that the Senate do not recede from its action on Assembly Bill No. 428, that a conference be requested, and that Mr. President appoint a first Conference Committee consisting of three members to meet with a like committee of the Assembly.

Remarks by Senator Amodei.

Motion carried.

Bill ordered transmitted to the Assembly.

APPOINTMENT OF CONFERENCE COMMITTEES

President Krolicki appointed Senators Amodei, Washington and Care as a first Conference Committee to meet with a like committee of the Assembly for the further consideration of Assembly Bill No. 428.

REPORTS OF CONFERENCE COMMITTEES

Mr. President:

The first Conference Committee concerning Senate Bill No. 19, consisting of the undersigned members, has met and reports that:

It has agreed to recommend that the Amendment No. 955 of the Assembly be concurred in.

JOSEPH J. HECK

WILLIAM HORNE

DAVID R. PARKS

MICHAEL A. SCHNEIDER

GARN MABEY

Senate Conference Committee

Assembly Conference Committee

Senator Heck moved that the Senate adopt the report of the first Conference Committee concerning Senate Bill No. 19.

Remarks by Senator Heck.

Motion carried by a constitutional majority.

Mr. President:

The first Conference Committee concerning Senate Bill No. 244, consisting of the undersigned members, has met and reports that:

It has agreed to recommend that the Amendment No. 699 of the Assembly be concurred in.

DENNIS NOLAN

SUSAN GERHARDT

VALERIE WIENER

PEGGY PIERCE

MAURICE E. WASHINGTON

LYNN STEWART

Senate Conference Committee

Assembly Conference Committee

Senator Nolan moved that the Senate adopt the report of the first Conference Committee concerning Senate Bill No. 244.

Remarks by Senator Nolan.

Motion carried by a constitutional majority.

APPOINTMENT OF CONFERENCE COMMITTEES

President Krolicki appointed Senators Nolan, Lee and Carlton as a first Conference Committee to meet with a like committee of the Assembly for the further consideration of Senate Bill No. 43.

President Krolicki appointed Senators McGinness, Rhoads and Schneider as a first Conference Committee to meet with a like committee of the Assembly for the further consideration of Senate Bill No. 274.

President Krolicki appointed Senators Horsford, Lee and Nolan as a first Conference Committee to meet with a like committee of the Assembly for the further consideration of Senate Bill No. 303.

President Krolicki appointed Senators Lee, McGinness and Washington as a first Conference Committee to meet with a like committee of the Assembly for the further consideration of Senate Bill No. 328.

President Krolicki appointed Senators Townsend, Heck and Schneider as a first Conference Committee to meet with a like committee of the Assembly for the further consideration of Senate Bill No. 436.

President Krolicki appointed Senators Amodei, Care and Washington as a first Conference Committee to meet with a like committee of the Assembly for the further consideration of Senate Bill No. 483.

President Krolicki appointed Senators Hardy, Lee and Beers as a first Conference Committee to meet with a like committee of the Assembly for the further consideration of Senate Bill No. 509.

REPORTS OF COMMITTEES

Mr. President:

Your Committee on Finance, to which was rereferred Senate Bill No. 471, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

WILLIAM J. RAGGIO, *Chair*

SECOND READING AND AMENDMENT

Senate Bill No. 562.

Bill read second time.

The following amendment was proposed by the Committee on Finance:

Amendment No. 1112.

"SUMMARY—Transfers money from the Fund for the Promotion of Tourism to the Western Folklife Center for the National Cowboy Poetry Gathering ~~[]~~ and to the Atomic Testing Museum. (BDR S-1451)"

"AN ACT relating to tourism; transferring money from the Fund for the Promotion of Tourism to the Western Folklife Center for the National Cowboy Poetry Gathering; transferring money from the Fund for the Promotion of Tourism to the Atomic Testing Museum; and providing other matters properly relating thereto."

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

Section 1. 1. The Commission on Tourism shall, as soon as practicable after July 1, 2007, and July 1, 2008, respectively, without depleting the funds necessary for day-to-day operations, transfer the following amounts from the proceeds from the taxes imposed on the revenue from the rental of transient lodging which have been credited to the Fund for the Promotion of Tourism, created by NRS 231.250, to the Western Folklife Center for support of the National Cowboy Poetry Gathering in Elko, Nevada:

For the Fiscal Year 2007-2008..... \$100,000

For the Fiscal Year 2008-2009..... \$100,000

2. Upon acceptance of the money transferred pursuant to subsection 1, the Western Folklife Center shall:

(a) Prepare and transmit a report to the Interim Finance Committee on or before December 15, 2008, that describes each expenditure made from the money transferred pursuant to subsection 1 from the date on which the money was received by the Western Folklife Center through December 1, 2008;

(b) Prepare and transmit a final report to the Interim Finance Committee on or before September 18, 2009, that describes each expenditure made from the money transferred pursuant to subsection 1 from the date on which the money was received by the Western Folklife Center through June 30, 2009; and

(c) Upon request of the Legislative Commission, make available to the Legislative Auditor any of the books, accounts, claims, reports, vouchers or other records of information, confidential or otherwise, of the Western Folklife Center, regardless of their form or location, that the Legislative Auditor deems necessary to conduct an audit of the use of the money transferred pursuant to subsection 1.

Sec. 2. Any remaining balance of the transfer made by section 1 of this act must not be committed for expenditure after June 30 of the respective fiscal years by the entity to which the money is transferred or any entity to which the money from the transfer is granted or otherwise transferred in any manner, and any portion of the transferred money remaining must not be spent for any purpose after September 19, 2008, and September 18, 2009, respectively, by either the entity to which the money was transferred or the entity to which the money was subsequently granted or transferred, and must

be reverted to the Fund for the Promotion of Tourism on or before September 19, 2008, and September 18, 2009, respectively.

Sec. 3. 1. The Commission on Tourism shall, as soon as practicable after July 1, 2007, and July 1, 2008, respectively, without depleting the funds necessary for day-to-day operations, transfer the following amounts from the proceeds from the taxes imposed on the revenue from the rental of transient lodging which have been credited to the Fund for the Promotion of Tourism, created by NRS 231.250, to the Atomic Testing Museum in Las Vegas for an educational program at the Museum:

<u>For the Fiscal Year 2007-2008</u>	<u>\$100,000</u>
<u>For the Fiscal Year 2008-2009</u>	<u>\$100,000</u>

2. The money transferred pursuant to subsection 1 must be used by the Museum to:

- (a) Provide instructional materials in classrooms;
- (a) Allow access to the Internet for teachers and pupils; and
- (c) Subsidize admission and transportation costs for schools and waive entirely admission for pupils who attend designated at-risk schools.

3. Upon acceptance of the money transferred pursuant to subsection 1, the Museum shall:

(a) Prepare and transmit a report to the Interim Finance Committee on or before December 15, 2008, that describes each expenditure made from the money transferred pursuant to subsection 1 from the date on which the money was received by the Museum through December 1, 2008;

(b) Prepare and transmit a final report to the Interim Finance Committee on or before September 18, 2009, that describes each expenditure made from the money appropriated by subsection 1 from the date on which the money was received by the Museum through June 30, 2009; and

(c) Upon request of the Legislative Commission, make available to the Legislative Auditor any of the books, accounts, claims, reports, vouchers or other records of information, confidential or otherwise, of the Museum, regardless of their form or location, that the Legislative Auditor deems necessary to conduct an audit of the use of the money transferred pursuant to subsection 1.

4. Any balance of the sums transferred pursuant to subsection 1 remaining at the end of the respective fiscal years must not be committed for expenditure after June 30 of the respective fiscal years by the entity to which the transfer is made or any entity to which money from the transfer is granted or otherwise provided in any manner, and any portion of the money remaining must not be spent for any purpose after September 18, 2009, by either the entity to which the money was transferred or the entity to which the money was subsequently granted or provided, and must be reverted to the Fund for the Promotion of Tourism on or before September 19, 2008, and September 18, 2009, respectively.

~~{Sec. 3.}~~ Sec. 4. This act becomes effective ~~upon passage and approval.~~ on July 1, 2007.

Senator Raggio moved the adoption of the amendment.

Remarks by Senator Raggio.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

GENERAL FILE AND THIRD READING

Senate Bill No. 185.

Bill read third time.

The following amendment was proposed by the Committee on Finance:

Amendment No. 1106.

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

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

Legislative Counsel's Digest:

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

Section 2 of this bill requires the Commission to establish guidelines for reviewing, evaluating and approving applications for grants of money from the Account. Section 2 directs that the guidelines include consideration of the list of priorities of schools provided to the Commission by the Department of Education and revises the contents of that list. Section 2 also requires each school district to provide assistance, upon the request of a public school within the school district, in the development of an application for a grant. Section 2 provides that the Commission shall not award a grant of money from the Account for a program of full-day kindergarten. Section 3 of this bill identifies specific information relating to allocations from the Account that the Commission is required to include in its annual report on the Account.

Section 4 of this bill places a limitation on the amount of money that may be expended from the Account each biennium for expenses incurred by members of the Commission to travel to the school districts and schools that receive allocations from the Account. Section 4 also authorizes the Commission to spend a maximum amount of money from the Account each biennium for: (1) the costs incurred by the Commission to hold meetings and

conferences for recipients of allocations from the Account to discuss or display effective programs, practices and strategies; and (2) an evaluation of the programs that received allocations from the Account by an independent consultant.

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

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

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

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

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

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

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

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

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

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

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

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

6. The Department shall provide:

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

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

7. The Legislative Counsel Bureau:

- (a) Must be provided with adequate notice of each meeting of the Commission; and
- (b) Shall provide, as requested by the Committee, technical expertise and assistance to the Commission.

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

385.3785 1. The Commission shall:

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

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

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

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

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

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

(c) Develop a concise application and simple procedures for the submission of applications by school districts and public schools, including, without limitation, charter schools, for participation in a program of educational excellence and for grants of money from the Account. Grants of money must be made for programs designed for the achievement of pupils

that are linked to the plan to improve the achievement of pupils or for innovative programs, or both. *The Commission shall not award a grant of money from the Account for a program to provide full-day kindergarten.* All school districts and public schools, including, without limitation, charter schools, are eligible to submit such an application, regardless of whether the school district or school has made adequate yearly progress or failed to make adequate yearly progress. A school district or public school selected for participation may be approved by the Commission for participation for a period not to exceed 2 years, but may reapply.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) *To each school district;*

(b) *To each public school;*

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

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

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

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

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

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

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

(4) *The costs to implement the program; and*

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

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

2. The Commission shall:

(a) Prepare an annual report that describes:

(1) The activities of the Commission;

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

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

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

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

- (a) State Board;
- (b) Governor;
- (c) Committee;
- (d) Bureau;
- (e) Interim Finance Committee; and
- (f) Board of trustees of each school district.

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

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

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

3. *Upon the request of the Commission:*

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

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

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

(b) *Not more than ~~\$250,000~~ \$450,000 in the Account may be used each biennium to pay for an evaluation of the programs for which money was allocated from the Account. If the Commission uses money in the Account for such an evaluation, the Commission shall ensure that:*

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

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

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

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

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

Senator Raggio moved the adoption of the amendment.

Remarks by Senator Raggio.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Assembly Bill No. 275.

Bill read third time.

Roll call on Assembly Bill No. 275:

YEAS—21.

NAYS—None.

Assembly Bill No. 275 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 551.

Bill read third time.

Roll call on Assembly Bill No. 551:

YEAS—21.

NAYS—None.

Assembly Bill No. 551 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

UNFINISHED BUSINESS
CONSIDERATION OF ASSEMBLY AMENDMENTS

Senate Bill No. 542.

The following Assembly amendment was read:

Amendment No. 838.

"SUMMARY—Revises provisions governing ~~the homestead exemption~~ exemptions from execution by creditors. (BDR 2-1364)"

"AN ACT relating to property; providing an exemption from execution for certain security deposits made to rent or lease a dwelling; increasing the amount of the homestead exemption; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law provides that, with certain exceptions, in a civil action in which damages were awarded, the prevailing party in the action may obtain a writ of execution to enforce the judgment at any time before the judgment expires. (NRS 21.010) Existing law exempts certain property from such a

writ of execution up to a specified monetary value. (NRS 21.090) In addition, existing law protects from a forced sale up to \$350,000 in equity of certain property which is designated as a homestead by a person, except in certain circumstances. (NRS 115.005, 115.010) Sections 2 and 4 of this bill increase the amount of equity protected in homestead property from \$350,000 to ~~[\$550,000.]~~ \$450,000. *Section 2 also provides an additional exemption from execution for all money reasonably deposited with a landlord by the judgment debtor to secure an agreement to rent or lease a dwelling that is used as the judgment debtor's primary residence.*

Sections 1 and 3 of this bill revise the contents of a notice of writ of execution and a notice of writ of attachment to reflect the changes ~~in the homestead exemption)~~ authorized by this bill. (NRS 21.075, 31.045)

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

Section 1. NRS 21.075 is hereby amended to read as follows:

21.075 1. Execution on the writ of execution by levying on the property of the judgment debtor may occur only if the sheriff serves the judgment debtor with a notice of the writ of execution pursuant to NRS 21.076 and a copy of the writ. The notice must describe the types of property exempt from execution and explain the procedure for claiming those exemptions in the manner required in subsection 2. The clerk of the court shall attach the notice to the writ of execution at the time the writ is issued.

2. The notice required pursuant to subsection 1 must be substantially in the following form:

NOTICE OF EXECUTION
YOUR PROPERTY IS BEING ATTACHED OR
YOUR WAGES ARE BEING GARNISHED

A court has determined that you owe money to (name of person), the judgment creditor. He has begun the procedure to collect that money by garnishing your wages, bank account and other personal property held by third persons or by taking money or other property in your possession.

Certain benefits and property owned by you may be exempt from execution and may not be taken from you. The following is a partial list of exemptions:

1. Payments received pursuant to the federal Social Security Act, including, without limitation, retirement and survivors' benefits, supplemental security income benefits and disability insurance benefits.
2. Payments for benefits or the return of contributions under the Public Employees' Retirement System.
3. Payments for public assistance granted through the Division of Welfare and Supportive Services of the Department of Health and Human Services or a local governmental entity.
4. Proceeds from a policy of life insurance.
5. Payments of benefits under a program of industrial insurance.

6. Payments received as disability, illness or unemployment benefits.

7. Payments received as unemployment compensation.

8. Veteran's benefits.

9. A homestead in a dwelling or a mobile home, not to exceed ~~[\$350,000,] ~~[\$550,000,] \$450,000~~~~, unless:

(a) The judgment is for a medical bill, in which case all of the primary dwelling, including a mobile or manufactured home, may be exempt.

(b) Allodial title has been established and not relinquished for the dwelling or mobile home, in which case all of the dwelling or mobile home and its appurtenances are exempt, including the land on which they are located, unless a valid waiver executed pursuant to NRS 115.010 is applicable to the judgment.

10. All money reasonably deposited with a landlord by you to secure an agreement to rent or lease a dwelling that is used as your primary residence.

11. A vehicle, if your equity in the vehicle is less than \$15,000.

~~11.~~ 12. Seventy-five percent of the take-home pay for any workweek, unless the weekly take-home pay is less than 50 times the federal minimum hourly wage, in which case the entire amount may be exempt.

~~12.~~ 13. Money, not to exceed \$500,000 in present value, held in:

(a) An individual retirement arrangement which conforms with the applicable limitations and requirements of section 408 or 408A of the Internal Revenue Code, 26 U.S.C. §§ 408 and 408A;

(b) A written simplified employee pension plan which conforms with the applicable limitations and requirements of section 408 of the Internal Revenue Code, 26 U.S.C. § 408;

(c) A cash or deferred arrangement that is a qualified plan pursuant to the Internal Revenue Code;

(d) A trust forming part of a stock bonus, pension or profit-sharing plan that is a qualified plan pursuant to sections 401 et seq. of the Internal Revenue Code, 26 U.S.C. §§ 401 et seq.; and

(e) A trust forming part of a qualified tuition program pursuant to chapter 353B of NRS, any applicable regulations adopted pursuant to chapter 353B of NRS and section 529 of the Internal Revenue Code, 26 U.S.C. § 529, unless the money is deposited after the entry of a judgment against the purchaser or account owner or the money will not be used by any beneficiary to attend a college or university.

~~13.~~ 14. All money and other benefits paid pursuant to the order of a court of competent jurisdiction for the support, education and maintenance of a child, whether collected by the judgment debtor or the State.

~~¶14.~~ 15. All money and other benefits paid pursuant to the order of a court of competent jurisdiction for the support and maintenance of a former spouse, including the amount of any arrearages in the payment of such support and maintenance to which the former spouse may be entitled.

~~¶15.~~ 16. A vehicle for use by you or your dependent which is specially equipped or modified to provide mobility for a person with a permanent disability.

~~¶16.~~ 17. A prosthesis or any equipment prescribed by a physician or dentist for you or your dependent.

~~¶17.~~ 18. Payments, in an amount not to exceed \$16,150, received as compensation for personal injury, not including compensation for pain and suffering or actual pecuniary loss, by the judgment debtor or by a person upon whom the judgment debtor is dependent at the time the payment is received.

~~¶18.~~ 19. Payments received as compensation for the wrongful death of a person upon whom the judgment debtor was dependent at the time of the wrongful death, to the extent reasonably necessary for the support of the judgment debtor and any dependent of the judgment debtor.

~~¶19.~~ 20. Payments received as compensation for the loss of future earnings of the judgment debtor or of a person upon whom the judgment debtor is dependent at the time the payment is received, to the extent reasonably necessary for the support of the judgment debtor and any dependent of the judgment debtor.

~~¶20.~~ 21. Payments received as restitution for a criminal act.

↳ These exemptions may not apply in certain cases such as a proceeding to enforce a judgment for support of a person or a judgment of foreclosure on a mechanic's lien. You should consult an attorney immediately to assist you in determining whether your property or money is exempt from execution. If you cannot afford an attorney, you may be eligible for assistance through (name of organization in county providing legal services to indigent or elderly persons).

PROCEDURE FOR CLAIMING EXEMPT PROPERTY

If you believe that the money or property taken from you is exempt, you must complete and file with the clerk of the court a notarized affidavit claiming the exemption. A copy of the affidavit must be served upon the sheriff and the judgment creditor within 8 days after the notice of execution is mailed. The property must be returned to you within 5 days after you file the affidavit unless you or the judgment creditor files a motion for a hearing to determine the issue of exemption. If this happens, a hearing will be held to determine whether the property or money is exempt. The motion for the hearing to determine the issue of exemption must be filed within 10 days after the affidavit claiming exemption is filed. The hearing to determine whether the property or

money is exempt must be held within 10 days after the motion for the hearing is filed.

IF YOU DO NOT FILE THE AFFIDAVIT WITHIN THE TIME SPECIFIED, YOUR PROPERTY MAY BE SOLD AND THE MONEY GIVEN TO THE JUDGMENT CREDITOR, EVEN IF THE PROPERTY OR MONEY IS EXEMPT.

Sec. 2. NRS 21.090 is hereby amended to read as follows:

21.090 1. The following property is exempt from execution, except as otherwise specifically provided in this section or required by federal law:

(a) Private libraries, works of art, musical instruments and jewelry not to exceed \$5,000 in value, belonging to the judgment debtor or a dependent of the judgment debtor, to be selected by the judgment debtor, and all family pictures and keepsakes.

(b) Necessary household goods, furnishings, electronics, wearing apparel, other personal effects and yard equipment, not to exceed \$12,000 in value, belonging to the judgment debtor or a dependent of the judgment debtor, to be selected by the judgment debtor.

(c) Farm trucks, farm stock, farm tools, farm equipment, supplies and seed not to exceed \$4,500 in value, belonging to the judgment debtor to be selected by him.

(d) Professional libraries, equipment, supplies, and the tools, inventory, instruments and materials used to carry on the trade or business of the judgment debtor for the support of himself and his family not to exceed \$10,000 in value.

(e) The cabin or dwelling of a miner or prospector, his cars, implements and appliances necessary for carrying on any mining operations and his mining claim actually worked by him, not exceeding \$4,500 in total value.

(f) Except as otherwise provided in paragraph ~~((e))~~ (p), one vehicle if the judgment debtor's equity does not exceed \$15,000 or the creditor is paid an amount equal to any excess above that equity.

(g) For any workweek, 75 percent of the disposable earnings of a judgment debtor during that week, or 50 times the minimum hourly wage prescribed by section 6(a)(1) of the federal Fair Labor Standards Act of 1938, 29 U.S.C. § 206(a)(1), and in effect at the time the earnings are payable, whichever is greater. Except as otherwise provided in paragraphs ~~((n)), (r) and ((s))~~ (o), (s) and (t), the exemption provided in this paragraph does not apply in the case of any order of a court of competent jurisdiction for the support of any person, any order of a court of bankruptcy or of any debt due for any state or federal tax. As used in this paragraph:

(1) "Disposable earnings" means that part of the earnings of a judgment debtor remaining after the deduction from those earnings of any amounts required by law to be withheld.

(2) "Earnings" means compensation paid or payable for personal services performed by a judgment debtor in the regular course of business, including, without limitation, compensation designated as income, wages,

tips, a salary, a commission or a bonus. The term includes compensation received by a judgment debtor that is in the possession of the judgment debtor, compensation held in accounts maintained in a bank or any other financial institution or, in the case of a receivable, compensation that is due the judgment debtor.

(h) All fire engines, hooks and ladders, with the carts, trucks and carriages, hose, buckets, implements and apparatus thereunto appertaining, and all furniture and uniforms of any fire company or department organized under the laws of this State.

(i) All arms, uniforms and accouterments required by law to be kept by any person, and also one gun, to be selected by the debtor.

(j) All courthouses, jails, public offices and buildings, lots, grounds and personal property, the fixtures, furniture, books, papers and appurtenances belonging and pertaining to the courthouse, jail and public offices belonging to any county of this State, all cemeteries, public squares, parks and places, public buildings, town halls, markets, buildings for the use of fire departments and military organizations, and the lots and grounds thereto belonging and appertaining, owned or held by any town or incorporated city, or dedicated by the town or city to health, ornament or public use, or for the use of any fire or military company organized under the laws of this State and all lots, buildings and other school property owned by a school district and devoted to public school purposes.

(k) All money, benefits, privileges or immunities accruing or in any manner growing out of any life insurance, if the annual premium paid does not exceed \$15,000. If the premium exceeds that amount, a similar exemption exists which bears the same proportion to the money, benefits, privileges and immunities so accruing or growing out of the insurance that the \$15,000 bears to the whole annual premium paid.

(l) The homestead as provided for by law, including a homestead for which allodial title has been established and not relinquished and for which a waiver executed pursuant to NRS 115.010 is not applicable.

(m) The dwelling of the judgment debtor occupied as a home for himself and family, where the amount of equity held by the judgment debtor in the home does not exceed ~~(\$350,000)~~ ~~(\$550,000)~~ \$450,000 in value and the dwelling is situated upon lands not owned by him.

(n) All money reasonably deposited with a landlord by the judgment debtor to secure an agreement to rent or lease a dwelling that is used by the judgment debtor as his primary residence.

(o) All property in this State of the judgment debtor where the judgment is in favor of any state for failure to pay that state's income tax on benefits received from a pension or other retirement plan.

~~(o)~~ (p) Any vehicle owned by the judgment debtor for use by him or his dependent that is equipped or modified to provide mobility for a person with a permanent disability.

~~(p)~~ (q) Any prosthesis or equipment prescribed by a physician or dentist for the judgment debtor or a dependent of the debtor.

~~(q)~~ (r) Money, not to exceed \$500,000 in present value, held in:

(1) An individual retirement arrangement which conforms with the applicable limitations and requirements of section 408 or 408A of the Internal Revenue Code, 26 U.S.C. §§ 408 and 408A;

(2) A written simplified employee pension plan which conforms with the applicable limitations and requirements of section 408 of the Internal Revenue Code, 26 U.S.C. § 408;

(3) A cash or deferred arrangement which is a qualified plan pursuant to the Internal Revenue Code;

(4) A trust forming part of a stock bonus, pension or profit-sharing plan which is a qualified plan pursuant to sections 401 et seq. of the Internal Revenue Code, 26 U.S.C. §§ 401 et seq.; and

(5) A trust forming part of a qualified tuition program pursuant to chapter 353B of NRS, any applicable regulations adopted pursuant to chapter 353B of NRS and section 529 of the Internal Revenue Code, 26 U.S.C. § 529, unless the money is deposited after the entry of a judgment against the purchaser or account owner or the money will not be used by any beneficiary to attend a college or university.

~~(r)~~ (s) All money and other benefits paid pursuant to the order of a court of competent jurisdiction for the support, education and maintenance of a child, whether collected by the judgment debtor or the State.

~~(s)~~ (t) All money and other benefits paid pursuant to the order of a court of competent jurisdiction for the support and maintenance of a former spouse, including the amount of any arrearages in the payment of such support and maintenance to which the former spouse may be entitled.

~~(t)~~ (u) Payments, in an amount not to exceed \$16,150, received as compensation for personal injury, not including compensation for pain and suffering or actual pecuniary loss, by the judgment debtor or by a person upon whom the judgment debtor is dependent at the time the payment is received.

~~(u)~~ (v) Payments received as compensation for the wrongful death of a person upon whom the judgment debtor was dependent at the time of the wrongful death, to the extent reasonably necessary for the support of the judgment debtor and any dependent of the judgment debtor.

~~(v)~~ (w) Payments received as compensation for the loss of future earnings of the judgment debtor or of a person upon whom the judgment debtor is dependent at the time the payment is received, to the extent reasonably necessary for the support of the judgment debtor and any dependent of the judgment debtor.

~~(w)~~ (x) Payments received as restitution for a criminal act.

~~(x)~~ (y) Payments received pursuant to the federal Social Security Act, including, without limitation, retirement and survivors' benefits, supplemental security income benefits and disability insurance benefits.

2. Except as otherwise provided in NRS 115.010, no article or species of property mentioned in this section is exempt from execution issued upon a judgment to recover for its price, or upon a judgment of foreclosure of a mortgage or other lien thereon.

3. Any exemptions specified in subsection (d) of section 522 of the Bankruptcy Act of 1978, 11 U.S.C. § 522(d), do not apply to property owned by a resident of this State unless conferred also by subsection 1, as limited by subsection 2.

Sec. 3. NRS 31.045 is hereby amended to read as follows:

31.045 1. Execution on the writ of attachment by attaching property of the defendant may occur only if:

(a) The judgment creditor serves the defendant with notice of the execution when the notice of the hearing is served pursuant to NRS 31.013; or

(b) Pursuant to an ex parte hearing, the sheriff serves upon the judgment debtor notice of the execution and a copy of the writ at the same time and in the same manner as set forth in NRS 21.076.

↪ If the attachment occurs pursuant to an ex parte hearing, the clerk of the court shall attach the notice to the writ of attachment at the time the writ is issued.

2. The notice required pursuant to subsection 1 must be substantially in the following form:

NOTICE OF EXECUTION
YOUR PROPERTY IS BEING ATTACHED OR
YOUR WAGES ARE BEING GARNISHED

Plaintiff, (name of person), alleges that you owe him money. He has begun the procedure to collect that money. To secure satisfaction of judgment the court has ordered the garnishment of your wages, bank account or other personal property held by third persons or the taking of money or other property in your possession.

Certain benefits and property owned by you may be exempt from execution and may not be taken from you. The following is a partial list of exemptions:

1. Payments received pursuant to the federal Social Security Act, including, without limitation, retirement and survivors' benefits, supplemental security income benefits and disability insurance benefits.

2. Payments for benefits or the return of contributions under the Public Employees' Retirement System.

3. Payments for public assistance granted through the Division of Welfare and Supportive Services of the Department of Health and Human Services or a local governmental entity.

4. Proceeds from a policy of life insurance.

5. Payments of benefits under a program of industrial insurance.

6. Payments received as disability, illness or unemployment benefits.

7. Payments received as unemployment compensation.

8. Veteran's benefits.

9. A homestead in a dwelling or a mobile home, not to exceed ~~[\$350,000,] ~~[\$550,000,] \$450,000,~~ unless:~~

(a) The judgment is for a medical bill, in which case all of the primary dwelling, including a mobile or manufactured home, may be exempt.

(b) Allodial title has been established and not relinquished for the dwelling or mobile home, in which case all of the dwelling or mobile home and its appurtenances are exempt, including the land on which they are located, unless a valid waiver executed pursuant to NRS 115.010 is applicable to the judgment.

10. All money reasonably deposited with a landlord by you to secure an agreement to rent or lease a dwelling that is used as your primary residence.

11. A vehicle, if your equity in the vehicle is less than \$15,000.

~~11.~~ 12. Seventy-five percent of the take-home pay for any workweek, unless the weekly take-home pay is less than 50 times the federal minimum hourly wage, in which case the entire amount may be exempt.

~~12.~~ 13. Money, not to exceed \$500,000 in present value, held in:

(a) An individual retirement arrangement which conforms with the applicable limitations and requirements of section 408 or 408A of the Internal Revenue Code, 26 U.S.C. §§ 408 and 408A;

(b) A written simplified employee pension plan which conforms with the applicable limitations and requirements of section 408 of the Internal Revenue Code, 26 U.S.C. § 408;

(c) A cash or deferred arrangement that is a qualified plan pursuant to the Internal Revenue Code;

(d) A trust forming part of a stock bonus, pension or profit-sharing plan that is a qualified plan pursuant to sections 401 et seq. of the Internal Revenue Code, 26 U.S.C. §§ 401 et seq.; and

(e) A trust forming part of a qualified tuition program pursuant to chapter 353B of NRS, any applicable regulations adopted pursuant to chapter 353B of NRS and section 529 of the Internal Revenue Code, 26 U.S.C. § 529, unless the money is deposited after the entry of a judgment against the purchaser or account owner or the money will not be used by any beneficiary to attend a college or university.

~~13.~~ 14. All money and other benefits paid pursuant to the order of a court of competent jurisdiction for the support, education and maintenance of a child, whether collected by the judgment debtor or the State.

~~14.~~ 15. All money and other benefits paid pursuant to the order of a court of competent jurisdiction for the support and maintenance of a former spouse, including the amount of any arrearages in the payment of

such support and maintenance to which the former spouse may be entitled.

~~15.~~ 16. A vehicle for use by you or your dependent which is specially equipped or modified to provide mobility for a person with a permanent disability.

~~16.~~ 17. A prosthesis or any equipment prescribed by a physician or dentist for you or your dependent.

~~17.~~ 18. Payments, in an amount not to exceed \$16,150, received as compensation for personal injury, not including compensation for pain and suffering or actual pecuniary loss, by the judgment debtor or by a person upon whom the judgment debtor is dependent at the time the payment is received.

~~18.~~ 19. Payments received as compensation for the wrongful death of a person upon whom the judgment debtor was dependent at the time of the wrongful death, to the extent reasonably necessary for the support of the judgment debtor and any dependent of the judgment debtor.

~~19.~~ 20. Payments received as compensation for the loss of future earnings of the judgment debtor or of a person upon whom the judgment debtor is dependent at the time the payment is received, to the extent reasonably necessary for the support of the judgment debtor and any dependent of the judgment debtor.

~~20.~~ 21. Payments received as restitution for a criminal act.

↳ These exemptions may not apply in certain cases such as proceedings to enforce a judgment for support of a child or a judgment of foreclosure on a mechanic's lien. You should consult an attorney immediately to assist you in determining whether your property or money is exempt from execution. If you cannot afford an attorney, you may be eligible for assistance through (name of organization in county providing legal services to the indigent or elderly persons).

PROCEDURE FOR CLAIMING EXEMPT PROPERTY

If you believe that the money or property taken from you is exempt or necessary for the support of you or your family, you must file with the clerk of the court on a form provided by the clerk a notarized affidavit claiming the exemption. A copy of the affidavit must be served upon the sheriff and the judgment creditor within 8 days after the notice of execution is mailed. The property must be returned to you within 5 days after you file the affidavit unless the judgment creditor files a motion for a hearing to determine the issue of exemption. If this happens, a hearing will be held to determine whether the property or money is exempt. The hearing must be held within 10 days after the motion for a hearing is filed.

IF YOU DO NOT FILE THE AFFIDAVIT WITHIN THE TIME SPECIFIED, YOUR PROPERTY MAY BE SOLD AND THE MONEY GIVEN TO THE JUDGMENT CREDITOR, EVEN IF THE PROPERTY OR MONEY IS EXEMPT.

If you received this notice with a notice of a hearing for attachment and you believe that the money or property which would be taken from you by a writ of attachment is exempt or necessary for the support of you or your family, you are entitled to describe to the court at the hearing why you believe your property is exempt. You may also file a motion with the court for a discharge of the writ of attachment. You may make that motion any time before trial. A hearing will be held on that motion.

IF YOU DO NOT FILE THE MOTION BEFORE THE TRIAL, YOUR PROPERTY MAY BE SOLD AND THE MONEY GIVEN TO THE PLAINTIFF, EVEN IF THE PROPERTY OR MONEY IS EXEMPT OR NECESSARY FOR THE SUPPORT OF YOU OR YOUR FAMILY.

Sec. 4. NRS 115.010 is hereby amended to read as follows:

115.010 1. The homestead is not subject to forced sale on execution or any final process from any court, except as otherwise provided by subsections 2, 3 and 5, and NRS 115.090 and except as otherwise required by federal law.

2. The exemption provided in subsection 1 extends only to that amount of equity in the property held by the claimant which does not exceed [~~\$350,000~~] [~~\$550,000~~] \$450,000 in value, unless allodial title has been established and not relinquished, in which case the exemption provided in subsection 1 extends to all equity in the dwelling, its appurtenances and the land on which it is located.

3. Except as otherwise provided in subsection 4, the exemption provided in subsection 1 does not extend to process to enforce the payment of obligations contracted for the purchase of the property, or for improvements made thereon, including any mechanic's lien lawfully obtained, or for legal taxes, or for:

(a) Any mortgage or deed of trust thereon executed and given, including, without limitation, any second or subsequent mortgage, mortgage obtained through refinancing, line of credit taken against the property and a home equity loan; or

(b) Any lien to which prior consent has been given through the acceptance of property subject to any recorded declaration of restrictions, deed restriction, restrictive covenant or equitable servitude, specifically including any lien in favor of an association pursuant to NRS 116.3116 or 117.070,
↳ by both husband and wife, when that relation exists.

4. If allodial title has been established and not relinquished, the exemption provided in subsection 1 extends to process to enforce the payment of obligations contracted for the purchase of the property, and for improvements made thereon, including any mechanic's lien lawfully obtained, and for legal taxes levied by a state or local government, and for:

(a) Any mortgage or deed of trust thereon; and

(b) Any lien even if prior consent has been given through the acceptance of property subject to any recorded declaration of restrictions, deed restriction, restrictive covenant or equitable servitude, specifically including any lien in favor of an association pursuant to NRS 116.3116 or 117.070,

↳ unless a waiver for the specific obligation to which the judgment relates has been executed by all allodial titleholders of the property.

5. Establishment of allodial title does not exempt the property from forfeiture pursuant to NRS 179.1156 to 179.119, inclusive, or 207.350 to 207.520, inclusive.

6. Any declaration of homestead which has been filed before July 1, ~~{2005,}~~ 2007, shall be deemed to have been amended on that date by extending the homestead exemption commensurate with any increase in the amount of equity held by the claimant in the property selected and claimed for the exemption up to the amount permitted by law on that date, but the increase does not impair the right of any creditor to execute upon the property when that right existed before July 1, ~~{2005,}~~ 2007.

Sec. 5. NRS 115.050 is hereby amended to read as follows:

115.050 1. Whenever execution has been issued against the property of a party claiming the property as a homestead, and the creditor in the judgment makes an oath before the judge of the district court of the county in which the property is situated ~~{,}~~ that the amount of equity held by the claimant in the property exceeds, to the best of the creditor's information and belief, the sum of ~~[\$350,000,] ~~[\$550,000,]~~ \$450,000~~, the judge shall, upon notice to the debtor, appoint three disinterested and competent persons as appraisers to estimate and report as to the amount of equity held by the claimant in the property ~~{,}~~ and, if the amount of equity exceeds the sum of ~~[\$350,000,] ~~[\$550,000,]~~ \$450,000~~, determine whether the property can be divided so as to leave the property subject to the homestead exemption without material injury.

2. If it appears, upon the report, to the satisfaction of the judge that the property can be thus divided, he shall order the excess to be sold under execution. If it appears that the property cannot be thus divided, and the amount of equity held by the claimant in the property exceeds the exemption allowed by this chapter, he shall order the entire property to be sold, and out of the proceeds the sum of ~~[\$350,000] ~~[\$550,000]~~ \$450,000~~ to be paid to the defendant in execution, and the excess to be applied to the satisfaction on the execution. No bid under ~~[\$350,000] ~~[\$550,000]~~ \$450,000~~ may be received by the officer making the sale.

3. When the execution is against a husband or wife, the judge may direct the ~~[\$350,000] ~~[\$550,000]~~ \$450,000~~ to be deposited in court, to be paid out only upon the joint receipt of the husband and wife, and the deposit possesses all the protection against legal process and voluntary disposition by either spouse as did the original homestead.

Sec. 5.5. NRS 657.140 is hereby amended to read as follows:

657.140 1. Except as otherwise provided in subsection 2, a financial institution shall not include in any loan agreement a provision that allows the financial institution to recover, take, appropriate or otherwise apply as a setoff against any debt or liability owing to the financial institution under the loan agreement money from an account unrelated to the loan agreement to the extent the money is exempt from execution pursuant to paragraph ~~(x)~~ (y) of subsection 1 of NRS 21.090.

2. The provisions of subsection 1 do not apply to a provision in a loan agreement that specifically authorizes automatic withdrawals from an account.

3. The provisions of this section may not be varied by agreement and the rights conferred by this section may not be waived. Any provision included in an agreement that conflicts with this section is void.

4. As used in this section:

(a) "An account unrelated to the loan agreement" includes, without limitation, an account pledged as security under the loan agreement, unless the specific account pledged as security is conspicuously described in the loan agreement.

(b) "Financial institution" means an institution licensed pursuant to the provisions of this title or title 56 or chapter 645B, 645E or 649 of NRS, or a similar institution chartered or licensed pursuant to federal law.

Sec. 6. This act becomes effective on July 1, 2007.

Amendment No. 1026.

"SUMMARY—Revises provisions governing exemptions from execution by creditors. (BDR 2-1364)"

"AN ACT relating to property; providing an exemption from execution for certain security deposits made to rent or lease a dwelling; ~~increasing the amount of the homestead exemption;~~ and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law provides that, with certain exceptions, in a civil action in which damages were awarded, the prevailing party in the action may obtain a writ of execution to enforce the judgment at any time before the judgment expires. (NRS 21.010) Existing law exempts certain property from such a writ of execution up to a specified monetary value. (NRS 21.090) ~~In addition, existing law protects from a forced sale up to \$350,000 in equity of certain property which is designated as a homestead by a person, except in certain circumstances. (NRS 115.005, 115.010) Sections 2 and 4 of this bill increase the amount of equity protected in homestead property from \$350,000 to \$450,000.~~ Section 2 ~~also~~ of this bill provides an additional exemption from execution for all money reasonably deposited with a landlord by the judgment debtor to secure an agreement to rent or lease a dwelling that is used as the judgment debtor's primary residence.

Sections 1 and 3 of this bill revise the contents of a notice of writ of execution and a notice of writ of attachment to reflect the ~~changes~~

~~authorized by~~ exemption added in section 2 of this bill. (NRS 21.075, 31.045)

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

Section 1. NRS 21.075 is hereby amended to read as follows:

21.075 1. Execution on the writ of execution by levying on the property of the judgment debtor may occur only if the sheriff serves the judgment debtor with a notice of the writ of execution pursuant to NRS 21.076 and a copy of the writ. The notice must describe the types of property exempt from execution and explain the procedure for claiming those exemptions in the manner required in subsection 2. The clerk of the court shall attach the notice to the writ of execution at the time the writ is issued.

2. The notice required pursuant to subsection 1 must be substantially in the following form:

NOTICE OF EXECUTION
YOUR PROPERTY IS BEING ATTACHED OR
YOUR WAGES ARE BEING GARNISHED

A court has determined that you owe money to (name of person), the judgment creditor. He has begun the procedure to collect that money by garnishing your wages, bank account and other personal property held by third persons or by taking money or other property in your possession.

Certain benefits and property owned by you may be exempt from execution and may not be taken from you. The following is a partial list of exemptions:

1. Payments received pursuant to the federal Social Security Act, including, without limitation, retirement and survivors' benefits, supplemental security income benefits and disability insurance benefits.

2. Payments for benefits or the return of contributions under the Public Employees' Retirement System.

3. Payments for public assistance granted through the Division of Welfare and Supportive Services of the Department of Health and Human Services or a local governmental entity.

4. Proceeds from a policy of life insurance.

5. Payments of benefits under a program of industrial insurance.

6. Payments received as disability, illness or unemployment benefits.

7. Payments received as unemployment compensation.

8. Veteran's benefits.

9. A homestead in a dwelling or a mobile home, not to exceed \$350,000, ~~(\$450,000)~~ unless:

(a) The judgment is for a medical bill, in which case all of the primary dwelling, including a mobile or manufactured home, may be exempt.

(b) Allodial title has been established and not relinquished for the dwelling or mobile home, in which case all of the dwelling or mobile home and its appurtenances are exempt, including the land on which they are located, unless a valid waiver executed pursuant to NRS 115.010 is applicable to the judgment.

10. *All money reasonably deposited with a landlord by you to secure an agreement to rent or lease a dwelling that is used as your primary residence.*

11. A vehicle, if your equity in the vehicle is less than \$15,000.

~~{11}~~ 12. Seventy-five percent of the take-home pay for any workweek, unless the weekly take-home pay is less than 50 times the federal minimum hourly wage, in which case the entire amount may be exempt.

~~{12}~~ 13. Money, not to exceed \$500,000 in present value, held in:

(a) An individual retirement arrangement which conforms with the applicable limitations and requirements of section 408 or 408A of the Internal Revenue Code, 26 U.S.C. §§ 408 and 408A;

(b) A written simplified employee pension plan which conforms with the applicable limitations and requirements of section 408 of the Internal Revenue Code, 26 U.S.C. § 408;

(c) A cash or deferred arrangement that is a qualified plan pursuant to the Internal Revenue Code;

(d) A trust forming part of a stock bonus, pension or profit-sharing plan that is a qualified plan pursuant to sections 401 et seq. of the Internal Revenue Code, 26 U.S.C. §§ 401 et seq.; and

(e) A trust forming part of a qualified tuition program pursuant to chapter 353B of NRS, any applicable regulations adopted pursuant to chapter 353B of NRS and section 529 of the Internal Revenue Code, 26 U.S.C. § 529, unless the money is deposited after the entry of a judgment against the purchaser or account owner or the money will not be used by any beneficiary to attend a college or university.

~~{13}~~ 14. All money and other benefits paid pursuant to the order of a court of competent jurisdiction for the support, education and maintenance of a child, whether collected by the judgment debtor or the State.

~~{14}~~ 15. All money and other benefits paid pursuant to the order of a court of competent jurisdiction for the support and maintenance of a former spouse, including the amount of any arrearages in the payment of such support and maintenance to which the former spouse may be entitled.

~~{15}~~ 16. A vehicle for use by you or your dependent which is specially equipped or modified to provide mobility for a person with a permanent disability.

~~{16}~~ 17. A prosthesis or any equipment prescribed by a physician or dentist for you or your dependent.

~~{17.}~~ 18. Payments, in an amount not to exceed \$16,150, received as compensation for personal injury, not including compensation for pain and suffering or actual pecuniary loss, by the judgment debtor or by a person upon whom the judgment debtor is dependent at the time the payment is received.

~~{18.}~~ 19. Payments received as compensation for the wrongful death of a person upon whom the judgment debtor was dependent at the time of the wrongful death, to the extent reasonably necessary for the support of the judgment debtor and any dependent of the judgment debtor.

~~{19.}~~ 20. Payments received as compensation for the loss of future earnings of the judgment debtor or of a person upon whom the judgment debtor is dependent at the time the payment is received, to the extent reasonably necessary for the support of the judgment debtor and any dependent of the judgment debtor.

~~{20.}~~ 21. Payments received as restitution for a criminal act.

↳ These exemptions may not apply in certain cases such as a proceeding to enforce a judgment for support of a person or a judgment of foreclosure on a mechanic's lien. You should consult an attorney immediately to assist you in determining whether your property or money is exempt from execution. If you cannot afford an attorney, you may be eligible for assistance through (name of organization in county providing legal services to indigent or elderly persons).

PROCEDURE FOR CLAIMING EXEMPT PROPERTY

If you believe that the money or property taken from you is exempt, you must complete and file with the clerk of the court a notarized affidavit claiming the exemption. A copy of the affidavit must be served upon the sheriff and the judgment creditor within 8 days after the notice of execution is mailed. The property must be returned to you within 5 days after you file the affidavit unless you or the judgment creditor files a motion for a hearing to determine the issue of exemption. If this happens, a hearing will be held to determine whether the property or money is exempt. The motion for the hearing to determine the issue of exemption must be filed within 10 days after the affidavit claiming exemption is filed. The hearing to determine whether the property or money is exempt must be held within 10 days after the motion for the hearing is filed.

IF YOU DO NOT FILE THE AFFIDAVIT WITHIN THE TIME SPECIFIED, YOUR PROPERTY MAY BE SOLD AND THE MONEY GIVEN TO THE JUDGMENT CREDITOR, EVEN IF THE PROPERTY OR MONEY IS EXEMPT.

Sec. 2. NRS 21.090 is hereby amended to read as follows:

21.090 1. The following property is exempt from execution, except as otherwise specifically provided in this section or required by federal law:

(a) Private libraries, works of art, musical instruments and jewelry not to exceed \$5,000 in value, belonging to the judgment debtor or a dependent of the judgment debtor, to be selected by the judgment debtor, and all family pictures and keepsakes.

(b) Necessary household goods, furnishings, electronics, wearing apparel, other personal effects and yard equipment, not to exceed \$12,000 in value, belonging to the judgment debtor or a dependent of the judgment debtor, to be selected by the judgment debtor.

(c) Farm trucks, farm stock, farm tools, farm equipment, supplies and seed not to exceed \$4,500 in value, belonging to the judgment debtor to be selected by him.

(d) Professional libraries, equipment, supplies, and the tools, inventory, instruments and materials used to carry on the trade or business of the judgment debtor for the support of himself and his family not to exceed \$10,000 in value.

(e) The cabin or dwelling of a miner or prospector, his cars, implements and appliances necessary for carrying on any mining operations and his mining claim actually worked by him, not exceeding \$4,500 in total value.

(f) Except as otherwise provided in paragraph ~~[(e)]~~ (p), one vehicle if the judgment debtor's equity does not exceed \$15,000 or the creditor is paid an amount equal to any excess above that equity.

(g) For any workweek, 75 percent of the disposable earnings of a judgment debtor during that week, or 50 times the minimum hourly wage prescribed by section 6(a)(1) of the federal Fair Labor Standards Act of 1938, 29 U.S.C. § 206(a)(1), and in effect at the time the earnings are payable, whichever is greater. Except as otherwise provided in paragraphs ~~[(n), (r) and (s)]~~ (o), (s) and (t), the exemption provided in this paragraph does not apply in the case of any order of a court of competent jurisdiction for the support of any person, any order of a court of bankruptcy or of any debt due for any state or federal tax. As used in this paragraph:

(1) "Disposable earnings" means that part of the earnings of a judgment debtor remaining after the deduction from those earnings of any amounts required by law to be withheld.

(2) "Earnings" means compensation paid or payable for personal services performed by a judgment debtor in the regular course of business, including, without limitation, compensation designated as income, wages, tips, a salary, a commission or a bonus. The term includes compensation received by a judgment debtor that is in the possession of the judgment debtor, compensation held in accounts maintained in a bank or any other financial institution or, in the case of a receivable, compensation that is due the judgment debtor.

(h) All fire engines, hooks and ladders, with the carts, trucks and carriages, hose, buckets, implements and apparatus thereunto appertaining, and all furniture and uniforms of any fire company or department organized under the laws of this State.

(i) All arms, uniforms and accouterments required by law to be kept by any person, and also one gun, to be selected by the debtor.

(j) All courthouses, jails, public offices and buildings, lots, grounds and personal property, the fixtures, furniture, books, papers and appurtenances belonging and pertaining to the courthouse, jail and public offices belonging to any county of this State, all cemeteries, public squares, parks and places, public buildings, town halls, markets, buildings for the use of fire departments and military organizations, and the lots and grounds thereto belonging and appertaining, owned or held by any town or incorporated city, or dedicated by the town or city to health, ornament or public use, or for the use of any fire or military company organized under the laws of this State and all lots, buildings and other school property owned by a school district and devoted to public school purposes.

(k) All money, benefits, privileges or immunities accruing or in any manner growing out of any life insurance, if the annual premium paid does not exceed \$15,000. If the premium exceeds that amount, a similar exemption exists which bears the same proportion to the money, benefits, privileges and immunities so accruing or growing out of the insurance that the \$15,000 bears to the whole annual premium paid.

(l) The homestead as provided for by law, including a homestead for which allodial title has been established and not relinquished and for which a waiver executed pursuant to NRS 115.010 is not applicable.

(m) The dwelling of the judgment debtor occupied as a home for himself and family, where the amount of equity held by the judgment debtor in the home does not exceed \$350,000 ~~+\$450,000~~ in value and the dwelling is situated upon lands not owned by him.

(n) *All money reasonably deposited with a landlord by the judgment debtor to secure an agreement to rent or lease a dwelling that is used by the judgment debtor as his primary residence.*

(o) All property in this State of the judgment debtor where the judgment is in favor of any state for failure to pay that state's income tax on benefits received from a pension or other retirement plan.

~~{(p)}~~ (p) Any vehicle owned by the judgment debtor for use by him or his dependent that is equipped or modified to provide mobility for a person with a permanent disability.

~~{(q)}~~ (q) Any prosthesis or equipment prescribed by a physician or dentist for the judgment debtor or a dependent of the debtor.

~~{(r)}~~ (r) Money, not to exceed \$500,000 in present value, held in:

(1) An individual retirement arrangement which conforms with the applicable limitations and requirements of section 408 or 408A of the Internal Revenue Code, 26 U.S.C. §§ 408 and 408A;

(2) A written simplified employee pension plan which conforms with the applicable limitations and requirements of section 408 of the Internal Revenue Code, 26 U.S.C. § 408;

(3) A cash or deferred arrangement which is a qualified plan pursuant to the Internal Revenue Code;

(4) A trust forming part of a stock bonus, pension or profit-sharing plan which is a qualified plan pursuant to sections 401 et seq. of the Internal Revenue Code, 26 U.S.C. §§ 401 et seq.; and

(5) A trust forming part of a qualified tuition program pursuant to chapter 353B of NRS, any applicable regulations adopted pursuant to chapter 353B of NRS and section 529 of the Internal Revenue Code, 26 U.S.C. § 529, unless the money is deposited after the entry of a judgment against the purchaser or account owner or the money will not be used by any beneficiary to attend a college or university.

~~[(t)]~~ (s) All money and other benefits paid pursuant to the order of a court of competent jurisdiction for the support, education and maintenance of a child, whether collected by the judgment debtor or the State.

~~[(s)]~~ (t) All money and other benefits paid pursuant to the order of a court of competent jurisdiction for the support and maintenance of a former spouse, including the amount of any arrearages in the payment of such support and maintenance to which the former spouse may be entitled.

~~[(t)]~~ (u) Payments, in an amount not to exceed \$16,150, received as compensation for personal injury, not including compensation for pain and suffering or actual pecuniary loss, by the judgment debtor or by a person upon whom the judgment debtor is dependent at the time the payment is received.

~~[(u)]~~ (v) Payments received as compensation for the wrongful death of a person upon whom the judgment debtor was dependent at the time of the wrongful death, to the extent reasonably necessary for the support of the judgment debtor and any dependent of the judgment debtor.

~~[(v)]~~ (w) Payments received as compensation for the loss of future earnings of the judgment debtor or of a person upon whom the judgment debtor is dependent at the time the payment is received, to the extent reasonably necessary for the support of the judgment debtor and any dependent of the judgment debtor.

~~[(w)]~~ (x) Payments received as restitution for a criminal act.

~~[(x)]~~ (y) Payments received pursuant to the federal Social Security Act, including, without limitation, retirement and survivors' benefits, supplemental security income benefits and disability insurance benefits.

2. Except as otherwise provided in NRS 115.010, no article or species of property mentioned in this section is exempt from execution issued upon a judgment to recover for its price, or upon a judgment of foreclosure of a mortgage or other lien thereon.

3. Any exemptions specified in subsection (d) of section 522 of the Bankruptcy Act of 1978, 11 U.S.C. § 522(d), do not apply to property owned by a resident of this State unless conferred also by subsection 1, as limited by subsection 2.

Sec. 3. NRS 31.045 is hereby amended to read as follows:

31.045 1. Execution on the writ of attachment by attaching property of the defendant may occur only if:

(a) The judgment creditor serves the defendant with notice of the execution when the notice of the hearing is served pursuant to NRS 31.013; or

(b) Pursuant to an ex parte hearing, the sheriff serves upon the judgment debtor notice of the execution and a copy of the writ at the same time and in the same manner as set forth in NRS 21.076.

↪ If the attachment occurs pursuant to an ex parte hearing, the clerk of the court shall attach the notice to the writ of attachment at the time the writ is issued.

2. The notice required pursuant to subsection 1 must be substantially in the following form:

NOTICE OF EXECUTION
YOUR PROPERTY IS BEING ATTACHED OR
YOUR WAGES ARE BEING GARNISHED

Plaintiff, (name of person), alleges that you owe him money. He has begun the procedure to collect that money. To secure satisfaction of judgment the court has ordered the garnishment of your wages, bank account or other personal property held by third persons or the taking of money or other property in your possession.

Certain benefits and property owned by you may be exempt from execution and may not be taken from you. The following is a partial list of exemptions:

1. Payments received pursuant to the federal Social Security Act, including, without limitation, retirement and survivors' benefits, supplemental security income benefits and disability insurance benefits.

2. Payments for benefits or the return of contributions under the Public Employees' Retirement System.

3. Payments for public assistance granted through the Division of Welfare and Supportive Services of the Department of Health and Human Services or a local governmental entity.

4. Proceeds from a policy of life insurance.

5. Payments of benefits under a program of industrial insurance.

6. Payments received as disability, illness or unemployment benefits.

7. Payments received as unemployment compensation.

8. Veteran's benefits.

9. A homestead in a dwelling or a mobile home, not to exceed \$350,000, ~~/\$450,000/~~ unless:

(a) The judgment is for a medical bill, in which case all of the primary dwelling, including a mobile or manufactured home, may be exempt.

(b) Allodial title has been established and not relinquished for the dwelling or mobile home, in which case all of the dwelling or mobile

home and its appurtenances are exempt, including the land on which they are located, unless a valid waiver executed pursuant to NRS 115.010 is applicable to the judgment.

10. *All money reasonably deposited with a landlord by you to secure an agreement to rent or lease a dwelling that is used as your primary residence.*

11. A vehicle, if your equity in the vehicle is less than \$15,000.

~~{11}~~ 12. Seventy-five percent of the take-home pay for any workweek, unless the weekly take-home pay is less than 50 times the federal minimum hourly wage, in which case the entire amount may be exempt.

~~{12}~~ 13. Money, not to exceed \$500,000 in present value, held in:

(a) An individual retirement arrangement which conforms with the applicable limitations and requirements of section 408 or 408A of the Internal Revenue Code, 26 U.S.C. §§ 408 and 408A;

(b) A written simplified employee pension plan which conforms with the applicable limitations and requirements of section 408 of the Internal Revenue Code, 26 U.S.C. § 408;

(c) A cash or deferred arrangement that is a qualified plan pursuant to the Internal Revenue Code;

(d) A trust forming part of a stock bonus, pension or profit-sharing plan that is a qualified plan pursuant to sections 401 et seq. of the Internal Revenue Code, 26 U.S.C. §§ 401 et seq.; and

(e) A trust forming part of a qualified tuition program pursuant to chapter 353B of NRS, any applicable regulations adopted pursuant to chapter 353B of NRS and section 529 of the Internal Revenue Code, 26 U.S.C. § 529, unless the money is deposited after the entry of a judgment against the purchaser or account owner or the money will not be used by any beneficiary to attend a college or university.

~~{13}~~ 14. All money and other benefits paid pursuant to the order of a court of competent jurisdiction for the support, education and maintenance of a child, whether collected by the judgment debtor or the State.

~~{14}~~ 15. All money and other benefits paid pursuant to the order of a court of competent jurisdiction for the support and maintenance of a former spouse, including the amount of any arrearages in the payment of such support and maintenance to which the former spouse may be entitled.

~~{15}~~ 16. A vehicle for use by you or your dependent which is specially equipped or modified to provide mobility for a person with a permanent disability.

~~{16}~~ 17. A prosthesis or any equipment prescribed by a physician or dentist for you or your dependent.

~~{17}~~ 18. Payments, in an amount not to exceed \$16,150, received as compensation for personal injury, not including compensation for pain

and suffering or actual pecuniary loss, by the judgment debtor or by a person upon whom the judgment debtor is dependent at the time the payment is received.

~~{18.}~~ 19. Payments received as compensation for the wrongful death of a person upon whom the judgment debtor was dependent at the time of the wrongful death, to the extent reasonably necessary for the support of the judgment debtor and any dependent of the judgment debtor.

~~{19.}~~ 20. Payments received as compensation for the loss of future earnings of the judgment debtor or of a person upon whom the judgment debtor is dependent at the time the payment is received, to the extent reasonably necessary for the support of the judgment debtor and any dependent of the judgment debtor.

~~{20.}~~ 21. Payments received as restitution for a criminal act.

↳ These exemptions may not apply in certain cases such as proceedings to enforce a judgment for support of a child or a judgment of foreclosure on a mechanic's lien. You should consult an attorney immediately to assist you in determining whether your property or money is exempt from execution. If you cannot afford an attorney, you may be eligible for assistance through (name of organization in county providing legal services to the indigent or elderly persons).

PROCEDURE FOR CLAIMING EXEMPT PROPERTY

If you believe that the money or property taken from you is exempt or necessary for the support of you or your family, you must file with the clerk of the court on a form provided by the clerk a notarized affidavit claiming the exemption. A copy of the affidavit must be served upon the sheriff and the judgment creditor within 8 days after the notice of execution is mailed. The property must be returned to you within 5 days after you file the affidavit unless the judgment creditor files a motion for a hearing to determine the issue of exemption. If this happens, a hearing will be held to determine whether the property or money is exempt. The hearing must be held within 10 days after the motion for a hearing is filed.

IF YOU DO NOT FILE THE AFFIDAVIT WITHIN THE TIME SPECIFIED, YOUR PROPERTY MAY BE SOLD AND THE MONEY GIVEN TO THE JUDGMENT CREDITOR, EVEN IF THE PROPERTY OR MONEY IS EXEMPT.

If you received this notice with a notice of a hearing for attachment and you believe that the money or property which would be taken from you by a writ of attachment is exempt or necessary for the support of you or your family, you are entitled to describe to the court at the hearing why you believe your property is exempt. You may also file a motion with the court for a discharge of the writ of attachment. You may make that motion any time before trial. A hearing will be held on that motion.

IF YOU DO NOT FILE THE MOTION BEFORE THE TRIAL, YOUR PROPERTY MAY BE SOLD AND THE MONEY GIVEN TO THE PLAINTIFF, EVEN IF THE PROPERTY OR MONEY IS EXEMPT OR NECESSARY FOR THE SUPPORT OF YOU OR YOUR FAMILY.

Sec. 4. ~~[NRS 115.010 is hereby amended to read as follows:~~

~~115.010 1. The homestead is not subject to forced sale on execution or any final process from any court, except as otherwise provided by subsections 2, 3 and 5, and NRS 115.090 and except as otherwise required by federal law.~~

~~2. The exemption provided in subsection 1 extends only to that amount of equity in the property held by the claimant which does not exceed [\$350,000] \$450,000 in value, unless allodial title has been established and not relinquished, in which case the exemption provided in subsection 1 extends to all equity in the dwelling, its appurtenances and the land on which it is located.~~

~~3. Except as otherwise provided in subsection 4, the exemption provided in subsection 1 does not extend to process to enforce the payment of obligations contracted for the purchase of the property, or for improvements made thereon, including any mechanic's lien lawfully obtained, or for legal taxes, or for:~~

~~(a) Any mortgage or deed of trust thereon executed and given, including, without limitation, any second or subsequent mortgage, mortgage obtained through refinancing, line of credit taken against the property and a home equity loan; or~~

~~(b) Any lien to which prior consent has been given through the acceptance of property subject to any recorded declaration of restrictions, deed restriction, restrictive covenant or equitable servitude, specifically including any lien in favor of an association pursuant to NRS 116.3116 or 117.070, by both husband and wife, when that relation exists.~~

~~4. If allodial title has been established and not relinquished, the exemption provided in subsection 1 extends to process to enforce the payment of obligations contracted for the purchase of the property, and for improvements made thereon, including any mechanic's lien lawfully obtained, and for legal taxes levied by a state or local government, and for:~~

~~(a) Any mortgage or deed of trust thereon; and~~

~~(b) Any lien even if prior consent has been given through the acceptance of property subject to any recorded declaration of restrictions, deed restriction, restrictive covenant or equitable servitude, specifically including any lien in favor of an association pursuant to NRS 116.3116 or 117.070, unless a waiver for the specific obligation to which the judgment relates has been executed by all allodial titleholders of the property.~~

~~5. Establishment of allodial title does not exempt the property from forfeiture pursuant to NRS 179.1156 to 179.119, inclusive, or 207.350 to 207.520, inclusive.~~

~~6. Any declaration of homestead which has been filed before July 1, [2005.] 2007, shall be deemed to have been amended on that date by extending the homestead exemption commensurate with any increase in the amount of equity held by the claimant in the property selected and claimed for the exemption up to the amount permitted by law on that date, but the increase does not impair the right of any creditor to execute upon the property when that right existed before July 1, [2005.] 2007. (Deleted by amendment.)~~

Sec. 5. ~~[NRS 115.050 is hereby amended to read as follows:~~

~~115.050 1. Whenever execution has been issued against the property of a party claiming the property as a homestead, and the creditor in the judgment makes an oath before the judge of the district court of the county in which the property is situated [,] that the amount of equity held by the claimant in the property exceeds, to the best of the creditor's information and belief, the sum of [\$350,000.] \$450,000, the judge shall, upon notice to the debtor, appoint three disinterested and competent persons as appraisers to estimate and report as to the amount of equity held by the claimant in the property [,] and, if the amount of equity exceeds the sum of [\$350,000.] \$450,000, determine whether the property can be divided so as to leave the property subject to the homestead exemption without material injury.~~

~~2. If it appears, upon the report, to the satisfaction of the judge that the property can be thus divided, he shall order the excess to be sold under execution. If it appears that the property cannot be thus divided, and the amount of equity held by the claimant in the property exceeds the exemption allowed by this chapter, he shall order the entire property to be sold, and out of the proceeds the sum of [\$350,000.] \$450,000 to be paid to the defendant in execution, and the excess to be applied to the satisfaction on the execution. No bid under [\$350,000.] \$450,000 may be received by the officer making the sale.~~

~~3. When the execution is against a husband or wife, the judge may direct the [\$350,000.] \$450,000 to be deposited in court, to be paid out only upon the joint receipt of the husband and wife, and the deposit possesses all the protection against legal process and voluntary disposition by either spouse as did the original homestead. (Deleted by amendment.)~~

Sec. 5.5. NRS 657.140 is hereby amended to read as follows:

657.140 1. Except as otherwise provided in subsection 2, a financial institution shall not include in any loan agreement a provision that allows the financial institution to recover, take, appropriate or otherwise apply as a setoff against any debt or liability owing to the financial institution under the loan agreement money from an account unrelated to the loan agreement to the extent the money is exempt from execution pursuant to paragraph ~~{(x)}~~ (y) of subsection 1 of NRS 21.090.

2. The provisions of subsection 1 do not apply to a provision in a loan agreement that specifically authorizes automatic withdrawals from an account.

3. The provisions of this section may not be varied by agreement and the rights conferred by this section may not be waived. Any provision included in an agreement that conflicts with this section is void.

4. As used in this section:

(a) "An account unrelated to the loan agreement" includes, without limitation, an account pledged as security under the loan agreement, unless the specific account pledged as security is conspicuously described in the loan agreement.

(b) "Financial institution" means an institution licensed pursuant to the provisions of this title or title 56 or chapter 645B, 645E or 649 of NRS, or a similar institution chartered or licensed pursuant to federal law.

Sec. 6. This act becomes effective on July 1, 2007.

Senator Amodei moved that the Senate do not concur in the Assembly amendments to Senate Bill No. 542.

Remarks by Senator Amodei.

Motion carried.

Bill ordered transmitted to the Assembly.

Mr. President announced that if there were no objections, the Senate would recess subject to the call of the Chair.

Senate in recess at 12:33 p.m.

SENATE IN SESSION

At 12:37 p.m.

President Krolicki presiding.

Quorum present.

REPORTS OF COMMITTEES

Mr. President:

Your Committee on Finance, to which was referred Assembly Bill No. 246, 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*

GENERAL FILE AND THIRD READING

Senate Bill No. 471.

Bill read third time.

The following amendment was proposed by the Committee on Finance:

Amendment No. 1109.

"SUMMARY—Revises provisions relating to sex offenders and offenders convicted of a crime against a child. (BDR 14-1426)"

"AN ACT relating to public safety; revising the provisions concerning certain sex offenders who are on lifetime supervision or released on parole, probation or a suspended sentence; requiring incarcerated sex offenders and offenders convicted of a crime against a child to register with a local law enforcement agency before being released from prison; requiring sex offenders and offenders convicted of a crime against a child who have not

provided a biological specimen to provide a biological specimen at the time of registration with a local law enforcement agency; increasing the minimum sentence for certain sexual offenses committed against a child; revising the penalty for a violation of a condition imposed pursuant to the program of lifetime supervision; making various other changes to provisions relating to certain offenders; providing penalties; making appropriations; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law sets forth certain conditions to be imposed on sex offenders placed under a program of lifetime supervision or released on parole, probation or a suspended sentence. (NRS 176A.410, 213.1243, 213.1245, 213.1255) Under sections ~~(1, 6 and 7)~~ 2, 8 and 10 of this bill, if an offender is: (1) convicted of certain crimes against a child under the age of 14 years; (2) ~~assigned~~ a Tier 3 ~~level of notification;~~ offender; and (3) placed under a program of lifetime supervision or released on parole, probation or a suspended sentence, the offender must not establish a residence within 1,000 feet of certain locations frequented primarily by children and must be placed under a system of active electronic monitoring if the Chief Parole and Probation Officer deems such monitoring appropriate. Sections ~~(1, 6 and 7 further)~~ 2, 8 and 10 also require an offender placed under a system of active electronic monitoring to pay to the extent of his ability any costs associated with such monitoring ~~[. Finally, sections 1, 6 and 7] and~~ prohibit a person from removing or disabling an electronic monitoring device without authorization.

In addition, sections 2, 8 and 9 of this bill prohibit certain sex offenders from being within 500 feet of certain locations frequented primarily by children. Section 8 also requires a court that issues an arrest warrant for a violation of a condition imposed pursuant to the program of lifetime supervision to transmit notice of the issuance of the warrant to the Central Repository for Nevada Records of Criminal History within 3 business days.

Existing law requires a sex offender or an offender convicted of a crime against a child to register with a local law enforcement agency within 48 hours after arriving or establishing a residence in the jurisdiction of the local law enforcement agency. (NRS 179D.240, NRS 179D.460) Section ~~(2)~~ 3 of this bill requires an incarcerated offender convicted of a crime against a child to register, before being released from prison, with the appropriate local law enforcement agency in whose jurisdiction the offender will be a resident offender upon release. Section ~~(4)~~ 5 of this bill requires an incarcerated sex offender to register, before being released, with the appropriate law enforcement agency in whose jurisdiction the sex offender will be a resident sex offender upon release.

Existing law requires a court to order, at sentencing, that a biological specimen be obtained from a person convicted of certain crimes. (NRS 176.0913) Section ~~(3)~~ 4 of this bill requires an offender convicted of a crime against a child to provide a biological specimen at the time the

offender registers with a local law enforcement agency if the offender has not already provided a biological specimen. Section ~~5~~ 6 of this bill requires a sex offender to provide a biological specimen at the time the sex offender registers with a local law enforcement agency if the sex offender has not already provided a biological specimen.

Existing law establishes the imposition of minimum sentences for certain sexual offenses committed against a child. (NRS 200.366) Section 7 of this bill increases the minimum number of years that must be served before a person is eligible for parole for committing a sexual assault against a child under the age of 16 years that does not result in substantial bodily harm to the child from 20 to 25 years. Section 7 also increases the minimum number of years that must be served before a person is eligible for parole for committing a sexual assault against a child under the age of 14 years that does not result in substantial bodily harm to the child from 20 to 35 years.

Sections 11 and 12 of this bill reconcile the provisions of Assembly Bill No. 579 of this session with the provisions of this bill.

Sections 13 and 14 of this bill make appropriations to the State Motor Pool and the Division of Parole and Probation of the Department of Public Safety.

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

Section 1. NRS 176.0926 is hereby amended to read as follows:

176.0926 1. If a defendant is convicted of a crime against a child, the court shall, following the imposition of a sentence:

(a) Notify the Central Repository of the conviction of the defendant, so the Central Repository may carry out the provisions for registration of the defendant pursuant to NRS 179D.230.

(b) Inform the defendant of the requirements for registration, including, but not limited to:

(1) The duty to register in this State during any period in which he is a resident of this State or a nonresident who is a student or worker within this State and the time within which he is required to register pursuant to NRS 179D.240;

(2) The duty to register in any other jurisdiction, *including, without limitation, any jurisdiction outside the United States*, during any period in which he is a resident of the other jurisdiction or a nonresident who is a student or worker within the other jurisdiction;

(3) If he moves from this State to another jurisdiction, *including, without limitation, any jurisdiction outside the United States*, the duty to register with the appropriate law enforcement agency in the other jurisdiction;

(4) The duty to notify the local law enforcement agency in whose jurisdiction he formerly resided, in person or in writing, if he changes the address at which he resides, including if he moves from this State to another jurisdiction, *including, without limitation, any jurisdiction outside the United States*, or changes the primary address at which he is a student or worker; and

(5) The duty to notify immediately the appropriate local law enforcement agency if the defendant is, expects to be or becomes enrolled as a student at an institution of higher education or changes the date of commencement or termination of his enrollment at an institution of higher education or if the defendant is, expects to be or becomes a worker at an institution of higher education or changes the date of commencement or termination of his work at an institution of higher education.

(c) Require the defendant to read and sign a form confirming that the requirements for registration have been explained to him.

2. The failure to provide the defendant with the information or confirmation form required by paragraphs (b) and (c) of subsection 1 does not affect the duty of the defendant to register and to comply with all other provisions for registration pursuant to NRS 179D.200 to 179D.290, inclusive.

~~Section 4.~~ Sec. 2. NRS 176A.410 is hereby amended to read as follows:

176A.410 1. Except as otherwise provided in subsection ~~[3.]~~ 6, if a defendant is convicted of a sexual offense and the court grants probation or suspends the sentence, the court shall, in addition to any other condition ordered pursuant to NRS 176A.400, order as a condition of probation or suspension of sentence that the defendant:

(a) Submit to a search and seizure of his person, residence or vehicle or any property under his control, at any time of the day or night, without a warrant, by any parole and probation officer or any peace officer, for the purpose of determining whether the defendant has violated any condition of probation or suspension of sentence or committed any crime ~~.~~

(b) Reside at a location only if ~~the~~:

(1) *The residence* has been approved by the parole and probation officer assigned to the defendant ~~.~~ ~~and keep~~

(2) *The defendant keeps* the parole and probation officer *assigned to the defendant* informed of his current address ~~.~~ ~~and~~

(c) Accept a position of employment or a position as a volunteer only if it has been approved by the parole and probation officer assigned to the defendant and keep the parole and probation officer informed of the location of his position of employment or position as a volunteer ~~.~~ ~~and~~

(d) Abide by any curfew imposed by the parole and probation officer assigned to the defendant ~~.~~ ~~and~~

(e) Participate in and complete a program of professional counseling approved by the Division ~~.~~ ~~and~~

(f) Submit to periodic tests, as requested by the parole and probation officer assigned to the defendant, to determine whether the defendant is using a controlled substance ~~.~~ ~~and~~

(g) Submit to periodic polygraph examinations, as requested by the parole and probation officer assigned to the defendant ~~.~~ ~~and~~

(h) Abstain from consuming, possessing or having under his control any alcohol. ~~¶¶~~

(i) Not have contact or communicate with a victim of the sexual offense or a witness who testified against the defendant or solicit another person to engage in such contact or communication on behalf of the defendant, unless approved by the parole and probation officer assigned to the defendant, and a written agreement is entered into and signed in the manner set forth in subsection ~~¶¶~~ 5.

(j) Not use aliases or fictitious names. ~~¶¶~~

(k) Not obtain a post office box unless the defendant receives permission from the parole and probation officer assigned to the defendant. ~~¶¶~~

(l) Not have contact with a person less than 18 years of age in a secluded environment unless another adult who has never been convicted of a sexual offense is present and permission has been obtained from the parole and probation officer assigned to the defendant in advance of each such contact. ~~¶¶~~

(m) Unless approved by the parole and probation officer assigned to the defendant and by a psychiatrist, psychologist or counselor treating the defendant, if any, not ~~be in or near~~

~~(1) A~~ knowingly be within 500 feet of any place, or if the place is a structure, within 500 feet of the actual structure, that is designed primarily for use by or for children, including, without limitation, a public or private school, a school bus stop, a center or facility that provides day care services, a video arcade, an amusement park, a playground, a park, ~~school or school grounds;~~

~~(2) A~~ an athletic field or a facility for youth sports, or a motion picture theater. ~~¶¶ or~~

~~(3) A business that primarily has children as customers or conducts events that primarily children attend.~~ The provisions of this paragraph apply only to a defendant who is a Tier 3 offender.

(n) Comply with any protocol concerning the use of prescription medication prescribed by a treating physician, including, without limitation, any protocol concerning the use of psychotropic medication. ~~¶¶~~

(o) Not possess any sexually explicit material that is deemed inappropriate by the parole and probation officer assigned to the defendant. ~~¶¶~~

(p) Not patronize a business which offers a sexually related form of entertainment and which is deemed inappropriate by the parole and probation officer assigned to the defendant. ~~¶¶~~

(q) Not possess any electronic device capable of accessing the Internet and not access the Internet through any such device or any other means, unless possession of such a device or such access is approved by the parole and probation officer assigned to the defendant. ~~¶¶ and~~

(r) Inform the parole and probation officer assigned to the defendant if the defendant expects to be or becomes enrolled as a student at an institution of higher education or changes the date of commencement or termination of his

enrollment at an institution of higher education. As used in this paragraph, "institution of higher education" has the meaning ascribed to it in NRS 179D.045.

2. Except as otherwise provided in subsection 6, if a defendant is convicted of an offense listed in subsection 6 of NRS 213.1255 against a child under the age of 14 years, the defendant is ~~assigned~~ a Tier 3 ~~Level of notification~~ offender and the court grants probation or suspends the sentence of the defendant, the court shall, in addition to any other condition ordered pursuant to subsection 1, order as a condition of probation or suspension of sentence that the defendant:

(a) Reside at a location only if the residence is not located within 1,000 feet of any place, or if the place is a structure, within 1,000 feet of the actual structure, that is designed primarily for use by or for children, including, without limitation, a public or private school, a school bus stop, a center or facility that provides day care services, a video arcade, an amusement park, a playground, a park, an athletic field or a facility for youth sports, or a motion picture theater.

(b) As deemed appropriate by the Chief Parole and Probation Officer, be placed under a system of active electronic monitoring that is capable of identifying his location and producing, upon request, reports or records of his presence near or within a crime scene or prohibited area or his departure from a specified geographic location.

~~((b))~~ (c) Pay any costs associated with his participation ~~in~~ under the system of active electronic monitoring, to the extent of his ability to pay.

3. A defendant placed under the system of active electronic monitoring pursuant to subsection 2 shall:

(a) Follow the instructions provided by the Division to maintain the electronic monitoring device in working order.

(b) Report any incidental damage or defacement of the electronic monitoring device to the Division within 2 hours after the occurrence of the damage or defacement.

(c) Abide by any other conditions set forth by the Division with regard to his participation ~~in~~ under the system of active electronic monitoring.

4. Except as otherwise provided in this subsection, a person who intentionally removes or disables or attempts to remove or disable an electronic monitoring device placed on a defendant pursuant to this section is guilty of a gross misdemeanor. The provisions of this subsection do not prohibit a person authorized by the Division from performing maintenance or repairs to an electronic monitoring device.

5. A written agreement entered into pursuant to paragraph (i) of subsection 1 must state that the contact or communication is in the best interest of the victim or witness, and specify the type of contact or communication authorized. The written agreement must be signed and agreed to by:

(a) The victim or the witness;

- (b) The defendant;
- (c) The parole and probation officer assigned to the defendant;
- (d) The psychiatrist, psychologist or counselor treating the defendant, victim or witness, if any; and
- (e) If the victim or witness is a child under 18 years of age, each parent, guardian or custodian of the child.

~~{3.}~~ 6. The court is not required to impose a condition of probation or suspension of sentence listed in ~~{subsection}~~ *subsections 1 and 2* if the court finds that extraordinary circumstances are present and the court enters those extraordinary circumstances in the record.

~~{4.}~~ 7. As used in this section, "sexual offense" has the meaning ascribed to it in NRS 179D.410.

~~{Sec. 2.}~~ *Sec. 3.* NRS 179D.230 is hereby amended to read as follows:

179D.230 1. If the Central Repository receives notice from a court pursuant to NRS 176.0926 that an offender has been convicted of a crime against a child, the Central Repository shall:

(a) If a record of registration has not previously been established for the offender, notify the local law enforcement agency so that a record of registration may be established; or

(b) If a record of registration has previously been established for the offender, update the record of registration for the offender and notify the appropriate local law enforcement agencies.

2. If the offender named in the notice is granted probation or otherwise will not be incarcerated or confined, the Central Repository shall immediately provide notification concerning the offender to the appropriate local law enforcement agencies and, if the offender resides in a jurisdiction which is outside of this State, to the appropriate law enforcement agency in that jurisdiction.

3. If an offender is incarcerated or confined and has previously been convicted of a crime against a child, before the offender is released:

(a) The Department of Corrections or a local law enforcement agency in whose facility the offender is incarcerated or confined shall:

(1) Inform the offender of the requirements for registration, including, but not limited to:

(I) The duty to register in this State during any period in which he is a resident of this State or a nonresident who is a student or worker within this State and the time within which he is required to register pursuant to NRS 179D.240;

(II) The duty to register in any other jurisdiction during any period in which he is a resident of the other jurisdiction or a nonresident who is a student or worker within the other jurisdiction;

(III) If he moves from this State to another jurisdiction, the duty to register with the appropriate law enforcement agency in the other jurisdiction;

(IV) The duty to notify the local law enforcement agency for the jurisdiction in which he now resides, in person, and the jurisdiction in which he most recently resided, in person or in writing, if he changes the address at which he resides, including if he moves from this State to another jurisdiction, or changes the primary address at which he is a student or worker; and

(V) The duty to notify immediately the appropriate local law enforcement agency if the offender is, expects to be or becomes enrolled as a student at an institution of higher education or changes the date of commencement or termination of his enrollment at an institution of higher education or if the offender is, expects to be or becomes a worker at an institution of higher education or changes the date of commencement or termination of his work at an institution of higher education; and

(2) Require the offender to read and sign a form confirming that the requirements for registration have been explained to him and to forward the form to the Central Repository.

(b) The Central Repository shall:

(1) Update the record of registration for the offender; and

(2) Provide notification concerning the offender to the appropriate local law enforcement agencies and, if the offender will reside upon release in a jurisdiction which is outside of this State, to the appropriate law enforcement agency in that jurisdiction.

4. *If an offender convicted of a crime against a child is incarcerated or confined, before the offender is released, the offender shall register, pursuant to 179D.240, with the appropriate sheriff's office, metropolitan police department or city police department in whose jurisdiction the offender will be a resident offender.*

5. The failure to provide an offender with the information or confirmation form required by paragraph (a) of subsection 3 does not affect the duty of the offender to register and to comply with all other provisions for registration.

~~{S-}~~ 6. If the Central Repository receives notice from another jurisdiction or the Federal Bureau of Investigation that an offender convicted of a crime against a child is now residing or is a student or worker within this State, the Central Repository shall:

(a) Immediately provide notification concerning the offender to the appropriate local law enforcement agencies; and

(b) Establish a record of registration for the offender with the assistance of the local law enforcement agency.

~~{Sec-3-}~~ Sec. 4. NRS 179D.240 is hereby amended to read as follows:

179D.240 1. In addition to any other registration that is required pursuant to NRS 179D.230, each offender who, after July 1, 1956, is or has been convicted of a crime against a child shall register with a local law enforcement agency pursuant to the provisions of this section.

2. Except as otherwise provided in subsection 3, if the offender resides or is present for 48 hours or more within:

(a) A county; or

(b) An incorporated city that does not have a city police department, ↪ the offender shall be deemed a resident offender and shall register with the sheriff's office of the county or, if the county or the city is within the jurisdiction of a metropolitan police department, the metropolitan police department, not later than 48 hours after arriving or establishing a residence within the county or the city.

3. If the offender resides or is present for 48 hours or more within an incorporated city that has a city police department, the offender shall be deemed a resident offender and shall register with the city police department not later than 48 hours after arriving or establishing a residence within the city.

4. If the offender is a nonresident offender who is a student or worker within this State, the offender shall register with the appropriate sheriff's office, metropolitan police department or city police department in whose jurisdiction he is a student or worker not later than 48 hours after becoming a student or worker within this State.

5. A resident or nonresident offender shall immediately notify the appropriate local law enforcement agency if:

(a) The offender is, expects to be or becomes enrolled as a student at an institution of higher education or changes the date of commencement or termination of his enrollment at an institution of higher education; or

(b) The offender is, expects to be or becomes a worker at an institution of higher education or changes the date of commencement or termination of his work at an institution of higher education.

↪ The offender shall provide the name, address and type of each such institution of higher education.

6. To register with a local law enforcement agency pursuant to this section, the offender shall:

(a) ~~Appear~~ *Unless the offender is incarcerated or confined and required to register pursuant to subsection 4 of NRS 179D.230, appear personally at the office of the appropriate local law enforcement agency;*

(b) Provide all information that is requested by the local law enforcement agency, including, but not limited to, fingerprints and a photograph; ~~and~~

(c) *If the offender has not provided a biological specimen pursuant to NRS 176.0913 or 176.0916, provide a biological specimen to the local law enforcement agency; and*

(d) Sign and date the record of registration or some other proof of registration in the presence of an officer of the local law enforcement agency ~~or~~ *or in the presence of an officer of the institution or facility in which the offender is incarcerated or confined.*

7. *If an offender convicted of a crime against a child must provide a biological specimen pursuant to paragraph (c) of subsection 6, the local law*

enforcement agency shall arrange for the biological specimen to be obtained from the offender. The local law enforcement agency shall provide the specimen to the forensic laboratory that has been designated by the county in which the offender resides or is present to conduct or oversee genetic marker testing for the county pursuant to NRS 176.0917.

8. When an offender registers, the local law enforcement agency shall:

(a) Inform the offender of the duty to notify the local law enforcement agency if the offender changes the address at which he resides or changes the primary address at which he is a student or worker; and

(b) Inform the offender of the duty to register with the local law enforcement agency in whose jurisdiction the offender relocates.

~~{8.}~~ 9. After the offender registers with the local law enforcement agency, the local law enforcement agency shall forward to the Central Repository the information collected, including the fingerprints and a photograph of the offender.

~~{9.}~~ 10. If the Central Repository has not previously established a record of registration for an offender described in subsection ~~{8.}~~ 9, the Central Repository shall:

(a) Establish a record of registration for the offender; and

(b) Provide notification concerning the offender to the appropriate local law enforcement agencies.

~~{10.}~~ 11. When an offender notifies a local law enforcement agency that:

(a) The offender is, expects to be or becomes enrolled as a student at an institution of higher education or changes the date of commencement or termination of his enrollment at an institution of higher education; or

(b) The offender is, expects to be or becomes a worker at an institution of higher education or changes the date of commencement or termination of his work at an institution of higher education,

↪ and provides the name, address and type of each such institution of higher education, the local law enforcement agency shall immediately provide that information to the Central Repository and to the appropriate campus police department.

~~{Sec. 4.}~~ *Sec. 5. NRS 179D.450 is hereby amended to read as follows:*

179D.450 1. If the Central Repository receives notice from a court pursuant to NRS 176.0927 that a sex offender has been convicted of a sexual offense or pursuant to NRS 62F.250 that a juvenile sex offender has been deemed to be an adult sex offender, the Central Repository shall:

(a) If a record of registration has not previously been established for the sex offender, notify the local law enforcement agency so that a record of registration may be established; or

(b) If a record of registration has previously been established for the sex offender, update the record of registration for the sex offender and notify the appropriate local law enforcement agencies.

2. If the sex offender named in the notice is granted probation or otherwise will not be incarcerated or confined or if the sex offender named in

the notice has been deemed to be an adult sex offender pursuant to NRS 62F.250 and is not otherwise incarcerated or confined:

(a) The Central Repository shall immediately provide notification concerning the sex offender to the appropriate local law enforcement agencies and, if the sex offender resides in a jurisdiction which is outside of this State, to the appropriate law enforcement agency in that jurisdiction; and

(b) If the sex offender is subject to community notification, the Central Repository shall arrange for the assessment of the risk of recidivism of the sex offender pursuant to the guidelines and procedures for community notification established by the Attorney General pursuant to NRS 179D.600 to 179D.800, inclusive.

3. If a sex offender is incarcerated or confined and has previously been convicted of a sexual offense as described in NRS 179D.410, before the sex offender is released:

(a) The Department of Corrections or a local law enforcement agency in whose facility the sex offender is incarcerated or confined shall:

(1) Inform the sex offender of the requirements for registration, including, but not limited to:

(I) The duty to register in this State during any period in which he is a resident of this State or a nonresident who is a student or worker within this State and the time within which he is required to register pursuant to NRS 179D.460;

(II) The duty to register in any other jurisdiction during any period in which he is a resident of the other jurisdiction or a nonresident who is a student or worker within the other jurisdiction;

(III) If he moves from this State to another jurisdiction, the duty to register with the appropriate law enforcement agency in the other jurisdiction;

(IV) The duty to notify the local law enforcement agency for the jurisdiction in which he now resides, in person, and the jurisdiction in which he formerly resided, in person or in writing, if he changes the address at which he resides, including if he moves from this State to another jurisdiction, or changes the primary address at which he is a student or worker; and

(V) The duty to notify immediately the appropriate local law enforcement agency if the sex offender is, expects to be or becomes enrolled as a student at an institution of higher education or changes the date of commencement or termination of his enrollment at an institution of higher education or if the sex offender is, expects to be or becomes a worker at an institution of higher education or changes the date of commencement or termination of his work at an institution of higher education; and

(2) Require the sex offender to read and sign a form confirming that the requirements for registration have been explained to him and to forward the form to the Central Repository.

(b) The Central Repository shall:

- (1) Update the record of registration for the sex offender;
- (2) If the sex offender is subject to community notification, arrange for the assessment of the risk of recidivism of the sex offender pursuant to the guidelines and procedures for community notification established by the Attorney General pursuant to NRS 179D.600 to 179D.800, inclusive; and
- (3) Provide notification concerning the sex offender to the appropriate local law enforcement agencies and, if the sex offender will reside upon release in a jurisdiction which is outside of this State, to the appropriate law enforcement agency in that jurisdiction.

4. *If a sex offender is incarcerated or confined, before the sex offender is released, the sex offender shall register, pursuant to NRS 179D.460, with the appropriate sheriff's office, metropolitan police department or city police department in whose jurisdiction the sex offender will be a resident sex offender.*

5. The failure to provide a sex offender with the information or confirmation form required by paragraph (a) of subsection 3 does not affect the duty of the sex offender to register and to comply with all other provisions for registration.

~~{S-}~~ 6. If the Central Repository receives notice from another jurisdiction or the Federal Bureau of Investigation that a sex offender is now residing or is a student or worker within this State, the Central Repository shall:

- (a) Immediately provide notification concerning the sex offender to the appropriate local law enforcement agencies;
- (b) Establish a record of registration for the sex offender; and
- (c) If the sex offender is subject to community notification, arrange for the assessment of the risk of recidivism of the sex offender pursuant to the guidelines and procedures for community notification established by the Attorney General pursuant to NRS 179D.600 to 179D.800, inclusive.

~~{Sec-5-}~~ Sec. 6. NRS 179D.460 is hereby amended to read as follows:

179D.460 1. In addition to any other registration that is required pursuant to NRS 179D.450, each sex offender who, after July 1, 1956, is or has been convicted of a sexual offense shall register with a local law enforcement agency pursuant to the provisions of this section.

2. Except as otherwise provided in subsection 3, if the sex offender resides or is present for 48 hours or more within:

- (a) A county; or
 - (b) An incorporated city that does not have a city police department,
- ↪ the sex offender shall be deemed a resident sex offender and shall register with the sheriff's office of the county or, if the county or the city is within the jurisdiction of a metropolitan police department, the metropolitan police department, not later than 48 hours after arriving or establishing a residence within the county or the city.

3. If the sex offender resides or is present for 48 hours or more within an incorporated city that has a city police department, the sex offender shall be deemed a resident sex offender and shall register with the city police

department not later than 48 hours after arriving or establishing a residence within the city.

4. If the sex offender is a nonresident sex offender who is a student or worker within this State, the sex offender shall register with the appropriate sheriff's office, metropolitan police department or city police department in whose jurisdiction he is a student or worker not later than 48 hours after becoming a student or worker within this State.

5. A resident or nonresident sex offender shall immediately notify the appropriate local law enforcement agency if:

(a) The sex offender is, expects to be or becomes enrolled as a student at an institution of higher education or changes the date of commencement or termination of his enrollment at an institution of higher education; or

(b) The sex offender is, expects to be or becomes a worker at an institution of higher education or changes the date of commencement or termination of his work at an institution of higher education.

↪ The sex offender shall provide the name, address and type of each such institution of higher education.

6. To register with a local law enforcement agency pursuant to this section, the sex offender shall:

(a) ~~Appear~~ *Unless the sex offender is incarcerated or confined and required to register pursuant to subsection 4 of NRS 179D.450, appear personally at the office of the appropriate local law enforcement agency;*

(b) Provide all information that is requested by the local law enforcement agency, including, but not limited to, fingerprints and a photograph; ~~and~~

(c) *If the sex offender has not provided a biological specimen pursuant to NRS 176.0913 or 176.0916, provide a biological specimen to the local law enforcement agency; and*

(d) Sign and date the record of registration or some other proof of registration of the local law enforcement agency in the presence of an officer of the local law enforcement agency ~~[-]~~ *or in the presence of an officer of the institution or facility in which the sex offender is incarcerated or confined.*

7. *If a sex offender must provide a biological specimen pursuant to paragraph (c) of subsection 6, the local law enforcement agency shall arrange for the biological specimen to be obtained from the sex offender. The local law enforcement agency shall provide the specimen to the forensic laboratory that has been designated by the county in which the sex offender resides or is present to conduct or oversee genetic marker testing for the county pursuant to NRS 176.0917.*

8. When a sex offender registers, the local law enforcement agency shall:

(a) Inform the sex offender of the duty to notify the local law enforcement agency if the sex offender changes the address at which he resides, including if he moves from this State to another jurisdiction, or changes the primary address at which he is a student or worker; and

(b) Inform the sex offender of the duty to register with the local law enforcement agency in whose jurisdiction the sex offender relocates.

~~{8.}~~ 9. After the sex offender registers with the local law enforcement agency, the local law enforcement agency shall forward to the Central Repository the information collected, including the fingerprints and a photograph of the sex offender.

~~{9.}~~ 10. If the Central Repository has not previously established a record of registration for a sex offender described in subsection ~~{8.}~~ 9, the Central Repository shall:

- (a) Establish a record of registration for the sex offender;
- (b) Provide notification concerning the sex offender to the appropriate local law enforcement agencies; and
- (c) If the sex offender is subject to community notification and has not otherwise been assigned a level of notification, arrange for the assessment of the risk of recidivism of the sex offender pursuant to the guidelines and procedures for community notification established by the Attorney General pursuant to NRS 179D.600 to 179D.800, inclusive.

~~{10.}~~ 11. When a sex offender notifies a local law enforcement agency that:

(a) The sex offender is, expects to be or becomes enrolled as a student at an institution of higher education or changes the date of commencement or termination of his enrollment at an institution of higher education; or

(b) The sex offender is, expects to be or becomes a worker at an institution of higher education or changes the date of commencement or termination of his work at an institution of higher education,

↪ and provides the name, address and type of each such institution of higher education, the local law enforcement agency shall immediately provide that information to the Central Repository and to the appropriate campus police department.

Sec. 7. NRS 200.366 is hereby amended to read as follows:

200.366 1. A person who subjects another person to sexual penetration, or who forces another person to make a sexual penetration on himself or another, or on a beast, against the will of the victim or under conditions in which the perpetrator knows or should know that the victim is mentally or physically incapable of resisting or understanding the nature of his conduct, is guilty of sexual assault.

2. Except as otherwise provided in subsections 3 and 4, a person who commits a sexual assault is guilty of a category A felony and shall be punished:

(a) If substantial bodily harm to the victim results from the actions of the defendant committed in connection with or as a part of the sexual assault, by imprisonment in the state prison:

(1) For life without the possibility of parole; or

(2) For life with the possibility of parole, with eligibility for parole beginning when a minimum of 15 years has been served.

(b) If no substantial bodily harm to the victim results, by imprisonment in the state prison for life with the possibility of parole, with eligibility for parole beginning when a minimum of 10 years has been served.

3. Except as otherwise provided in subsection 4, a person who commits a sexual assault against a child under the age of 16 years is guilty of a category A felony and shall be punished:

(a) If the crime results in substantial bodily harm to the child, by imprisonment in the state prison for life without the possibility of parole.

(b) Except as otherwise provided in paragraph (c), if the crime does not result in substantial bodily harm to the child, by imprisonment in the state prison for life with the possibility of parole, with eligibility for parole beginning when a minimum of ~~(20)~~ 25 years has been served.

(c) If the crime is committed against a child under the age of 14 years and does not result in substantial bodily harm to the child, by imprisonment in the state prison for life with the possibility of parole, with eligibility for parole beginning when a minimum of ~~(20)~~ 35 years has been served.

4. A person who commits a sexual assault against a child under the age of 16 years and who has been previously convicted of:

(a) A sexual assault pursuant to this section or any other sexual offense against a child; or

(b) An offense committed in another jurisdiction that, if committed in this State, would constitute a sexual assault pursuant to this section or any other sexual offense against a child,

↪ is guilty of a category A felony and shall be punished by imprisonment in the state prison for life without the possibility of parole.

5. For the purpose of this section, "other sexual offense against a child" means any act committed by an adult upon a child constituting:

(a) Incest pursuant to NRS 201.180;

(b) Lewdness with a child pursuant to NRS 201.230;

(c) Sado-masochistic abuse pursuant to NRS 201.262; or

(d) Luring a child using a computer, system or network pursuant to NRS 201.560, if punished as a felony.

~~Sec. 6.~~ Sec. 8. NRS 213.1243 is hereby amended to read as follows:

213.1243 1. The Board shall establish by regulation a program of lifetime supervision of sex offenders to commence after any period of probation or any term of imprisonment and any period of release on parole. The program must provide for the lifetime supervision of sex offenders by parole and probation officers.

2. Lifetime supervision shall be deemed a form of parole for:

(a) The limited purposes of the applicability of the provisions of NRS 213.1076, subsection 9 of NRS 213.1095, NRS 213.1096 and subsection 2 of NRS 213.110; and

(b) The purposes of the Interstate Compact for Adult Offender Supervision ratified, enacted and entered into by the State of Nevada pursuant to NRS 213.215.

3. Except as otherwise provided in subsection 8, the Board shall require as a condition of lifetime supervision that the sex offender, unless approved by the parole and probation officer assigned to the sex offender and by a psychiatrist, psychologist or counselor treating the sex offender, if any, not knowingly be within 500 feet of any place, or if the place is a structure, within 500 feet of the actual structure, that is designed primarily for use by or for children, including, without limitation, a public or private school, a school bus stop, a center or facility that provides day care services, a video arcade, an amusement park, a playground, a park, an athletic field or a facility for youth sports, or a motion picture theater. The provisions of this subsection apply only to a sex offender who is a Tier 3 offender.

4. Except as otherwise provided in subsection ~~(7,)~~ 8, if a ~~(person)~~ sex offender is convicted of a sexual offense listed in subsection 6 of NRS 213.1255 against a child under the age of 14 years, the ~~(person)~~ sex offender is ~~assigned~~ a Tier 3 ~~(level of notification)~~ offender and the ~~(person)~~ sex offender is sentenced to lifetime supervision, the Board shall require as a condition of lifetime supervision that the ~~(person)~~ sex offender:

(a) Reside at a location only if the residence is not located within 1,000 feet of any place, or if the place is a structure, within 1,000 feet of the actual structure, that is designed primarily for use by or for children, including, without limitation, a public or private school, a school bus stop, a center or facility that provides day care services, a video arcade, an amusement park, a playground, a park, an athletic field or a facility for youth sports, or a motion picture theater.

(b) As deemed appropriate by the Chief, be placed under a system of active electronic monitoring that is capable of identifying his location and producing, upon request, reports or records of his presence near or within a crime scene or prohibited area or his departure from a specified geographic location.

~~(b)~~ (c) Pay any costs associated with his participation under the system of active electronic monitoring, to the extent of his ability to pay.

~~4.~~ 5. A ~~(person)~~ sex offender placed under the system of active electronic monitoring pursuant to subsection 3 shall:

(a) Follow the instructions provided by the Division to maintain the electronic monitoring device in working order.

(b) Report any incidental damage or defacement of the electronic monitoring device to the Division within 2 hours after the occurrence of the damage or defacement.

(c) Abide by any other conditions set forth by the Division with regard to his participation under the system of active electronic monitoring.

~~5.~~ 6. Except as otherwise provided in this subsection, a person who intentionally removes or disables or attempts to remove or disable an electronic monitoring device placed on a ~~(person)~~ sex offender pursuant to this section is guilty of a gross misdemeanor. The provisions of this

subsection do not prohibit a person authorized by the Division from performing maintenance or repairs to an electronic monitoring device.

~~{6.} 7.~~ Except as otherwise provided in subsection ~~{5.} 6,~~ a ~~{person} sex offender~~ who commits a violation of a condition imposed on him pursuant to the program of lifetime supervision is guilty of ~~fe~~

~~(a) If the violation constitutes a minor violation, a misdemeanor;~~

~~(b) If the violation constitutes a major violation,~~ a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 6 years, and may be further punished by a fine of not more than \$5,000.

~~{4.} {7.} 8.~~ The Board is not required to impose a condition pursuant to the program of lifetime supervision listed in ~~{subsection}~~ subsections 3 and 4 if the Board finds that extraordinary circumstances are present and the Board states those extraordinary circumstances in writing.

~~{8.} 9.~~ If a court issues a warrant for arrest for a violation of this section, the court shall cause to be transmitted, in the manner prescribed by the Central Repository for Nevada Records of Criminal History, notice of the issuance of the warrant for arrest in a manner which ensures that such notice is received by the Central Repository within 3 business days.

10. For the purposes of prosecution of a violation by a ~~{person} sex offender~~ of a condition imposed upon him pursuant to the program of lifetime supervision, the violation shall be deemed to have occurred in, and may only be prosecuted in, the county in which the court that imposed the sentence of lifetime supervision pursuant to NRS 176.0931 is located, regardless of whether the acts or conduct constituting the violation took place, in whole or in part, within or outside that county or within or outside this State.

~~{5.} {9.} As used in this section:~~

~~(a) "Major violation" means a violation which poses a threat to the safety or well-being of others and which involves:~~

~~(1) The commission of any crime that is punishable as a gross misdemeanor or felony or any crime that involves a victim who is less than 18 years of age;~~

~~(2) The use of a deadly weapon, explosives or a firearm;~~

~~(3) The use or threatened use of force or violence against a person;~~

~~(4) Death or bodily injury of a person;~~

~~(5) An act of domestic violence;~~

~~(6) Harassment, stalking or threats of any kind; or~~

~~(7) The forcible or unlawful entry of a home, building, structure or vehicle in which a person is present;~~

~~(b) "Minor violation" means a violation that does not constitute a major violation.~~

Sec. 9. NRS 213.1245 is hereby amended to read as follows:

213.1245 1. Except as otherwise provided in subsection 3, if the Board releases on parole a prisoner convicted of an offense listed in NRS 179D.620,

the Board shall, in addition to any other condition of parole, require as a condition of parole that the parolee:

(a) Reside at a location only if ~~the~~ :

(1) The residence has been approved by the parole and probation officer assigned to the parolee, ~~and keep~~

(2) The parolee keeps the parole and probation officer informed of his current address. ~~the~~

(b) Accept a position of employment or a position as a volunteer only if it has been approved by the parole and probation officer assigned to the parolee and keep the parole and probation officer informed of the location of his position of employment or position as a volunteer. ~~the~~

(c) Abide by any curfew imposed by the parole and probation officer assigned to the parolee. ~~the~~

(d) Participate in and complete a program of professional counseling approved by the Division. ~~the~~

(e) Submit to periodic tests, as requested by the parole and probation officer assigned to the parolee, to determine whether the parolee is using a controlled substance. ~~the~~

(f) Submit to periodic polygraph examinations, as requested by the parole and probation officer assigned to the parolee. ~~the~~

(g) Abstain from consuming, possessing or having under his control any alcohol. ~~the~~

(h) Not have contact or communicate with a victim of the offense or a witness who testified against the parolee or solicit another person to engage in such contact or communication on behalf of the parolee, unless approved by the parole and probation officer assigned to the parolee, and a written agreement is entered into and signed in the manner set forth in subsection 2. ~~the~~

(i) Not use aliases or fictitious names. ~~the~~

(j) Not obtain a post office box unless the parolee receives permission from the parole and probation officer assigned to the parolee. ~~the~~

(k) Not have contact with a person less than 18 years of age in a secluded environment unless another adult who has never been convicted of an offense listed in NRS 179D.410 is present and permission has been obtained from the parole and probation officer assigned to the parolee in advance of each such contact. ~~the~~

(l) Unless approved by the parole and probation officer assigned to the parolee and by a psychiatrist, psychologist or counselor treating the parolee, if any, not ~~be in or near~~

~~(1) A~~ knowingly be within 500 feet of any place, or if the place is a structure, within 500 feet of the actual structure, that is designed primarily for use by or for children, including, without limitation, a public or private school, a school bus stop, a center or facility that provides day care services, a video arcade, an amusement park, a playground, a park, ~~school or school grounds.~~

~~(2) A] an athletic field or a facility for youth sports, or a motion picture theater. ~~††~~~~

~~(3) A business that primarily has children as customers or conducts events that primarily children attend.† The provisions of this paragraph apply only to a parolee who is a Tier 3 offender.~~

(m) Comply with any protocol concerning the use of prescription medication prescribed by a treating physician, including, without limitation, any protocol concerning the use of psychotropic medication. ~~††~~

(n) Not possess any sexually explicit material that is deemed inappropriate by the parole and probation officer assigned to the parolee. ~~††~~

(o) Not patronize a business which offers a sexually related form of entertainment and which is deemed inappropriate by the parole and probation officer assigned to the parolee. ~~††~~

(p) Not possess any electronic device capable of accessing the Internet and not access the Internet through any such device or any other means, unless possession of such a device or such access is approved by the parole and probation officer assigned to the parolee. ~~† and†~~

(q) Inform the parole and probation officer assigned to the parolee if the parolee expects to be or becomes enrolled as a student at an institution of higher education or changes the date of commencement or termination of his enrollment at an institution of higher education. As used in this paragraph, "institution of higher education" has the meaning ascribed to it in NRS 179D.045.

2. A written agreement entered into pursuant to paragraph (h) of subsection 1 must state that the contact or communication is in the best interest of the victim or witness, and specify the type of contact or communication authorized. The written agreement must be signed and agreed to by:

- (a) The victim or the witness;
- (b) The parolee;
- (c) The parole and probation officer assigned to the parolee;
- (d) The psychiatrist, psychologist or counselor treating the parolee, victim or witness, if any; and
- (e) If the victim or witness is a child under 18 years of age, each parent, guardian or custodian of the child.

3. The Board is not required to impose a condition of parole listed in subsection 1 if the Board finds that extraordinary circumstances are present and the Board states those extraordinary circumstances in writing.

~~Sec. 7.]~~ Sec. 10. NRS 213.1255 is hereby amended to read as follows:

213.1255 1. *Except as otherwise provided in subsection 4, in addition to any conditions of parole required to be imposed pursuant to NRS 213.1245, as a condition of releasing on parole a prisoner who was convicted of committing an offense listed in subsection 6 against a child*

under the age of 14 years and who ~~has been assigned~~ is a Tier 3 ~~level of notification~~ offender, the Board shall require that the parolee:

(a) Reside at a location only if the residence is not located within 1,000 feet of any place, or if the place is a structure, within 1,000 feet of the actual structure, that is designed primarily for use by or for children, including, without limitation, a public or private school, a school bus stop, a center or facility that provides day care services, a video arcade, an amusement park, a playground, a park, an athletic field or a facility for youth sports, or a motion picture theater.

(b) As deemed appropriate by the Chief, be placed under a system of active electronic monitoring that is capable of identifying his location and producing, upon request, reports or records of his presence near or within a crime scene or prohibited area or his departure from a specified geographic location.

~~(b)~~ (c) Pay any costs associated with his participation under the system of active electronic monitoring, to the extent of his ability to pay.

2. A parolee placed under the system of active electronic monitoring pursuant to subsection 1 shall:

(a) Follow the instructions provided by the Division to maintain the electronic monitoring device in working order.

(b) Report any incidental damage or defacement of the electronic monitoring device to the Division within 2 hours after the occurrence of the damage or defacement.

(c) Abide by any other conditions set forth by the Division with regard to his participation under the system of active electronic monitoring.

3. Except as otherwise provided in this subsection, a person who intentionally removes or disables or attempts to remove or disable an electronic monitoring device placed on a parolee pursuant to this section is guilty of a gross misdemeanor. The provisions of this subsection do not prohibit a person authorized by the Division from performing maintenance or repairs to an electronic monitoring device.

4. The Board is not required to impose a condition of parole listed in subsection 1 if the Board finds that extraordinary circumstances are present and the Board states those extraordinary circumstances in writing.

5. In addition to any conditions of parole required to be imposed pursuant to subsection 1 and NRS 213.1245, as a condition of releasing on parole a prisoner who was convicted of committing an offense listed in subsection ~~2~~ 6 against a child under the age of 14 years, the Board shall, when appropriate:

(a) Require the parolee to participate in psychological counseling. ~~(a)~~

(b) Prohibit the parolee from being alone with a child unless another adult who has never been convicted of a sexual offense is present. ~~(b) and~~

~~(c) Prohibit the parolee from being on or near the grounds of any place that is primarily designed for use by or for children, including, without~~

~~limitation, a public or private school, a center or facility that provides day care services, a video arcade and an amusement park.]~~

[2.] 6. The provisions of [subsection] *subsections 1 and 5* apply to a prisoner who was convicted of:

(a) Sexual assault pursuant to paragraph (c) of subsection 3 of NRS 200.366;

(b) Abuse or neglect of a child pursuant to subparagraph (1) of paragraph (a) of subsection 1 or subparagraph (1) of paragraph (a) of subsection 2 of NRS 200.508;

(c) An offense punishable pursuant to subsection 2 of NRS 200.750;

(d) Solicitation of a minor to engage in acts constituting the infamous crime against nature pursuant to subparagraph (1) of paragraph (a) of subsection 1 of NRS 201.195;

(e) Lewdness with a child pursuant to NRS 201.230;

(f) Luring a child or mentally ill person pursuant to NRS 201.560, if punished as a felony; or

(g) Any combination of the crimes listed in paragraphs (a) to (f), inclusive.

Sec. 11. Section 26 of Assembly Bill No. 579 of this session is hereby amended to read as follows:

Sec. 26. When an offender convicted of a crime against a child or a sex offender registers with a local law enforcement agency as required pursuant to NRS 179D.460 or 179D.480 or section 27 of this act, or updates his registration as required pursuant to section 28 of this act:

1. The offender or sex offender shall provide the local law enforcement agency with the following:

(a) The name of the offender or sex offender and all aliases that he has used or under which he has been known;

(b) The social security number of the offender or sex offender;

(c) The address of any residence or location at which the offender or sex offender resides or will reside;

(d) The name and address of any place where the offender or sex offender is a worker or will be a worker;

(e) The name and address of any place where the offender or sex offender is a student or will be a student;

(f) The license plate number and a description of all motor vehicles registered to or frequently driven by the offender or sex offender; and

(g) Any other information required by federal law.

2. If the offender or sex offender has not previously provided a biological specimen pursuant to NRS 176.0913 or 176.0916, the offender or sex offender shall provide a biological specimen to the local law enforcement agency. The local law enforcement agency shall provide the specimen to the forensic laboratory that has been designated by the county in which the offender or sex offender resides,

is present or is a worker or student to conduct or oversee genetic marker testing for the county pursuant to NRS 176.0917.

3. The local law enforcement agency shall ensure that the record of registration of the offender or sex offender includes, without limitation:

(a) A complete physical description of the offender or sex offender, a current photograph of the offender or sex offender and the fingerprints and palm prints of the offender or sex offender;

(b) The text of the provision of law defining each offense for which the offender or sex offender is required to register;

(c) The criminal history of the offender or sex offender, including, without limitation:

(1) The dates of all arrests and convictions of the offender or sex offender;

(2) The status of parole, probation or supervised release of the offender or sex offender;

(3) The status of the registration of the offender or sex offender; and

(4) The existence of any outstanding arrest warrants for the offender or sex offender;

(d) A report of the analysis of the genetic markers of the specimen obtained from the offender or sex offender ~~pursuant to NRS 176.0913,1~~;

(e) The identification number from a driver's license or an identification card issued to the offender or sex offender by this State or any other jurisdiction and a photocopy of such driver's license or identification card; and

(f) Any other information required by federal law.

Sec. 12. Section 27 of Assembly Bill No. 579 of this session is hereby amended to read as follows:

Sec. 27. 1. In addition to any other registration that is required pursuant to NRS 179D.010 to 179D.550, inclusive, and sections 16 to 30, inclusive, of this act, each offender or sex offender who, on or after October 1, 2007, is or has been convicted of a crime against a child or a sexual offense shall register initially with the appropriate local law enforcement agency of the jurisdiction in which the offender or sex offender was convicted pursuant to the provisions of this section.

2. An offender or sex offender shall initially register with a local law enforcement agency as required pursuant to subsection 1:

(a) If the offender or sex offender is sentenced to a term of imprisonment for the crime, before ~~completing the term of imprisonment~~ being released from incarceration or confinement for the crime; and

(b) If the offender or sex offender is not sentenced to a term of imprisonment for the crime, not later than 3 business days after the date on which the offender or sex offender was sentenced for the crime.

Sec. 13. 1. There is hereby appropriated from the State General Fund to the State Motor Pool for the Fiscal Year 2007-2008 the sum of \$30,112 for the purchase of two motor pool vehicles to be used by the staff employed by the Division of Parole and Probation of the Department of Public Safety for the purpose of carrying out the provisions of this act.

2. Any remaining balance of the appropriation made by subsection 1 must not be committed for expenditure after June 30, 2008, by the entity to which the appropriation is made or any entity to which money from the appropriation is granted or otherwise transferred in any manner, and any portion of the appropriated money remaining must not be spent for any purpose after September 19, 2008, by either the entity to which the money was appropriated or the entity to which the money was subsequently granted or transferred, and must be reverted to the State General Fund on or before September 19, 2008.

Sec. 14. 1. There is hereby appropriated from the State General Fund to the Division of Parole and Probation of the Department of Public Safety for the purpose of carrying out the provisions of this act the sums of:

<u>For the Fiscal Year 2007-2008</u>	<u>\$587,115</u>
<u>For the Fiscal Year 2008-2009</u>	<u>\$245,567</u>

2. Any balance of the sums appropriated by subsection 1 remaining at the end of the respective fiscal years must not be committed for expenditure after June 30 of the respective fiscal years by the entity to which the appropriation is made or any entity to which money from the appropriation is granted or otherwise transferred in any manner, and any portion of the appropriated money remaining must not be spent for any purpose after September 19, 2008, and September 18, 2009, respectively, by either the entity to which the money was appropriated or the entity to which the money was subsequently granted or transferred, and must be reverted to the State General Fund on or before September 19, 2008, and September 18, 2009, respectively.

~~{Sec. 8}~~ Sec. 15. The provisions of subsection 1 of NRS 354.599 do not apply to any additional expenses of a local government that are related to the provisions of sections ~~{3 and 5}~~ 4, 6 and 11 of this act.

~~{Sec. 9}~~ Sec. 16. The amendatory provisions of:

1. Section ~~{1}~~ 2 of this act apply to a person who is granted probation or a suspension of sentence before, on or after October 1, 2007.

2. Section ~~{6}~~ 8 of this act apply to a person who is placed under a program of lifetime supervision before, on or after October 1, 2007; and

3. ~~{Section 7}~~ Sections 9 and 10 of this act apply to a person who is released on parole before, on or after October 1, 2007.

Sec. 17. 1. This section and sections 13 and 14 of this act become effective on July 1, 2007.

2. Sections 1 to 10, inclusive, 15 and 16 of this act become effective on October 1, 2007.

3. Sections 11 and 12 of this act become effective on October 1, 2007, only if Assembly Bill No. 579 of this session becomes effective.

4. Sections 5 and 6 of this act expire by limitation on June 30, 2008.

Senator Titus moved the adoption of the amendment.

Remarks by Senator Titus.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Senate Bill No. 185.

Bill read third time.

Roll call on Senate Bill No. 185:

YEAS—21.

NAYS—None.

Senate Bill No. 185 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 380.

Bill read third time.

Roll call on Senate Bill No. 380:

YEAS—21.

NAYS—None.

Senate Bill No. 380 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 562.

Bill read third time.

Roll call on Senate Bill No. 562:

YEAS—21.

NAYS—None.

Senate Bill No. 562 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 161.

Bill read third time.

The following amendment was proposed by Senators Hardy and Townsend:

Amendment No. 1111.

"SUMMARY—Revises various provisions governing insurance. (BDR 57-586)"

"AN ACT relating to insurance; making various changes relating to persons licensed or regulated by the Commissioner of Insurance; ~~authorizing the Commissioner to conduct certain investigations;~~ increasing the maximum annual assessment on member insurers of the Nevada Life and Health Insurance Guaranty Association; revising provisions governing policies of various types of insurance; revising reporting requirements for an insurer that issues a policy of insurance covering the liability of a physician or osteopathic physician; making certain provisions applicable to title insurers, title agents and escrow officers; requiring a motor club to pay an administrative penalty for failing to pay an annual fee to the Commissioner timely; revising provisions governing claims against an insolvent insurer; making certain provisions applicable to licensed bail agents, bail solicitors, bail enforcement agents and general agents; repealing the requirement that a trustee of a medical savings account file an annual report with the Commissioner; increasing the number of deputies that the Commissioner may appoint; revising various provisions governing industrial insurance; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

~~¶ Under existing law, the Commissioner of Insurance is authorized to conduct examinations of insurers and certain other persons. (NRS 679B.230-679B.300) Section 1 of this bill authorizes the Commissioner to conduct investigations, both within and outside this State, of insurers and certain other persons.~~

Existing law establishes certain requirements for business organizations to be licensed as producers of insurance. (NRS 683A.251) Sections 1.3 and 2 of this bill require such a business organization to report to the Commissioner *of Insurance* when another producer of insurance is authorized to act on its behalf and when such authorization is terminated.

Under existing law, insurers are required to be members of the Nevada Life and Health Insurance Guaranty Association. Member insurers are required to pay an annual assessment to the Association. (NRS 686C.240) Section 7 of this bill increases the maximum amount of such an assessment.

Existing law requires that an insurer which issues a policy covering the liability of a physician or osteopathic physician file a report with the Commissioner whenever a claim on the policy is closed. (NRS 690B.260) Section 16 of this bill changes the filing requirement to require that such a report be filed at the end of each calendar quarter on all claims closed during that quarter.

Existing law requires captive insurers to maintain certain levels of unimpaired paid-in capital and unencumbered surplus. (NRS 694C.250, 694C.260) Additionally, certain captive insurers are required to submit to the Commissioner an annual report on their financial condition. Section 19 of this bill increases the required levels of such capital and surplus. Section 23 of this bill applies the reporting requirement of captive insurers to sponsored captive insurers.

Existing law governs the filing of claims against an insurer against which delinquency proceedings have begun. Currently, claims are filed with the receiver and a court determines the validity of the claim. (NRS 696B.330) Existing law establishes classes for the order of priority for distribution of the assets of an insurer to claimants against the insurer. (NRS 696B.420) Section 27 of this bill requires the receiver to determine the validity of a claim and to determine the priority of the claim. If a person objects to the determination of the receiver, the determination may be appealed to a court.

Existing law defines "tangible net worth" for the purposes of industrial insurance to include all assets of an association of self-insured private employers or of a member of such an association, but excepts a number of assets from the definition. (NRS 616A.330) Section 29 of this bill removes most of the exceptions.

Existing law provides that an employee leasing company shall be deemed to be the employer of its leased employees for the purposes of sponsoring and maintaining any benefit plans. (NRS 616B.691) Section 30.8 of this bill clarifies that such a company shall be deemed to be the employer for the purposes of the Employee Retirement Income Security Act of 1974 (ERISA). Section 30.8 also clarifies the prohibition against such a company offering a self-funded industrial insurance program.

Existing law authorizes the Commissioner to appoint two deputies. Section 31 of this bill authorizes the Commissioner to appoint one additional deputy.

Existing law requires a trustee of a medical savings account to file an annual report with the Commissioner. (NRS 689A.735) Section 32 of this bill repeals that requirement.

Chapter 616B of NRS governs providers of industrial insurance. Under existing law, certain employers and associations of employers may qualify as self-insurers. (NRS 616B.300, 616B.353, 616B.386) Section 29.5 of this bill requires associations of self-insured public and private employees to provide to members certain information regarding claims at the request of the member. Sections 29.7, 29.8 and 30 of this bill provide specific fiscal requirements for qualification as a self-insured employer or an association of self-insured public or private employers.

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

Section 1. ~~Chapter 679B of NRS is hereby amended by adding thereto a new section to read as follows:~~

~~1. The Commissioner may conduct investigations to determine whether any insurer or person identified in NRS 679B.230 or 679B.240 has violated any provision of this Code.~~

~~2. The Commissioner may:~~

~~(a) Use employees of the Division as investigators; or~~
~~(b) Contract with and procure the services of such investigators as he may reasonably require to conduct investigations. The Commissioner shall~~

~~determine the qualifications required of such investigators, except that no investigator who provides services pursuant to this paragraph may be in the classified service of the State.~~

~~3. Investigations may be conducted into activities occurring either within or outside this State. In conducting investigations, the Commissioner and his investigators may:~~

~~(a) Travel within or outside this State; and~~

~~(b) Cooperate with appropriate agencies or persons within or outside this State.~~

~~4. Investigations may be conducted before, during or after an examination conducted pursuant to this Code.~~

~~5. The provisions governing examinations set forth in NRS 679B.250, 679B.285 and 679B.287 apply to investigations conducted pursuant to this section.~~

~~6. The expenses of an investigation conducted pursuant to this section must be borne by the person investigated in the same manner as provided for examinations in NRS 679B.200.~~

~~7. The expenses paid by a person investigated pursuant to this section must be deposited in the State Treasury for credit to the Insurance Examination Fund created by NRS 679B.300, accounted for separately and used for the payment of investigation expenses. Payment of the expenses of an investigation pursuant to this section must be paid out of the Insurance Examination Fund as other claims against the State are paid. (Deleted by amendment.)~~

Sec. 1.03. NRS 681B.050 is hereby amended to read as follows:

681B.050 1. As to casualty insurance transacted by it, each insurer shall maintain at all times reserves in an amount estimated in the aggregate to provide for payment of all losses and claims incurred, whether reported or unreported, which are unpaid and for which the insurer may be liable and to provide for the expenses of adjustment or settlement of losses and claims. The reserves must be computed in accordance with regulations adopted from time to time by the Commissioner upon reasonable consideration of the ascertained experience and the character of such kind of business for the purpose of adequately protecting the insured and the solvency of the insurer.

2. Whenever the loss and loss expense experience of the insurer show that reserves, calculated in accordance with those regulations, are inadequate, the Commissioner may require the insurer to maintain additional reserves.

3. [The minimum reserve requirements prescribed by the Commissioner for unpaid losses and loss expenses incurred during each of the most recent 3 years for coverages included in the lines of business described in the insurer's annual statement as workmen's compensation, liability other than automobile (B.I.), and automobile liability (B.I.) must not be less than the following: For workmen's compensation, 65 percent of premiums earned during each year less the amount already paid for losses and expenses incidental thereto incurred during the year; for liability other than automobile

~~(B.I.) and automobile liability (B.I.), 60 percent of premiums earned during each year less the amount already paid for losses and expenses incidental thereto incurred during the year.~~

4-] The Commissioner may, by regulation, prescribe the manner and form of reporting pertinent information concerning the reserves provided for in this section.

Sec. 1.05. NRS 682A.280 is hereby amended to read as follows:

682A.280 1. In addition to investments excluded pursuant to other provisions of this Code, an insurer shall not acquire, invest in or lend its funds upon the security of:

(a) Issued shares of its own capital stock, except as *otherwise* provided in NRS 693A.170 (purchase of own shares by stock insurer). No such shares shall be considered as an asset of the insurer in any determination of its financial condition.

(b) Securities issued by any corporation or enterprise the controlling interest of which is, or will after such acquisition by the insurer be, held directly or indirectly by the insurer or any combination of the insurer and the insurer's directors, officers, subsidiaries or controlling stockholders, ~~{}~~ other than a parent corporation, ~~{}~~ and the spouses and children of any of the foregoing individuals. Investments in controlled insurance corporations or subsidiaries under NRS 682A.120 and 682A.130 are not subject to the provisions of this section.

(c) Any note or other evidence of indebtedness of any director, officer, employee or controlling stockholder of the insurer, or of the spouse or child of any of the foregoing individuals, except as to ~~policy~~:

(1) *Policy* loans authorized under NRS 682A.170 ~~{}~~; or

(2) *Loans on the same terms and conditions as any other borrower which have been approved by a majority vote of the board of directors of the insurer ~~{}~~ and which conform to the standards set forth in NRS 682A.230.*

(d) Any real property in which any officer or director of the insurer has a financial interest.

2. No insurer shall underwrite or participate in the underwriting of an offering of securities or property of any other person. This section shall not be deemed to prohibit the insurer from being a subsidiary which is the principal underwriter of a registered investment company (mutual fund).

3. No insurer shall enter into any agreement to withhold from sale any of its securities or property, and the disposition of its assets shall at all times be within the control of the insurer.

Sec. 1.1. Chapter 683A of NRS is hereby amended by adding thereto the provisions set forth as sections 1.3 and 1.5 of this act.

Sec. 1.3. 1. *A business organization which is licensed as a producer of insurance and which authorizes another producer of insurance to transact business on its behalf shall notify the Commissioner within 15 days after the effective date of the authorization in the manner prescribed by the Commissioner.*

2. *A business organization which is licensed as a producer of insurance and which terminates the authorization of a producer of insurance for any reason shall notify the Commissioner within 30 days after the effective date of the termination in the manner prescribed by the Commissioner. The business organization shall provide additional information or documents if so requested in writing by the Commissioner.*

3. *If the reason for termination is an activity described in NRS 683A.451 as a cause for disciplinary action or the business organization knows that the producer of insurance has been found to have engaged in such an activity by a court, governmental agency or self-regulatory organization authorized by law, the business organization shall notify the Commissioner, in the manner prescribed by the Commissioner, if the business organization discovers additional information that would have been reportable originally to the Commissioner if the business organization had then known it.*

Sec. 1.5. 1. *If an administrator establishes a panel of providers of health care or contracts with an organization that establishes a panel of providers of health care, the administrator shall not charge a provider of health care or such an organization:*

(a) Any fee to include the name of the provider of health care on the panel; or

(b) Any other fee related to establishing the provider of health care as a provider on the panel.

2. *If an administrator violates the provisions of subsection 1, the administrator shall pay to the provider of health care or organization, as appropriate, an amount that is equal to twice the fee charged to the provider of health care or the organization.*

3. *A court shall award costs and reasonable attorney's fees to the prevailing party in any action brought to enforce the provisions of this section.*

4. *In addition to any relief granted pursuant to this section, if an administrator violates the provisions of subsection 1, the Division shall require the administrator to suspend the prohibited activities until the administrator, as determined by the Division:*

(a) Complies with the provisions of subsection 1; and

(b) Refunds to all providers of health care or organizations, as appropriate, all fees obtained by the administrator in violation of subsection 1.

Sec. 1.7. NRS 683A.0805 is hereby amended to read as follows:

683A.0805 As used in NRS 683A.0805 to 683A.0893, inclusive, and section 1.5 of this act, unless the context otherwise requires, the words and terms defined in NRS 683A.081 to 683A.084, inclusive, have the meanings ascribed to them in those sections.

Sec. 1.9. NRS 683A.08528 is hereby amended to read as follows:

683A.08528 1. Not later than July 1 of each year, each holder of a certificate of registration as an administrator shall file with the Commissioner

an annual report for the most recently completed fiscal year of the administrator. Each annual report must be verified by at least two officers of the administrator.

2. Each annual report filed pursuant to this section must include all the following:

(a) ~~{Except as otherwise provided in this paragraph, a}~~ A financial statement of the administrator that has been ~~{audited and prepared by an independent certified public accountant. In lieu of a financial statement that has been audited and prepared by an independent certified public accountant, the administrator may include with the annual report a financial statement that has been}~~ reviewed by an independent certified public accountant . ~~{if:~~

~~(1) The total business assets of the administrator were less than \$100,000 at the end of the most recently completed fiscal year of the administrator; or~~

~~(2) The administrator did not have any agreements to act as an administrator during the most recently completed fiscal year of the administrator.}~~

(b) The complete name and address of each person, if any, for whom the administrator agreed to act as an administrator during the most recently completed fiscal year of the administrator.

(c) Any other information required by the Commissioner.

3. In addition to the information required pursuant to subsection 2, if an annual report is prepared on a consolidated basis, the annual report must include a columnar or combining worksheet that:

(a) Includes the amounts shown on the consolidated financial statement accompanying the annual report;

(b) Separately sets forth the amounts for each entity included in the worksheet; and

(c) Includes an explanation of each consolidating and eliminating entry included in the worksheet.

4. Each administrator who files an annual report pursuant to this section shall, at the time of filing the annual report, pay a filing fee in an amount determined by the Commissioner.

5. ~~{On or before September 1 of each year, the}~~ The Commissioner shall, for each administrator, review the annual report that is most recently filed by the administrator. As soon as practicable after reviewing the report, the Commissioner shall:

(a) Issue a certificate to the administrator:

(1) Indicating that, based on the annual report and accompanying financial statement, the administrator has a positive net worth and is currently licensed and in good standing in this State; or

(2) Setting forth any deficiency found by the Commissioner in the annual report and accompanying financial statement; or

(b) Submit a statement to any electronic database maintained by the National Association of Insurance Commissioners or any affiliate or subsidiary of the Association:

(1) Indicating that, based on the annual report and accompanying financial statement, the administrator has a positive net worth and is in compliance with existing law; or

(2) Setting forth any deficiency found by the Commissioner in the annual report and accompanying financial statement.

Sec. 2. NRS 683A.251 is hereby amended to read as follows:

683A.251 1. The Commissioner shall prescribe the form of application by a natural person for a license as a resident producer of insurance. The applicant must declare, under penalty of refusal to issue, or suspension or revocation of, the license, that the statements made in the application are true, correct and complete to the best of his knowledge and belief. Before approving the application, the Commissioner must find that the applicant has:

(a) Attained the age of 18 years;

(b) Not committed any act that is a ground for refusal to issue, or suspension or revocation of, a license;

(c) Completed a course of study for the lines of authority for which the application is made, unless the applicant is exempt from this requirement;

(d) Paid the fee prescribed for the license and a fee established by the Commissioner of not more than \$15 for deposit in the Insurance Recovery Account, neither of which may be refunded; and

(e) Successfully passed the examinations for the lines of authority for which application is made, unless the applicant is exempt from this requirement.

2. A business organization must be licensed as a producer of insurance in order to act as such. Application must be made on a form prescribed by the Commissioner. Before approving the application, the Commissioner must find that the applicant has:

(a) Paid the fee prescribed for the license and a fee established by the Commissioner of not more than \$15 for deposit in the Insurance Recovery Account, neither of which may be refunded; ~~and~~

(b) Designated a natural person who is licensed as a producer of insurance and who is ~~affiliated with~~ *authorized to transact business on behalf of* the business organization to be responsible for the organization's compliance with the laws and regulations of this State relating to insurance ~~}; and~~

(c) *If the business organization has authorized a producer of insurance not designated pursuant to paragraph (b) to transact business on behalf of the business organization, submitted to the Commissioner on a form prescribed by the Commissioner the name of each producer of insurance authorized to transact business on behalf of the business organization.*

3. A natural person who is a resident of this State applying for a license must furnish a complete set of his fingerprints which the Commissioner may forward to the Central Repository for Nevada Records of Criminal History

for submission to the Federal Bureau of Investigation for its report. The Commissioner shall adopt regulations concerning the procedures for obtaining this information.

4. The Commissioner may require any document reasonably necessary to verify information contained in an application.

Sec. 3. NRS 683A.261 is hereby amended to read as follows:

683A.261 1. Unless the Commissioner refuses to issue the license under NRS 683A.451, he shall issue a license as a producer of insurance to a person who has satisfied the requirements of NRS 683A.241 and 683A.251. A producer of insurance may qualify for a license in one or more of the lines of authority permitted by statute or regulation, including:

(a) Life insurance on human lives, which includes benefits from endowments and annuities and may include additional benefits from death by accident and benefits for dismemberment by accident and for disability.

(b) Health insurance for sickness, bodily injury or accidental death, which may include benefits for disability.

(c) Property insurance for direct or consequential loss or damage to property of every kind.

(d) Casualty insurance against legal liability, including liability for death, injury or disability and damage to real or personal property.

(e) Surety indemnifying financial institutions or providing bonds for fidelity, performance of contracts or financial guaranty.

(f) Variable annuities and variable life insurance, including coverage reflecting the results of a separate investment account.

(g) Credit insurance, including life, disability, property, unemployment, involuntary unemployment, mortgage life, mortgage guaranty, mortgage disability, guaranteed protection of assets, and any other form of insurance offered in connection with an extension of credit that is limited to wholly or partially extinguishing the obligation which the Commissioner determines should be considered as limited-line credit insurance.

(h) Personal lines, consisting of automobile and motorcycle insurance and residential property insurance, including coverage for flood, of personal watercraft and of excess liability, written over one or more underlying policies of automobile or residential property insurance.

(i) Fixed annuities as a limited line.

(j) Travel and baggage as a limited line.

(k) Rental car agency as a limited line.

2. A license as a producer of insurance remains in effect unless revoked, suspended or otherwise terminated if a request for a renewal is submitted on or before the date for the renewal specified on the license, the fee for renewal and a fee established by the Commissioner of not more than \$15 for deposit in the Insurance Recovery Account are paid for each license and each ~~affiliation with~~ *authorization to transact business on behalf of* a business organization licensed pursuant to subsection 2 of NRS 683A.251, and any requirement for education or any other requirement to renew the license is

satisfied by the date specified on the license for the renewal. A producer of insurance may submit a request for a renewal of his license within 30 days after the date specified on the license for the renewal if the producer of insurance otherwise complies with the provisions of this subsection and pays, in addition to any fee paid pursuant to this subsection, a penalty of 50 percent of the renewal fee. A license as a producer of insurance expires if the Commissioner receives a request for a renewal of the license more than 30 days after the date specified on the license for the renewal. A fee paid pursuant to this subsection is nonrefundable.

3. A natural person who allows his license as a producer of insurance to expire may reapply for the same license within 12 months after the date specified on the license for a renewal without passing a written examination or completing a course of study required by paragraph (c) of subsection 1 of NRS 683A.251, but a penalty of twice the renewal fee is required for any request for a renewal of the license that is received after the date specified on the license for the renewal.

4. A licensed producer of insurance who is unable to renew his license because of military service, extended medical disability or other extenuating circumstance may request a waiver of the time limit and of any fine or sanction otherwise required or imposed because of the failure to renew.

5. A license must state the licensee's name, address, personal identification number, the date of issuance, the lines of authority and the date of expiration and must contain any other information the Commissioner considers necessary. A resident producer of insurance shall maintain a place of business in this State which is accessible to the public and where he principally conducts transactions under his license. The place of business may be in his residence. The license must be conspicuously displayed in an area of the place of business which is open to the public.

6. A licensee shall inform the Commissioner of each change of location from which he conducts business as a producer of insurance and each change of business or residence address, in writing or by other means acceptable to the Commissioner, within 30 days after the change. If a licensee changes the location from which he conducts business as a producer of insurance or his business or residence address without giving written notice and the Commissioner is unable to locate the licensee after diligent effort, he may revoke the license without a hearing. The mailing of a letter by certified mail, return receipt requested, addressed to the licensee at his last mailing address appearing on the records of the Division, and the return of the letter undelivered, constitutes a diligent effort by the Commissioner.

Sec. 4. (Deleted by amendment.)

Sec. 5. (Deleted by amendment.)

Sec. 6. (Deleted by amendment.)

Sec. 7. NRS 686C.240 is hereby amended to read as follows:

686C.240 1. The Board of Directors *of the Association* shall determine the amount of each assessment in Class A and may, but need not, prorate it.

If an assessment is prorated, the Board may provide that any surplus be credited against future assessments in Class B. An assessment which is not prorated must not exceed ~~[\$150]~~ \$300 for each member insurer for any ~~one~~ 1 calendar year.

2. The Board may allocate any assessment in Class B among the accounts according to the premiums or reserves of the impaired or insolvent insurer or any other standard which it considers fair and reasonable under the circumstances.

3. Assessments in Class B against member insurers for each account and subaccount must be in the proportion that the premiums received on business in this State by each assessed member insurer on policies or contracts covered by each account or subaccount for the 3 most recent calendar years for which information is available preceding the year in which the insurer became impaired or insolvent bears to premiums received on business in this State for those calendar years by all assessed member insurers.

4. Assessments for money to meet the requirements of the Association with respect to an impaired or insolvent insurer must not be authorized or called until necessary to carry out the purposes of this chapter. Classification of assessments under subsection 2 of NRS 686C.230 and computation of assessments under this section must be made with a reasonable degree of accuracy, recognizing that exact determinations may not always be possible. The Association shall notify each member insurer of its anticipated prorated share of an assessment authorized but not yet called within 180 days after it is authorized.

Sec. 8. NRS 687B.350 is hereby amended to read as follows:

687B.350 1. Except as otherwise provided in subsection 2, an insurer shall not renew a policy on different terms, including different rates, unless the insurer notifies the insured in writing of the different terms or rates at least 30 days before the expiration of the policy. If the insurer fails to provide adequate and timely notice, the insurer shall renew the policy at the expiring terms and rates:

(a) For a period that is equal to the expiring term if the agreed term is 1 year or less; or

(b) For 1 year if the agreed term is more than 1 year.

2. The provisions of this section do not apply to a *change in the rate for a policy of industrial insurance* ~~[-]~~ *which is based on:*

(a) *A change to a prospective loss cost filed by the Advisory Organization pursuant to NRS 686B.177 that is applicable to the risk; or*

(b) *A correction based on the experience that is applicable to the risk in accordance with the Uniform Plan for Rating Experience filed with the Commissioner pursuant to NRS 686B.177.*

Sec. 9. NRS 689.150 is hereby amended to read as follows:

689.150 As used in NRS 689.150 to 689.375, inclusive, unless the context otherwise requires:

1. "Funeral service or services" means those services performed normally by funeral directors or funeral or mortuary parlors and includes their sales of supplies and equipment for burial. The term includes cremations and crematory services. The term does not include services performed by a cemetery or the sale by a cemetery of services, interests in land, markers, memorials, monuments or merchandise and equipment in relation to the cemetery or the sale of crypts or niches constructed or to be constructed in a mausoleum or columbarium or otherwise on the property of a cemetery.

2. "Performer" means any person designated in a prepaid contract to furnish the funeral services, supplies and equipment covered by the contract on the demise of the beneficiary.

3. "Prepaid contract" means any contract under which, for a specified consideration paid in advance in a lump sum or by installments ~~{, a person}~~ or payable solely from the proceeds of a policy of life insurance, the seller of the contract guarantees or promises either before or upon the death of a beneficiary named in or otherwise ascertainable from the contract to furnish funeral services and merchandise. The term does not include a contract of insurance or any instrument in writing whereby any charitable, religious, benevolent or fraternal benefit society, corporation, association, institution or organization, not having for its object or purpose pecuniary profit, promises or agrees to embalm, inter or otherwise dispose of the remains of any person, or to procure or pay the expenses, or any part thereof, of embalming, interring or otherwise disposing of the remains of any person.

Sec. 10. NRS 689.185 is hereby amended to read as follows:

689.185 1. *Except as otherwise provided in subsection 2:*

(a) Before the issuance of a certificate of authority, the seller shall post with the Commissioner and thereafter maintain in force a bond in the principal sum of \$50,000 issued by an authorized corporate surety in favor of the State of Nevada, or a deposit of cash or negotiable securities or a combination of cash and negotiable securities. If a deposit is made in lieu of a bond, the deposit must at all times have a market value of not less than the amount of the bond required by the Commissioner.

~~{2}~~ (b) The bond or deposit must be held for the benefit of buyers of prepaid contracts, and other persons as their interests may appear, who may be damaged by misuse or diversion of money by the seller or his agents, or to satisfy any judgments against the seller for failure to perform a prepaid contract. The aggregate liability of the surety for all breaches of the conditions of the bond must not exceed the sum of the bond. The surety on the bond has the right to cancel the bond upon giving 30 days' notice to the Commissioner and thereafter is relieved of liability for any breach of condition occurring after the effective date of the cancellation.

~~{3}~~ (c) The Commissioner shall release the bond or deposit after the seller has ceased doing business as such and the Commissioner is satisfied of the nonexistence of any obligation or liability of the seller for which the bond or deposit was held.

2. *The Commissioner may waive the requirements of subsection 1 if the seller agrees:*

(a) *To offer for sale only prepaid contracts that are payable solely from the proceeds of a policy of life insurance; and*

(b) *Not to collect any money from the purchaser of a prepaid contract.*

Sec. 11. NRS 689.315 is hereby amended to read as follows:

689.315 1. *Except as otherwise provided in subsection 2:*

(a) The seller shall establish and maintain a trust fund with an authorized trustee, for the benefit of the beneficiary of the prepaid contract, in accordance with the trust agreement filed with and approved by the Commissioner.

~~{2.}~~ (b) The seller shall maintain unimpaired and shall deposit in the trust fund, within 15 days after the end of the month in which payment was received, all installments received on prepaid contracts sold after the sales commission has been deducted.

~~{3.}~~ (c) The trustee shall, with respect to the money in the trust fund, exercise the judgment and care under the circumstances then prevailing which persons of prudence, discretion and intelligence exercise in the management of their own affairs, not in regard to speculation, but in regard to the permanent disposition of their money, considering the probable income as well as the probable safety of their capital. Within the limitations of such standards, and subject to any express provision or limitation contained in any particular trust instrument, a trustee may acquire and retain every kind of investment, specifically including bonds, debentures and other corporate obligations and stocks, preferred or common, which persons of prudence, discretion and intelligence acquire or retain for their own account.

~~{4.}~~ (d) Except as otherwise provided in NRS 689.150 to 689.375, inclusive, or the trust agreement approved in writing by the Commissioner or as may be required by an order of a court of competent jurisdiction, the trustees shall maintain the trust fund intact and unimpaired and shall make no other payment or disbursement from the trust fund.

2. *The requirements of subsection 1 do not apply if:*

(a) *The prepaid contract is payable solely from the proceeds of a policy of life insurance; and*

(b) *The seller of the prepaid contract does not collect any money from the purchaser of the prepaid contract.*

Sec. 12. NRS 689.475 is hereby amended to read as follows:

689.475 1. "Prepaid contract" means any contract under which, for a specified consideration paid in advance in a lump sum or by installments ~~to a person~~ or payable solely from the proceeds of a policy of life insurance, the seller of the contract guarantees or promises, either before or upon the death of a beneficiary named in or otherwise ascertainable from the contract, to provide burial services and to furnish adaptable or suitable personal property, merchandise, supplies or facilities in connection with such services.

2. "Prepaid contract" does not include a contract of insurance or any instrument in writing whereby any charitable, religious, benevolent or fraternal benefit society, corporation, association, institution or organization, not having for its object or purpose pecuniary profit, promises or agrees to embalm, inter or otherwise dispose of the remains of any person, or to procure or pay the expenses, or any part thereof, for embalming, interring or otherwise disposing of the remains of any person.

Sec. 13. NRS 689.495 is hereby amended to read as follows:

689.495 1. *Except as otherwise provided in subsection 2:*

(a) Before the issuance of a permit to a seller, the seller shall post with the Commissioner and thereafter maintain in force a bond in the principal sum of \$50,000 issued by an authorized corporate surety in favor of the State of Nevada, or a deposit of cash or negotiable securities or a combination of cash and negotiable securities. If a deposit is made in lieu of a bond, the deposit must at all times have a market value not less than the amount of the bond required by the Commissioner.

~~{2.}~~ (b) The bond or deposit must be held for the benefit of buyers of prepaid contracts, and other persons as their interests may appear, who may be damaged by misuse or diversion of money by the seller or his agents, or to satisfy any judgments against the seller for failure to perform a prepaid contract. The aggregate liability of the surety for all breaches of the conditions of the bond must not exceed the sum of the bond. The surety on the bond has the right to cancel the bond upon giving 30 days' notice to the Commissioner and thereafter is relieved of liability for any breach of condition occurring after the effective date of the cancellation.

~~{3.}~~ (c) The Commissioner shall release the bond or deposit after the seller has ceased doing business as such and the Commissioner is satisfied of the nonexistence of any obligation or liability of the seller for which the bond or deposit was held.

2. *The Commissioner may waive the requirements of subsection 1 if the seller agrees:*

(a) *To offer for sale only prepaid contracts that are payable solely from the proceeds of a policy of life insurance; and*

(b) *Not to collect any money from the purchaser of a prepaid contract.*

Sec. 14. NRS 689.560 is hereby amended to read as follows:

689.560 1. *Except as otherwise provided in subsection 2:*

(a) The seller shall establish and maintain a trust fund with an authorized trustee, for the benefit of the beneficiary of the prepaid contract, in accordance with the trust agreement filed with and approved by the Commissioner.

~~{2.}~~ (b) The seller shall maintain unimpaired and shall deposit in the trust fund, within 15 days after the end of the month in which payment was received, all installments received on prepaid contracts sold after the sales commission has been deducted.

~~{3-}~~ (c) The trustee shall, with respect to the money in the trust fund, exercise the judgment and care under the circumstances then prevailing which persons of prudence, discretion and intelligence exercise in the management of their own affairs, not in regard to speculation, but in regard to the permanent disposition of their money, considering the probable income as well as the probable safety of their capital. Within the limitations of such standards, and subject to any express provision or limitation contained in any particular trust instrument, a trustee may acquire and retain every kind of investment, specifically including bonds, debentures and other corporate obligations and stocks, preferred or common, which persons of prudence, discretion and intelligence acquire or retain for their own account.

~~{4- Except}~~

(d) *The trustee shall, except* as otherwise provided in NRS 689.450 to 689.595, inclusive, or the trust agreement approved in writing by the Commissioner or as may be required by an order of a court of competent jurisdiction, ~~{the trustees shall}~~ maintain the trust fund intact and unimpaired and ~~{shall}~~ not make any payment or disbursement from the trust fund.

2. *The requirements of subsection 1 do not apply if:*

(a) *The prepaid contract is payable solely from the proceeds of a policy of life insurance; and*

(b) *The seller of the prepaid contract does not collect any money from the purchaser of the prepaid contract.*

Sec. 15. NRS 689C.075 is hereby amended to read as follows:

689C.075 1. "Health benefit plan" means a policy ~~{or certificate for hospital or medical expenses, a contract for dental, hospital or medical services, or a health care plan of a health maintenance organization available for use, offered or sold to a small employer.}~~, *contract, certificate or agreement to provide for, deliver payment for, arrange for the payment of, pay for or reimburse any of the costs of health care services.* Except as otherwise provided in this section, the term includes short-term and catastrophic health insurance policies ~~{}~~ and a policy that pays on a cost-incurred basis.

2. The term does not include:

(a) Coverage that is only for accident or disability income insurance, or any combination thereof;

(b) Coverage issued as a supplement to liability insurance;

(c) Liability insurance, including general liability insurance and automobile liability insurance;

(d) Workers' compensation or similar insurance;

(e) Coverage for medical payments under a policy of automobile insurance;

(f) Credit insurance;

(g) Coverage for on-site medical clinics;

(h) Coverage under a short-term health insurance policy;

(i) Coverage under a blanket student accident and health insurance policy; and

(j) Other similar insurance coverage specified in federal regulations issued pursuant to the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191, under which benefits for medical care are secondary or incidental to other insurance benefits.

3. If the benefits are provided under a separate policy, certificate or contract of insurance or are otherwise not an integral part of a health benefit plan, the term does not include the following benefits:

(a) Limited-scope dental or vision benefits;

(b) Benefits for long-term care, nursing home care, home health care or community-based care, or any combination thereof; and

(c) Such other similar benefits as are specified in any federal regulations adopted pursuant to the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191.

4. If the benefits are provided under a separate policy, certificate or contract of insurance, there is no coordination between the provision of the benefits and any exclusion of benefits under any group health plan maintained by the same plan sponsor, and the benefits are paid for a claim without regard to whether benefits are provided for such a claim under any group health plan maintained by the same plan sponsor, the term does not include:

(a) Coverage that is only for a specified disease or illness; and

(b) Hospital indemnity or other fixed indemnity insurance.

5. If offered as a separate policy, certificate or contract of insurance, the term does not include:

(a) Medicare supplemental health insurance as defined in section 1882(g)(1) of the Social Security Act, 42 U.S.C. § 1395ss, as that section existed on July 16, 1997;

(b) Coverage supplemental to the coverage provided pursuant to the Civilian Health and Medical Program of Uniformed Services, CHAMPUS, 10 U.S.C. §§ 1071 et seq.; and

(c) Similar supplemental coverage provided under a group health plan.

Sec. 15.5. NRS 689C.170 is hereby amended to read as follows:

689C.170 1. A carrier serving small employers may vary the application of requirements for minimum participation of eligible employees and minimum employer's contributions only by the size of the small employer's group ~~+~~ or the product offered.

2. In applying requirements for minimum participation with respect to a small employer, a carrier shall not consider employees or dependents who have creditable coverage when determining whether the applicable percentage of participation is met, but may consider employees or dependents who have coverage under another health benefit plan that is sponsored by the employer.

3. A carrier shall not deny an application for coverage solely because the applicant works in a certain industry.

4. After a small employer has been accepted for coverage, a carrier shall not increase any requirement for minimum employee participation or modify any requirement for minimum employer contribution applicable to the small employer.

Sec. 16. NRS 690B.260 is hereby amended to read as follows:

690B.260 1. Each insurer which issues a policy of insurance covering the liability of a physician licensed under chapter 630 of NRS or an osteopathic physician licensed under chapter 633 of NRS for a breach of his professional duty toward a patient shall, within 45 days after ~~the claim is closed under the policy,~~ *the end of a calendar quarter*, submit a report to the Commissioner concerning ~~the claim,~~ *each claim that was closed during that calendar quarter under such a policy of insurance issued by the insurer and any change during that calendar quarter to any claim under such a policy of insurance issued by the insurer that was closed during a previous calendar quarter*. The report must include, without limitation:

(a) The name and address of the claimant and the insured under ~~the~~ *each* policy;

(b) A statement setting forth the circumstances of ~~the~~ *that* case;

(c) Information indicating whether any payment was made on ~~the~~ *a* claim and the amount of the payment, if any; and

(d) The information specified in subsection 2 of NRS 679B.144 ~~for~~ *for each claim*.

2. An insurer who fails to comply with the provisions of subsection 1 is subject to the imposition of an administrative fine pursuant to NRS 679B.460.

3. The Commissioner shall, within 30 days after receiving a report from an insurer pursuant to this section, submit a report to the Board of Medical Examiners or the State Board of Osteopathic Medicine, as applicable, setting forth the information provided to the Commissioner by the insurer pursuant to this section.

Sec. 17. NRS 690C.080 is hereby amended to read as follows:

690C.080 1. "Service contract" means a contract pursuant to which a provider, in exchange for separately stated consideration, is obligated for a specified period to a holder to repair, replace or perform maintenance on, or indemnify or reimburse the holder for the costs of repairing, replacing or performing maintenance on, goods that are described in the service contract and which have an operational or structural failure as a result of a defect in materials, workmanship or normal wear and tear, including, without limitation:

~~the~~ (a) A contract that includes a provision for incidental payment of indemnity under limited circumstances, including, without limitation, towing, rental and emergency road service; and

~~2.~~ (b) A contract that provides for the repair, replacement or maintenance of goods for damages that result from power surges or accidental damage from handling.

2. *The term does not include a contract pursuant to which a provider, other than the manufacturer, builder, seller or lessor of a manufactured home, in exchange for separately stated consideration, is obligated for a specified period to a holder to repair or replace, or indemnify or reimburse the holder for the costs of repairing or replacing, any component of the physical structure of the manufactured home, including, without limitation, the walls, roof supports, structural floor base or foundation.*

Sec. 18. NRS 692A.270 is hereby amended to read as follows:

692A.270 The provisions of NRS 683A.321, 683A.331, 683A.341, 683A.400, 683A.451 to 683A.490, inclusive, and 683A.520 apply to title insurers, title agents and escrow officers.

Sec. 19. NRS 694C.250 is hereby amended to read as follows:

694C.250 1. A captive insurer must not be issued a license, and shall not hold a license, unless the captive insurer has and maintains, in addition to any other capital *or surplus* required to be maintained pursuant to subsection 3, unimpaired paid-in capital *and unencumbered surplus* of:

(a) For a pure captive insurer, not less than ~~[\$100,000;]~~ \$200,000;

(b) For an association captive insurer, ~~[incorporated as a stock insurer,]~~ not less than ~~[\$200,000;]~~ \$500,000;

(c) For an agency captive insurer, not less than ~~[\$300,000;]~~ \$600,000;

(d) For a rental captive insurer, not less than ~~[\$400,000;]~~ \$800,000; and

(e) For a sponsored captive insurer, not less than ~~[\$200,000;]~~ \$500,000.

2. Except as otherwise provided by the Commissioner pursuant to subsection 3, the capital *and surplus* required to be maintained pursuant to this section must be in the form of cash or an irrevocable letter of credit.

3. The Commissioner may prescribe additional requirements relating to capital *or surplus* based on the type, volume and nature of the insurance business that is transacted by the captive insurer and requirements regarding which capital ~~and~~ *and surplus*, if any, may be in the form of an irrevocable letter of credit.

4. A letter of credit used by a captive insurer as evidence of capital *and surplus* required pursuant to this section must:

(a) Be issued by a bank chartered by this State or a bank that is a member of the United States Federal Reserve System and has been approved by the Commissioner; and

(b) Include a provision pursuant to which the letter of credit is automatically renewable each year, unless the issuer gives written notice to the Commissioner and the captive insurer at least 90 days before the expiration date.

Sec. 20. NRS 694C.270 is hereby amended to read as follows:

694C.270 1. The Commissioner may suspend or revoke the license of a captive insurer if, after an examination and hearing, the Commissioner determines that:

(a) The captive insurer:

- (1) Is insolvent or has impaired its required capital or surplus;
- (2) Has failed to meet a requirement of NRS 694C.250, ~~694C.260,~~ 694C.320 or 694C.330;
- (3) Has refused or failed to submit an annual report, as required by NRS 694C.400, or any other report or statement required by law or by order of the Commissioner;
- (4) Has failed to comply with the provisions of its charter or bylaws;
- (5) Has failed to submit to an examination required pursuant to NRS 694C.410;
- (6) Has refused or failed to pay the cost of an examination required pursuant to NRS 694C.410;
- (7) Has used any method in transacting insurance pursuant to this chapter which is detrimental to the operation of the captive insurer or would make its condition unsound with respect to its policyholders or the general public; or
- (8) Has failed otherwise to comply with the laws of this State; and

(b) The suspension or revocation of the license of the captive insurer is in the best interest of its policyholders or the general public.

2. The provisions of NRS 679B.310 to 679B.370, inclusive, apply to hearings conducted pursuant to this section.

Sec. 21. NRS 694C.340 is hereby amended to read as follows:

694C.340 1. Except as otherwise provided in this section and NRS 694C.382, an association captive insurer, an agency captive insurer, a rental captive insurer or a sponsored captive insurer shall comply with the requirements relating to investments set forth in chapter 682A of NRS. Upon the request of the association captive insurer, agency captive insurer, rental captive insurer or sponsored captive insurer, the Commissioner may approve the use of reliable, alternative methods of valuation and rating.

2. A pure captive insurer is not subject to any restrictions on allowable investments, except that the Commissioner may prohibit or limit any investment that threatens the solvency or liquidity of the pure captive insurer.

3. A pure captive insurer may make a loan to its parent or affiliated company if the loan:

- (a) Is first approved in writing by the Commissioner;
- (b) Is evidenced by a note that is in a form that is approved by the Commissioner; and

(c) Does not include any money that has been set aside as capital or surplus as required by subsection 1 of NRS 694C.250 . ~~for subsection 1 of NRS 694C.260.~~

Sec. 22. NRS 694C.384 is hereby amended to read as follows:

694C.384 1. As security for the payment of liabilities attributable to the branch operations of a branch captive insurer, the Commissioner shall require that a trust fund, funded by an irrevocable letter of credit or other acceptable asset, be established and maintained in the United States for the benefit of United States policyholders and ceding United States insurers under insurance policies or reinsurance contracts issued or assumed by the branch captive insurer through its branch operations.

2. The amount of the security must be not less than the total amount required by NRS 694C.250, ~~and 694C.260,~~ and any reserves on such insurance policies or reinsurance contracts, including reserves for losses, allocated loss adjustment expenses, incurred but not reported losses and unearned premiums with regard to business written through the branch operations. The Commissioner may authorize a branch captive insurer that is required to post security for loss reserves on branch business by its reinsurer to reduce the funds in the trust account required by this section by that same amount as long as the security remains posted with the reinsurer.

3. If the form of the security is a letter of credit, the letter of credit must be established, issued or confirmed by a bank chartered in this State or a bank that is a member of the Federal Reserve System.

Sec. 23. NRS 694C.400 is hereby amended to read as follows:

694C.400 1. On or before March 1 of each year, a captive insurer shall submit to the Commissioner a report of its financial condition, as prepared by a certified public accountant. A captive insurer shall use generally accepted accounting principles and include any useful or necessary modifications or adaptations thereof that have been approved or accepted by the Commissioner for the type of insurance and kinds of insurers to be reported upon, and as supplemented by additional information required by the Commissioner. Except as otherwise provided in this section, each association captive insurer, agency captive insurer, ~~or~~ rental captive insurer *or sponsored captive insurer* shall file its report in the form required by NRS 680A.265. The Commissioner shall adopt regulations designating the form in which pure captive insurers must report.

2. A pure captive insurer may apply, in writing, for authorization to file its annual report based on a fiscal year that is consistent with the fiscal year of the parent company of the pure captive insurer. If an alternative date is granted:

(a) The annual report is due not later than 60 days after the end of each such fiscal year; and

(b) The pure captive insurer shall file on or before March 1 of each year such forms as required by the Commissioner by regulation to provide sufficient detail to support its premium tax return filed pursuant to NRS 694C.450.

Sec. 24. NRS 695D.270 is hereby amended to read as follows:

695D.270 1. The Commissioner shall, ~~once:~~

~~(a) Every 6 months for the first~~ *not less frequently than once every 3 years*, ~~[after an organization for dental care receives its certificate of authority; and~~

~~(b) Each year thereafter,~~
 →] conduct an examination of ~~the~~ *an organization for dental care* pursuant to NRS 679B.250 to 679B.300, inclusive.

2. The Commissioner may examine any organization which holds a certificate of authority from this State or another state at any other time he deems necessary. For those organizations transacting business in this State which are not organized in this State, the Commissioner may accept a full report of the last examination of the organization certified by the state officer who supervises those organizations in the other state, if that examination is equivalent to an examination conducted by the Commissioner.

3. The Commissioner shall, in like manner, examine all organizations applying for a certificate of authority.

Sec. 25. NRS 695F.310 is hereby amended to read as follows:

695F.310 1. The Commissioner may examine the affairs of any prepaid limited health service organization as often as is reasonably necessary to protect the interests of the residents of this State, but not less frequently than once every ~~2~~ 3 years.

2. A prepaid limited health service organization shall make its books and records available for examination and cooperate with the Commissioner to facilitate the examination.

3. In lieu of such an examination, the Commissioner may accept the report of an examination conducted by the commissioner of insurance of another state.

4. The reasonable expenses of an examination conducted pursuant to this section must be charged to the organization being examined and remitted to the Commissioner.

Sec. 26. NRS 696A.185 is hereby amended to read as follows:

696A.185 1. Every motor club shall file with the Commissioner on or before March 1 of each year a report which summarizes its activities for the preceding calendar year. The report must be verified by at least two officers of the motor club.

2. The report must be on a form prescribed by the Commissioner and must include:

(a) A financial statement for the motor club, including its balance sheet and receipts and disbursements for the preceding calendar year;

(b) Any material changes in the information given in the previous report;

(c) The number of members enrolled in the year;

(d) The costs of all services provided for that year; and

(e) Any other information relating to the motor club requested by the Commissioner.

3. The motor club must pay to the Commissioner an annual fee of \$500.

4. Every motor club shall file with the Commissioner on or before June 1 of each year a financial statement of the motor club certified by an independent public accountant.

5. Any motor club failing, without just cause beyond its reasonable control, to file timely the report or financial statement *or to pay timely the annual fee* required by this section shall pay an administrative penalty of \$100 per day until the report or statement is filed, except that the total penalty must not exceed \$3,000. The Attorney General shall recover the penalty in the name of the State of Nevada.

6. A motor club is not exempt from the provisions of NRS 679B.700.

Sec. 27. NRS 696B.330 is hereby amended to read as follows:

696B.330 1. All claims against an insurer against which delinquency proceedings have ~~been begun shall~~ *commenced must be filed in the manner and form established by the receiver and set forth in reasonable detail the amount of the claim, or the basis upon which ~~such~~ that amount can be ascertained, the facts upon which the claim is based, and the priorities asserted, if any. All such claims ~~shall~~ must be verified by the affidavit of the claimant, or someone authorized to act on his behalf and having knowledge of the facts, and ~~shall~~ be supported by such documents as may be material thereto.*

2. All claims filed in this State ~~shall~~ *must* be filed with the receiver, whether domiciliary or ancillary, in this State, on or before the last date for filing as specified in this chapter ~~or as directed by the court.~~

3. ~~Within 10 days of the receipt of any claim, or within such further period as the court may fix for good cause shown, the receiver shall report the claim to the court, specifying in such report his recommendation with respect to the action to be taken thereon. Upon receipt of such report, the court shall fix a time for hearing the claim and shall direct that the claimant or the receiver, as the court shall specify, shall give such notice as the court determines to such persons as appear to the court to be interested therein. All such notices shall specify the time and place of the hearing and shall concisely state the amount and nature of the claim, the priorities asserted, if any, and the recommendation of the receiver with reference thereto.~~

4. ~~At the hearing, all persons interested shall be entitled to appear, and the court shall enter an order allowing, allowing in part, or disallowing the claim. Any such order is an appealable order.~~ *Except as otherwise provided in subsection 4, after the last date for filing a claim against an insurer as specified in this chapter, the receiver shall:*

(a) *Determine whether to approve or deny, in whole or in part, each claim against the insurer filed with the receiver pursuant to subsection 2; and*

(b) *If the receiver approves a claim, in whole or in part, determine the class of the claim as provided in NRS 696B.420.*

4. *The receiver is not required to process any claims in a class until it appears that assets will be available for distribution to that class. If there are insufficient assets to process claims for a class, the receiver shall notify the*

court and may make a recommendation to the court for the processing of any such claims.

5. The receiver shall mail, by first-class mail, postage prepaid, to each claimant that filed a claim with the receiver pursuant to subsection 2, written notice of the determination regarding the claim.

6. The receiver shall submit to the court a report on the determination of the receiver on each claim approved in whole or in part.

7. Not more than 60 days after the mailing of the written notice pursuant to subsection 5 or the submission of the report pursuant to subsection 6, whichever occurs later, a person may file with the receiver an objection to the determination of the receiver on a claim.

8. If an objection is filed pursuant to subsection 7, the receiver shall submit to the court a report on the determination of the receiver on each claim to which an objection has been filed. The court shall fix a time for a hearing on such claims and shall direct the receiver to give notice of the hearing. The notice provided by the receiver must:

(a) Be sent to the claimant by first-class mail, postage prepaid, not more than 30 days and not less than 10 days before the hearing, on any claim to which an objection has been filed; and

(b) Specify the time and place of the hearing.

9. A hearing may be conducted by the court or by a master or referee appointed by the court. If a hearing is conducted by a master or referee, the master or referee shall submit findings of fact and his recommendations to the court. The court shall enter an order approving or denying, in whole or in part, a claim filed against an insurer. Any such order is an appealable order.

Sec. 28. NRS 697.360 is hereby amended to read as follows:

697.360 Licensed bail agents, bail solicitors and bail enforcement agents, and general agents are also subject to the following provisions of this Code, to the extent reasonably applicable:

1. Chapter 679A of NRS.

2. Chapter 679B of NRS.

3. NRS 683A.261.

4. NRS 683A.301.

5. NRS 683A.311.

6. NRS 683A.331.

7. NRS 683A.341.

~~7.~~ 8. NRS 683A.361.

~~8.~~ 9. NRS 683A.400.

~~9.~~ 10. NRS 683A.451.

~~10.~~ 11. NRS 683A.461.

~~11.~~ 12. NRS 683A.480.

~~12.~~ 13. NRS 683A.500.

~~13.~~ 14. NRS 683A.520.

~~14.~~ 15. NRS 686A.010 to 686A.310, inclusive.

Sec. 28.3. NRS 616A.050 is hereby amended to read as follows:

616A.050 "Association of self-insured private employers" means a nonprofit, unincorporated association composed of five or more private employers that has been issued a certificate by the Commissioner and is subject to the provisions of NRS 616B.350 to 616B.446, inclusive ~~{ }~~, and section 29.5 of this act.

Sec. 28.7. NRS 616A.055 is hereby amended to read as follows:

616A.055 "Association of self-insured public employers" means a nonprofit, unincorporated association composed of five or more public employers that has been issued a certificate by the Commissioner and is subject to the provisions of NRS 616B.350 to 616B.446, inclusive ~~{ }~~, and section 29.5 of this act.

Sec. 29. NRS 616A.330 is hereby amended to read as follows:

616A.330 "Tangible net worth" means *the value of* all ~~{of}~~ the assets, minus the value of all the liabilities, of an association of self-insured private employers or of a member of such an association except:

1. ~~{Accounts receivable, if they are factored or collateralized.}~~
2. ~~An inventory, except one held for resale and not collateralized.~~
3. ~~A prepaid expense.~~
4. ~~An unqualified investment.~~
5. ~~An allocated bond fund.~~
6. ~~An investment in an affiliate.~~
7. ~~A restricted fund.~~
8. ~~A reserve.~~
9. ~~A security cost, such as a capitalized bond cost.~~
10. ~~A cash equivalent, unless it is described in the footnotes for the balance sheet by item, and for investments, by duration and nature. A cash flow statement is not a sufficient description.~~
11. ~~A contingency or commitment, including any estimated cost.~~
12. ~~Any book adjustment caused by a change in an accounting policy or a restatement.~~

~~{3.}~~ Goodwill or excess cost over the fair market value of assets.

~~{4.}~~ 2. Any other items listed in the assets that are deemed unacceptable by the Commissioner because they cannot be justified or because they do not directly support the ability of the association or the member to pay a claim.

Sec. 29.5. Chapter 616B of NRS is hereby amended by adding thereto a new section to read as follows:

If a member of an association of self-insured public or private employers requests, in writing, information required for his certificate of insurance, the association shall, within 30 days after receiving the request, provide to the member information regarding claims paid and reserves for claims incurred that are maintained on behalf of the member.

Sec. 29.7. NRS 616B.300 is hereby amended to read as follows:

616B.300 1. An employer may qualify and remain qualified as a self-insured employer by establishing to the satisfaction of the Commissioner

that the employer has sufficient administrative and financial resources to make certain the prompt payment of all compensation under chapters 616A to 616D, inclusive, or chapter 617 of NRS. *For the purposes of this subsection, an employer has sufficient financial resources if: ~~the employer has:~~*

(a) ~~At~~ At the time of initial qualification and until the employer has operated successfully as a qualified self-insured employer for 3 years, as determined by the Commissioner, the employer has a tangible net worth of not less than \$2,500,000, as evidenced by a statement of tangible net worth provided to the Division of Insurance of the Department of Business and Industry by an independent certified public accountant; or

(b) ~~Net~~ After 3 years of successful operation as a qualified self-insured employer, as determined by the Commissioner, the employer has net cash flows from operating activities plus net cash flows from financing activities of five times the average of claims paid for each of the last 3 years or \$7,500,000, whichever is less.

2. A self-insured employer must, in addition to establishing financial ability to pay, deposit with the Commissioner a bond executed by the employer as principal, and by a corporation qualified under the laws of this State as surety, payable to the State of Nevada, and conditioned upon the payment of compensation for injuries and occupational diseases to employees. The bond must be in an amount reasonably sufficient to ensure payment of compensation, but in no event may it be less than 105 percent of the employer's expected annual incurred cost of claims, or less than \$100,000. In arriving at an amount for the expected annual cost of claims, due consideration must be given to the past and prospective experience of the employer with losses and expenses within this State, to the hazard of catastrophic loss, to other contingencies, and to trends within the State. In arriving at the amount of the deposit required, the Commissioner may consider the nature of the employer's business, the financial ability of the employer to pay compensation and his probable continuity of operation.

3. In lieu of a bond the employer may deposit with the Commissioner a like amount of lawful money of the United States or any other form of security authorized by NRS 100.065. If security is provided in the form of a savings certificate, certificate of deposit or investment certificate, the certificate must state that the amount is unavailable for withdrawal except upon order of the Commissioner.

4. The required deposit may be increased or decreased by the Commissioner in accordance with chapter 681B of NRS and his regulations for loss reserves in casualty insurance. If the Commissioner requires an employer to increase his deposit, the Commissioner may specify the form of the additional security. The employer shall comply with such a requirement within 60 days after receiving notice from the Commissioner.

5. The Commissioner shall require the self-insured employer to submit evidence of excess insurance to provide protection against a catastrophic

loss. The excess insurance must be written by an insurer authorized to do business in this State. The Commissioner shall consider the excess insurance coverage as a basis for a reduction in the deposit required of an employer.

6. The Account for Self-Insured Employers is hereby created in the State Agency Fund for Bonds. All money received by the Commissioner pursuant to this section must be deposited with the State Treasurer to the credit of the Account for Self-Insured Employers. All claims against this Account must be paid as other claims against the State are paid.

Sec. 29.8. NRS 616B.353 is hereby amended to read as follows:

616B.353 1. An association of self-insured public or private employers shall:

(a) Execute an indemnity agreement jointly and severally binding the association and each member of the association to secure the payment of all compensation due pursuant to chapters 616A to 617, inclusive, of NRS. The indemnity agreement must be in a form prescribed by the Commissioner. An association may add provisions to the indemnity agreement if they are first approved by the Commissioner.

(b) Except as otherwise provided in this subsection, maintain a policy of specific and aggregate excess insurance in a form and amount required by the Commissioner. The excess insurance must be written by an insurer approved by the Commissioner. To determine the amount of excess insurance required, the Commissioner shall consider:

(1) The number of members in the association;

(2) If the association is an association of self-insured public employers, the types of governmental services provided by the members of the association;

(3) If the association is an association of self-insured private employers, the classifications of employment of the members of the association;

(4) The number of years the association has been in existence; and

(5) Such other information as the Commissioner deems necessary.

↪ Nothing in this paragraph prohibits an association from purchasing secondary excess insurance in addition to the excess insurance required by this paragraph.

(c) Collect an annual assessment from each member of the association in an aggregate amount of at least \$250,000 or in an aggregate amount which the Commissioner determines is satisfactory based on an annual review conducted by him of the actuarial solvency of the association.

(d) Except as otherwise provided in paragraph (e), deposit as security with the Commissioner a bond executed by the association as principal, and by a licensed surety, payable to the State of Nevada, and conditioned upon the payment of compensation for injuries and occupational diseases to their employees. The bond must be in an amount determined by the Commissioner to be reasonably sufficient to ensure payment of such compensation, but in no event may it be less than \$100,000.

(e) In lieu of a bond, deposit with the Commissioner a like amount of lawful money of the United States or any other form of security authorized by NRS 100.065. If security is provided in the form of a savings certificate, certificate of deposit or investment certificate, the certificate must state that the amount is unavailable for withdrawal except upon order of the Commissioner.

2. Except as otherwise provided in subsection 3, in addition to complying with the requirements of subsection 1, an association of self-insured private employers shall : ~~maintain~~ ~~(a) either:~~

(a) ~~At the time of initial qualification and until the association has operated successfully as a qualified association of self-insured private employers for 3 years, as determined by the Commissioner, have a combined tangible net worth of all members in the association of at least \$2,500,000~~ ~~+~~ , as evidenced by a statement of tangible net worth provided to the Division of Insurance of the Department of Business and Industry by an independent certified public accountant; or

(b) ~~Combined~~ After 3 years of successful operation as a qualified association of self-insured private employers, as determined by the Commissioner, have combined net cash flows from operating activities plus net cash flows from financing activities of all members in the association of five times the average of claims paid for each of the last 3 years or \$7,500,000, whichever is less.

3. In lieu of complying with the requirements of subsection 2, the association's administrator shall ensure that a solvency bond, in a form prescribed by the Commissioner and in an aggregate amount of at least \$2,500,000, is deposited with the Commissioner by the association or members of the association on behalf of the association.

4. The association's administrator shall deposit with the Commissioner a bond executed by the association's administrator as principal, and by a licensed surety, payable to the State of Nevada, and conditioned upon the faithful performance of his duties. The bond must be in an amount determined by the Commissioner.

5. Any third-party administrator providing claims services for the association shall deposit with the Commissioner a bond executed by the third-party administrator as principal, and by a licensed surety, payable to the State of Nevada, and conditioned upon the faithful performance of its duties. The bond must be in an amount determined by the Commissioner.

6. The Commissioner may increase or decrease the amount of any bond or money required to be deposited by this section in accordance with chapter 681B of NRS and his regulations for loss reserves in casualty insurance. If the Commissioner requires an association, association's administrator or third-party administrator to increase its deposit, the Commissioner may specify the form of the additional security. The association, association's administrator or third-party administrator shall

comply with such a requirement within 60 days after receiving notice from the Commissioner.

7. The Account for Associations of Self-Insured Public and Private Employers is hereby created in the State Agency Fund for Bonds. All money received by the Commissioner pursuant to this section must be deposited with the State Treasurer to the credit of the Account. All claims against this Account must be paid as other claims against the State are paid.

Sec. 30. NRS 616B.386 is hereby amended to read as follows:

616B.386 1. If an employer wishes to become a member of an association of self-insured public or private employers, the employer must:

(a) Submit an application for membership to the board of trustees or third-party administrator of the association; and

(b) Enter into an indemnity agreement as required by NRS 616B.353.

2. The membership of the applicant becomes effective when each member of the association approves the application or on a later date specified by the association. The application for membership and the action taken on the application must be maintained as permanent records of the board of trustees.

3. Each member who is a member of an association during the 12 months immediately following the formation of the association must:

(a) Have a tangible net worth of at least \$500,000; or

(b) Have had a reported payroll for the previous 12 months which would have resulted in a manual premium of at least \$15,000, calculated in accordance with a manual prepared pursuant to subsection 4 of NRS 686B.1765.

4. An employer who seeks to become a member of the association after the 12 months immediately following the formation of the association must meet the requirement set forth in paragraph (a) or (b) of subsection 3 unless the Commissioner adjusts the requirement for membership in the association after conducting an annual review of the actuarial solvency of the association pursuant to subsection 1 of NRS 616B.353.

5. An association of self-insured private employers may apply to the Commissioner for authority to determine the amount of tangible net worth and manual premium that an employer must have to become a member of the association. The Commissioner shall approve the application if the association:

(a) Has been certified to act as an association for at least the 3 consecutive years immediately preceding the date on which the association filed the application with the Commissioner;

(b) Has ~~at~~ *as determined by the Commissioner, either:*

(1) A combined tangible net worth of all members in the association of at least \$5,000,000; or

(2) *Combined net cash flows from operating activities plus net cash flows from financing activities of all members in the association of five times*

the average of claims paid for each of the last 3 years or \$7,500,000, whichever is less;

(c) Has at least 15 members; and

(d) Has not been required to meet informally with the Commissioner pursuant to subsection 1 of NRS 616B.431 during the 18-month period immediately preceding the date on which the association filed the application with the Commissioner or, if the association has been required to attend such a meeting during that period, has not had its certificate withdrawn before the date on which the association filed the application.

6. An association of self-insured private employers may apply to the Commissioner for authority to determine the documentation demonstrating solvency that an employer must provide to become a member of the association. The Commissioner shall approve the application if the association:

(a) Has been certified to act as an association for at least the 3 consecutive years immediately preceding the date on which the association filed the application with the Commissioner;

(b) Has ~~at~~ *as determined by the Commissioner, either:*

(1) A combined tangible net worth of all members in the association of at least \$5,000,000; or

(2) *Combined net cash flows from operating activities plus net cash flows from financing activities of all members in the association of five times the average of claims paid for each of the last 3 years or \$7,500,000, whichever is less;* and

(c) Has at least 15 members.

7. The Commissioner may withdraw his approval of an application submitted pursuant to subsection 5 or 6 if he determines the association has ceased to comply with any of the requirements set forth in subsection 5 or 6, as applicable.

8. A member of an association may terminate his membership at any time. To terminate his membership, a member must submit to the association's administrator a notice of intent to withdraw from the association at least 120 days before the effective date of withdrawal. The notice of intent to withdraw must include a statement indicating that the member has:

(a) Been certified as a self-insured employer pursuant to NRS 616B.312;

(b) Become a member of another association of self-insured public or private employers; or

(c) Become insured by a private carrier.

9. The members of an association may cancel the membership of any member of the association in accordance with the bylaws of the association.

10. The association shall:

(a) Within 30 days after the addition of an employer to the membership of the association, notify the Commissioner of the addition and:

(1) If the association has not received authority from the Commissioner pursuant to subsection 5 or 6, as applicable, provide to the Commissioner all information and assurances for the new member that were required from each of the original members of the association upon its organization; or

(2) If the association has received authority from the Commissioner pursuant to subsection 5 or 6, as applicable, provide to the Commissioner evidence that is satisfactory to the Commissioner that the new member is a member or associate member of the bona fide trade association as required pursuant to paragraph (a) of subsection 2 of NRS 616B.350, a copy of the indemnity agreement that jointly and severally binds the new member, the other members of the association and the association that is required to be executed pursuant to paragraph (a) of subsection 1 of NRS 616B.353 and any other information the Commissioner may reasonably require to determine whether the amount of security deposited with the Commissioner pursuant to paragraph (d) or (e) of subsection 1 of NRS 616B.353 is sufficient, but such information must not exceed the information required to be provided to the Commissioner pursuant to subparagraph (1);

(b) Notify the Commissioner and the Administrator of the termination or cancellation of the membership of any member of the association within 10 days after the termination or cancellation; and

(c) At the expense of the member whose membership is terminated or cancelled, maintain coverage for that member for ~~30~~ 60 days after notice is given pursuant to paragraph (b), unless the association first receives notice from the Administrator that the member has:

(1) Been certified as a self-insured employer pursuant to NRS 616B.312;

(2) Become a member of another association of self-insured public or private employers; or

(3) Become insured by a private carrier.

11. If a member of an association changes his name or form of organization, the member remains liable for any obligations incurred or any responsibilities imposed pursuant to chapters 616A to 617, inclusive, of NRS under his former name or form of organization.

12. An association is liable for the payment of any compensation required to be paid by a member of the association pursuant to chapters 616A to 616D, inclusive, or chapter 617 of NRS during his period of membership. The insolvency or bankruptcy of a member does not relieve the association of liability for the payment of the compensation.

Sec. 30.3. NRS 616B.425 is hereby amended to read as follows:

616B.425 1. The Commissioner may issue an order requiring an association of self-insured public or private employers or a member of the association to cease and desist from engaging in any act or practice found to be in violation of any provision of NRS 616B.350 to 616B.446, inclusive, and section 29.5 of this act, or any regulation adopted pursuant thereto.

2. If the Commissioner determines that an association or a member of the association has violated an order to cease and desist, the Commissioner may impose an administrative fine of not more than \$10,000 for each violation of the order, not to exceed an aggregate amount of \$100,000, or withdraw the certificate of the association, or both.

Sec. 30.5. NRS 616B.428 is hereby amended to read as follows:

616B.428 1. The Commissioner may impose an administrative fine for each violation of any provision of NRS 616B.350 to 616B.446, inclusive, *and section 29.5 of this act*, or any regulation adopted pursuant thereto. Except as otherwise provided in those sections, the amount of the fine may not exceed \$1,000 for each violation or an aggregate amount of \$10,000.

2. The Commissioner may withdraw the certificate of an association of self-insured public or private employers if:

- (a) The association's certificate was obtained by fraud;
- (b) The application for certification contained a material misrepresentation;
- (c) The association is found to be insolvent;
- (d) The association fails to have five or more members;
- (e) The association fails to pay the costs of any examination or any penalty, fee or assessment required by the provisions of chapters 616A to 616D, inclusive, or chapter 617 of NRS;
- (f) The association fails to comply with any of the provisions of this chapter or chapter 616A, 616C, 616D or 617 of NRS, or any regulation adopted pursuant thereto;
- (g) The association fails to comply with any order of the Commissioner within the time prescribed by the provisions of chapters 616A to 616D, inclusive, or chapter 617 of NRS or in the order of the Commissioner; or
- (h) The association or its third-party administrator misappropriates, converts, illegally withholds or refuses to pay any money to which a person is entitled and that was entrusted to the association in its fiduciary capacity.

3. If the Commissioner withdraws the certification of an association of self-insured public or private employers, each employer who is a member of the association remains liable for his obligations incurred before and after the order of withdrawal.

4. Any employer who is a member of an association whose certification is withdrawn shall, on the effective date of the withdrawal, qualify as an employer pursuant to NRS 616B.650.

Sec. 30.7. NRS 616B.446 is hereby amended to read as follows:

616B.446 The Commissioner may adopt such regulations as are necessary to carry out the provisions of NRS 616B.350 to 616B.446, inclusive ~~and~~, *and section 29.5 of this act*.

Sec. 30.8. NRS 616B.691 is hereby amended to read as follows:

616B.691 1. For the purposes of chapters 612 and 616A to 617, inclusive, of NRS, an employee leasing company which complies with the

provisions of NRS 616B.670 to 616B.697, inclusive, shall be deemed to be the employer of the employees it leases to a client company.

2. ~~Am~~ If an employee leasing company complies with the provisions of subsection 3, the employee leasing company shall be deemed to be the employer of its leased employees for the purposes of sponsoring and maintaining any benefit plans ~~+~~, including, without limitation, for the purposes of the Employee Retirement Income Security Act of 1974.

3. An employee leasing company shall not offer its employees any self-funded industrial insurance program. An employee leasing company shall not act as a self-insured employer or be a member of an association of self-insured public or private employers pursuant to chapters 616A to 616D, inclusive, or chapter 617 of NRS, ~~for pursuant to title 57 of NRS.~~

4. If an employee leasing company fails to:

- (a) Pay any contributions, premiums, forfeits or interest due; or
- (b) Submit any reports or other information required,

↪ pursuant to this chapter or chapter 612, 616A, 616C, 616D or 617 of NRS, the client company is jointly and severally liable for the contributions, premiums, forfeits or interest attributable to the wages of the employees leased to it by the employee leasing company.

Sec. 31. NRS 232.825 is hereby amended to read as follows:

232.825 The Commissioner:

1. May appoint ~~two~~ three deputies. The deputies are in the unclassified service of the State. Except as otherwise provided in NRS 284.143, each deputy shall devote his entire time and attention to the business of his office and shall not pursue any other business or occupation or hold any other office of profit.

2. Is responsible for the administration of the provisions of title 57 of NRS, and all other provisions of law relating to the functions of the Division.

3. May employ such staff as is necessary for the performance of his duties.

4. Has such other powers and duties as are provided by law.

Sec. 32. NRS 689A.735 and 694C.260 are hereby repealed.

Sec. 33. 1. This section and section 1 of this act become effective on July 1, 2007.

2. Sections 1.03 to 32, inclusive, of this act become effective on October 1, 2007.

TEXT OF REPEALED SECTIONS

689A.735 Report to Commissioner by trustee of medical savings account. On or before July 1 of each year, a trustee of a medical savings account established and maintained in accordance with 26 U.S.C. § 220 shall report to the Commissioner the number of medical savings accounts administered by the trustee during the previous calendar year.

694C.260 Surplus required: Amount; form; Commissioner authorized to prescribe additional requirements; letter of credit.

1. A captive insurer must not be issued a license, and shall not hold a license, unless the captive insurer has and maintains, in addition to any other surplus required to be maintained pursuant to subsection 3, an unencumbered surplus of:

- (a) For a pure captive insurer, not less than \$100,000;
- (b) For an association captive insurer incorporated as a stock insurer, not less than \$300,000;
- (c) For an agency captive insurer, not less than \$300,000;
- (d) For a rental captive insurer, not less than \$400,000;
- (e) For an association captive insurer incorporated as a mutual insurer or reciprocal insurer, not less than \$500,000; and
- (f) For a sponsored captive insurer, not less than \$300,000.

2. Except as otherwise provided in subsection 3, the surplus required to be maintained pursuant to this section must be in the form of cash or an irrevocable letter of credit.

3. The Commissioner may prescribe additional requirements relating to surplus based on the type, volume and nature of the insurance business that is transacted by the captive insurer and requirements regarding which surplus, if any, may be in the form of an irrevocable letter of credit.

4. A letter of credit used by a captive insurer as evidence of required surplus pursuant to this section must:

- (a) Be issued by a bank chartered by this State or a bank that is a member of the United States Federal Reserve System and has been approved by the Commissioner; and
- (b) Include a provision pursuant to which the letter of credit is automatically renewable each year, unless the issuer gives written notice to the Commissioner and the captive insurer at least 90 days before the expiration date.

Senator Townsend moved the adoption of the amendment.

Remarks by Senators Townsend, Carlton.

Senator Lee disclosed that he is an owner of an employee-leasing company.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Assembly Bill No. 619.

Bill read third time.

Senator Amodoi moved that Assembly Bill No. 619 be taken from the General File and placed on the General File for the next legislative day.

Remarks by Senator Amodoi.

Motion carried.

UNFINISHED BUSINESS
REPORTS OF CONFERENCE COMMITTEES

Mr. President:

The first Conference Committee concerning Senate Bill No. 201, consisting of the undersigned members, has met and reports that:

It has agreed to recommend that the Amendment Nos. 796 and 1028 of the Assembly be concurred in.

It has agreed to recommend that the bill be further amended as set forth in Conference Amendment No. 7, which is attached to and hereby made a part of this report.

Conference Amendment.

"SUMMARY—Revises provisions governing public works. (BDR 28-526)"

"AN ACT relating to public works; authorizing a public body to contract with a construction manager at risk for the preconstruction and construction of a public work; setting forth the method for selecting a construction manager at risk; authorizing a public body to hire a construction manager as agent to assist the public body in overseeing the construction of a public work; requiring local governments to conduct a constructability review under certain circumstances before constructing certain public works; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Sections 2-12 of this bill authorize a public body to enter into contracts with a construction manager at risk for the preconstruction and construction of a public work and provide the method for selecting a construction manager at risk. Under the construction manager at risk method for constructing a public work, a public body may enter into a contract for a negotiated price with a construction manager at risk to provide preconstruction services for the public work that include, without limitation, design support, construction estimating, value and system analysis and scheduling. After the public body has obtained the final design for the public work, the public body and the construction manager at risk are required to attempt to negotiate a contract for the construction manager at risk to construct the public work. If the public body and the construction manager at risk enter into such a contract, the contract must be for: (1) a guaranteed maximum price including the cost of the work plus a fee; (2) a fixed price; or (3) a fixed price plus reimbursement for overhead and other costs and expenses related to the construction of the public work.

Section 14 of this bill requires a local government or its authorized representative to conduct a constructability review to determine if the plans and specifications for a public work are complete and contain all necessary information, if: (1) such plans and specifications are to be used for the first time on a public work; and (2) such plans and specifications are for a public work that has an estimated cost which exceeds \$10,000,000. This review must be performed by an architect registered pursuant to chapter 623 of NRS, a contractor licensed pursuant to chapter 624 of NRS or a professional engineer licensed pursuant to chapter 625 of NRS.

Sections 13 and 21 of this bill authorize a public body to employ a construction manager as agent to assist the public body in overseeing the construction of a public work. A construction manager as agent assists in the planning, scheduling and management of a public work without assuming any responsibility for the cost, quality or timely completion of the construction of the public work. A construction manager as agent is prohibited from taking part in the design or construction of the public work.

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

Section 1. Chapter 338 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 14, inclusive, of this act.

Sec. 2. *A public body may construct a public work by:*

1. *Selecting a construction manager at risk pursuant to the provisions of sections 4 to 8, inclusive, of this act; and*

2. *Entering into separate contracts with a construction manager at risk:*

(a) *For preconstruction services, including, without limitation:*

(1) *Assisting the public body in determining whether scheduling or design problems exist that would delay the construction of the public work;*

(2) *Estimating the cost of the labor and material for the public work; and*

(3) *Assisting the public body in determining whether the public work can be constructed within the public body's budget; and*

(b) *To construct the public work.*

Sec. 3. *To qualify to enter into contracts with a public body for preconstruction services and to construct a public work, a construction manager at risk must:*

1. *Not have been found liable for breach of contract with respect to a previous project, other than a breach for legitimate cause, during the 5 years immediately preceding the date of the advertisement for statements of qualifications pursuant to section 4 of this act;*
2. *Not have been disqualified from being awarded a contract pursuant to NRS 338.017, 338.13895, 338.1475 or 408.333;*
3. *Be licensed as a contractor pursuant to chapter 624 of NRS; and*
4. *If the project is for the design of a public work of the State, be qualified to bid on a public work of the State pursuant to NRS 338.1379.*

Sec. 4. 1. *A public body shall advertise for statements of qualifications for a construction manager at risk in a newspaper qualified pursuant to chapter 238 of NRS that is published in the county where the public work will be performed. If no qualified newspaper is published in the county where the public work will be performed, the required advertisement must be published in some qualified newspaper that is printed in the State of Nevada and has a general circulation in the county.*

2. *A request for a statement of qualifications published pursuant to subsection 1 must include, without limitation:*

- (a) *A description of the public work;*
- (b) *An estimate of the cost of construction;*
- (c) *A description of the work that the public body expects a construction manager at risk to perform;*
- (d) *The dates on which it is anticipated that the separate phases of the preconstruction and construction of the public work will begin and end;*
- (e) *The date by which statements of qualifications must be submitted to the public body;*
- (f) *If the project is a public work of the State, a statement setting forth that the construction manager at risk must be qualified to bid on a public work of the State pursuant to NRS 338.1379 before submitting a statement of qualifications;*
- (g) *The name, title, address and telephone number of a person employed by the public body that an applicant may contact for further information regarding the public work; and*
- (h) *A list of the selection criteria and relative weight of the selection criteria that will be used to evaluate statements of qualifications.*

3. *A statement of qualifications must include, without limitation:*

- (a) *An explanation of the experience that the applicant has with projects of similar size and scope;*
- (b) *The contact information for references who have knowledge of the background, character and technical competence of the applicant;*
- (c) *The applicant's preliminary proposal for managing the preconstruction and construction of the public work;*
- (d) *Evidence of the ability of the applicant to obtain the necessary bonding for the work to be required by the public body;*
- (e) *Evidence that the applicant has obtained or has the ability to obtain such insurance as may be required by law; and*
- (f) *A statement of whether the applicant has been:*
 - (1) *Found liable for breach of contract with respect to a previous project, other than a breach for legitimate cause; and*
 - (2) *Disqualified from being awarded a contract pursuant to NRS 338.017, 338.13895, 338.1475 or 408.333.*

Sec. 5. 1. *The public body shall appoint a panel consisting of at least three members to rank the statements of qualifications submitted to the public body by evaluating the statements of qualifications as required pursuant to subsections 2 and 3.*

2. *The panel shall rank the statements of qualifications by:*

- (a) *Verifying that each applicant satisfies the requirements of section 3 of this act; and*
- (b) *Conducting an evaluation of the qualifications of each applicant based on the factors and relative weight assigned to each factor that the public body specified in the request for statements of qualifications advertised pursuant to section 4 of this act.*

3. When ranking the statements of qualifications, the panel shall assign a relative weight of 5 percent to the possession of a certificate of eligibility to receive a preference in bidding on public works.

4. After the panel ranks the statements of qualifications, the public body shall:

(a) Make available to the public the rankings of the applicants; and

(b) Except as otherwise provided in subsection 5, select at least the two but not more than the five applicants that the panel determined to be most qualified as finalists to submit final proposals to the public body pursuant to section 6 of this act.

5. If the public body did not receive at least two statements of qualifications from applicants that the panel determines to be qualified pursuant to this section and section 3 of this act, the public body may not contract with a construction manager at risk.

Sec. 6. 1. After the finalists are selected pursuant to paragraph (b) of subsection 4 of section 5 of this act, the public body shall provide to each finalist a request for final proposals. The request for final proposals must:

(a) Set forth the date by which final proposals must be submitted to the public body;

(b) Set forth the proposed forms of the contract to assist in the preconstruction of the public work and the contract to construct the public work that include, without limitation, the proposed terms and general conditions of the contracts; and

(c) Set forth the selection criteria and relative weight of the selection criteria that will be used to evaluate the final proposals.

2. A final proposal must include, without limitation:

(a) The professional qualifications and experience of the applicant, including, without limitation, the resumes of any employees of the applicant who will be managing the preconstruction and construction of the public work;

(b) The performance history of the applicant concerning other recent, similar projects completed by the applicant, if any;

(c) The safety programs established and the safety records accumulated by the applicant;

(d) The proposed plan of the applicant to manage the preconstruction and construction of the public work, which plan sets forth in detail the ability of the applicant to provide preconstruction services and to construct the public work; and

(e) A proposed plan of the applicant for the selection of any necessary subcontractors.

Sec. 7. 1. The panel appointed by the public body pursuant to section 5 of this act shall evaluate and assign a score to each of the final proposals received by the public body based on the factors and relative weight assigned to each factor that the public body specified in the request for final proposals. The panel shall interview the two or three applicants whose final proposals received the highest scores. After conducting such interviews, the panel shall rank the applicants based on the final proposals and interviews, which must be given equal weight.

2. Upon receipt of the final rankings of the applicants from the panel, the public body shall enter into negotiations with the most qualified applicant determined pursuant to subsection 1 for a contract for preconstruction services. If the public body is unable to negotiate a contract with the most qualified applicant at an amount of compensation that the public body and the most qualified applicant determine to be fair and reasonable, the public body shall terminate negotiations with that applicant. The public body may then undertake negotiations with the next most qualified applicant in sequence until an agreement is reached or a determination is made by the public body to reject all applicants.

3. The public body shall make available to the applicants and the public the results of the evaluations of final proposals and interviews conducted pursuant to subsection 1 and the final rankings of the applicants.

Sec. 8. 1. If a public body enters into a contract with a construction manager at risk for preconstruction services pursuant to section 7 of this act, after the public body has finalized the design for the public work, the public body shall enter into negotiations with the construction manager at risk for a contract to construct the public work for the public body for:

(a) The cost of the work, plus a fee, with a guaranteed maximum price;

(b) A fixed price; or

(c) A fixed price plus reimbursement for overhead and other costs and expenses related to the construction of the public work.

2. If the public body is unable to negotiate a satisfactory contract with the construction manager at risk to construct the public work, the public body:

- (a) Shall terminate negotiations with that applicant; and
- (b) May award the contract for the public work:

(1) If the public body is not a local government, pursuant to the provisions of NRS 338.1377 to 338.139, inclusive.

(2) If the public body is a local government, pursuant to the provisions of NRS 338.1377 to 338.139, inclusive, or 338.143 to 338.148, inclusive, and section 14 of this act.

Sec. 9. A contract entered into pursuant to section 8 of this act that is for a guaranteed maximum price may include a provision that authorizes the construction manager at risk to receive all or part of any difference between the guaranteed maximum price set forth in the contract and the actual price of construction of the public work, if the actual price is less than the guaranteed maximum price.

Sec. 10. A contract awarded to a construction manager at risk pursuant to section 7 or 8 of this act:

- 1. Must comply with the provisions of NRS 338.020 to 338.090, inclusive.
- 2. Must specify a date by which performance of the work required by the contract must be completed.
- 3. May set forth the terms by which the construction manager at risk agrees to name the public body, at the cost of the public body, as an additional insured in an insurance policy held by the construction manager at risk.
- 4. Must require that the construction manager at risk to whom a contract is awarded assume overall responsibility for ensuring that the preconstruction or construction of the public work, as applicable, is completed in a satisfactory manner.
- 5. May include such additional provisions as may be agreed upon by the public body and the construction manager at risk.

Sec. 11. A construction manager at risk who enters into a contract for the construction of a public work pursuant to section 8 of this act:

- 1. Is responsible for contracting for the services of any necessary subcontractor, supplier or independent contractor necessary for the construction of the public work and for the performance of and payment to any such subcontractors, suppliers or independent contractors.
- 2. If the public work involves the construction of a fixed work that is described in subsection 2 of NRS 624.215, shall perform not less than 25 percent of the construction of the fixed work himself or using his own employees.
- 3. If the public work involves the construction of a building or structure that is described in subsection 3 of NRS 624.215, may perform himself or using his own employees as much of the construction of the building or structure that the construction manager at risk is able to demonstrate that he or his own employees have performed on similar projects.

Sec. 12. 1. ~~[(H)] To be eligible to provide materials, equipment, work or other services on a public work for which a construction manager at risk [to whom a contract for the construction of a public work is] was awarded a contract pursuant to section 8 of this act [wishes to enter into a contract with a subcontractor to provide materials, equipment, work or other services on the public work, the] a subcontractor must be:~~

- (a) Licensed pursuant to chapter 624 of NRS; and
 - (b) Selected by the construction manager at risk based on the process of competitive bidding set forth in the applicable provisions of NRS 338.1373 to 338.148, inclusive.
2. A construction manager at risk to whom a contract for the construction of a public work is awarded pursuant to section 8 of this act shall submit to the public body that awarded the contract a list containing the names of each subcontractor with whom the construction manager at risk ~~entered~~ intends to enter into a contract for the provision of materials, equipment, work or other services on the public work.

Sec. 13. 1. A construction manager as agent:

- (a) Must:
 - (1) Be a contractor licensed pursuant to chapter 624 of NRS;
 - (2) Hold a certificate of registration to practice architecture, interior design or residential design pursuant to chapter 623 of NRS; or

(3) *Be licensed as a professional engineer pursuant to chapter 625 of NRS.*

(b) *May enter into a contract with a public body to assist in the planning, scheduling and management of the construction of a public work without assuming any responsibility for the cost, quality or timely completion of the construction of the public work. A construction manager as agent who enters into a contract with a public body pursuant to this section may not take part in the design or construction of the public work.*

2. *A contract between a public body and a construction manager as agent is not required to be awarded by competitive bidding.*

Sec. 14. 1. *Before a local government or its authorized representative advertises for bids for a contract for a public work, the local government or its authorized representative shall perform a review of the approved plans and specifications to determine if the plans and specifications are complete and contain all necessary information and specifications to construct the public work, if:*

(a) *The plans and specifications are to be used for the first time on a public work; and*

(b) *The plans and specifications are for a public work that has an estimated cost which exceeds \$10,000,000.*

2. *A constructability review required pursuant to subsection 1 must be performed by an architect registered pursuant to chapter 623 of NRS, a contractor licensed pursuant to chapter 624 of NRS or a professional engineer licensed pursuant to chapter 625 of NRS and must include, without limitation:*

(a) *A determination of whether a competent contractor would be able to construct the public work based on the approved plans and specifications; and*

(b) *A review of the approved plans and specifications for the public work for completeness, clarity and economic feasibility.*

3. *If the local government or its authorized representative does not employ a person who has the expertise to perform a constructability review as described in subsection 2, the local government or its authorized representative must contract with an independent third party who is an architect registered pursuant to chapter 623 of NRS, a contractor licensed pursuant to chapter 624 of NRS or a professional engineer licensed pursuant to chapter 625 of NRS to perform the constructability review. A contract entered into pursuant to this section between a local government or its authorized representative and an independent third party is not required to be awarded by competitive bidding.*

Sec. 15. NRS 338.1373 is hereby amended to read as follows:

338.1373 1. A local government or its authorized representative shall award a contract for a public work pursuant to the provisions of:

(a) NRS 338.1377 to 338.139, inclusive;

(b) NRS 338.143 to 338.148, inclusive ~~to 338.148~~, and section 14 of this act;

(c) NRS 338.1711 to 338.1727, inclusive ~~to 338.1727~~; or

(d) Sections 2 to 12, inclusive, of this act.

2. The provisions of NRS 338.1375 to 338.1382, inclusive, 338.1386, 338.13862, 338.13864, 338.139, 338.142 and 338.1711 to 338.1727, inclusive, and sections 2 to 12, inclusive, of this act, do not apply with respect to contracts for the construction, reconstruction, improvement and maintenance of highways that are awarded by the Department of Transportation pursuant to NRS 408.313 to 408.433, inclusive.

Sec. 16. NRS 338.1385 is hereby amended to read as follows:

338.1385 1. Except as otherwise provided in subsection 9 and NRS 338.1906 and 338.1907, this State, or a governing body or its authorized representative that awards a contract for a public work in accordance with paragraph (a) of subsection 1 of NRS 338.1373 shall not:

(a) Commence a public work for which the estimated cost exceeds \$100,000 unless it advertises in a newspaper qualified pursuant to chapter 238 of NRS that is published in the county where the public work will be performed for bids for the public work. If no qualified newspaper is published in the county where the public work will be performed, the required advertisement must be published in some qualified newspaper that is printed in the State of Nevada and has a general circulation in the county.

(b) Commence a public work for which the estimated cost is \$100,000 or less unless it complies with the provisions of NRS 338.1386, 338.13862 and 338.13864.

(c) Divide a public work into separate portions to avoid the requirements of paragraph (a) or (b).

2. At least once each quarter, the authorized representative of a public body shall report to the public body any contract that the authorized representative awarded pursuant to subsection 1 in the immediately preceding quarter.

3. Each advertisement for bids must include a provision that sets forth the requirement that a contractor must be qualified pursuant to NRS 338.1379 or 338.1382 to bid on the contract.

4. Approved plans and specifications for the bids must be on file at a place and time stated in the advertisement for the inspection of all persons desiring to bid thereon and for other interested persons. Contracts for the public work must be awarded on the basis of bids received.

5. Except as otherwise provided in subsection 6 and NRS 338.1389, a public body or its authorized representative shall award a contract to the lowest responsive and responsible bidder.

6. Any bids received in response to an advertisement for bids may be rejected if the public body or its authorized representative responsible for awarding the contract determines that:

(a) The bidder is not a qualified bidder pursuant to NRS 338.1379 or 338.1382;

(b) The bidder is not responsive or responsible;

(c) The quality of the services, materials, equipment or labor offered does not conform to the approved plans or specifications; or

(d) The public interest would be served by such a rejection.

7. A public body may let a contract without competitive bidding if no bids were received in response to an advertisement for bids and:

(a) The public body publishes a notice stating that no bids were received and that the contract may be let without further bidding;

(b) The public body considers any bid submitted in response to the notice published pursuant to paragraph (a);

(c) The public body lets the contract not less than 7 days after publishing a notice pursuant to paragraph (a); and

(d) The contract is awarded to the bidder who has submitted the lowest responsive and responsible bid.

8. Before a public body may commence the performance of a public work itself pursuant to the provisions of this section, based upon a determination that the public interest would be served by rejecting any bids received in response to an advertisement for bids, the public body shall prepare and make available for public inspection a written statement containing:

(a) A list of all persons, including supervisors, whom the public body intends to assign to the public work, together with their classifications and an estimate of the direct and indirect costs of their labor;

(b) A list of all equipment that the public body intends to use on the public work, together with an estimate of the number of hours each item of equipment will be used and the hourly cost to use each item of equipment;

(c) An estimate of the cost of administrative support for the persons assigned to the public work;

(d) An estimate of the total cost of the public work, including the fair market value of or, if known, the actual cost of all materials, supplies, labor and equipment to be used for the public work; and

(e) An estimate of the amount of money the public body expects to save by rejecting the bids and performing the public work itself.

9. This section does not apply to:

(a) Any utility subject to the provisions of chapter 318 or 710 of NRS;

(b) Any work of construction, reconstruction, improvement and maintenance of highways subject to NRS 408.323 or 408.327;

(c) Normal maintenance of the property of a school district;

(d) The Las Vegas Valley Water District created pursuant to chapter 167, Statutes of Nevada 1947, the Moapa Valley Water District created pursuant to chapter 477, Statutes of Nevada 1983 or the Virgin Valley Water District created pursuant to chapter 100, Statutes of Nevada 1993; ~~for~~

(e) The design and construction of a public work for which a public body contracts with a design-build team pursuant to NRS 338.1711 to 338.1727, inclusive ~~†~~;

(f) A constructability review of a public work, which review a local government or its authorized representative is required to perform pursuant to section 14 of this act; or

(g) The preconstruction or construction of a public work for which a public body enters into a contract with a construction manager at risk pursuant to sections 2 to 12, inclusive, of this act.

Sec. 17. NRS 338.1385 is hereby amended to read as follows:

338.1385 1. Except as otherwise provided in subsection 9, this State, or a governing body or its authorized representative that awards a contract for a public work in accordance with paragraph (a) of subsection 1 of NRS 338.1373 shall not:

(a) Commence a public work for which the estimated cost exceeds \$100,000 unless it advertises in a newspaper qualified pursuant to chapter 238 of NRS that is published in the county where the public work will be performed for bids for the public work. If no qualified newspaper is published in the county where the public work will be performed, the required advertisement must be published in some qualified newspaper that is printed in the State of Nevada and having a general circulation within the county.

(b) Commence a public work for which the estimated cost is \$100,000 or less unless it complies with the provisions of NRS 338.1386, 338.13862 and 338.13864.

(c) Divide a public work into separate portions to avoid the requirements of paragraph (a) or (b).

2. At least once each quarter, the authorized representative of a public body shall report to the public body any contract that the authorized representative awarded pursuant to subsection 1 in the immediately preceding quarter.

3. Each advertisement for bids must include a provision that sets forth the requirement that a contractor must be qualified pursuant to NRS 338.1379 or 338.1382 to bid on the contract.

4. Approved plans and specifications for the bids must be on file at a place and time stated in the advertisement for the inspection of all persons desiring to bid thereon and for other interested persons. Contracts for the public work must be awarded on the basis of bids received.

5. Except as otherwise provided in subsection 6 and NRS 338.1389, a public body or its authorized representative shall award a contract to the lowest responsive and responsible bidder.

6. Any bids received in response to an advertisement for bids may be rejected if the public body or its authorized representative responsible for awarding the contract determines that:

(a) The bidder is not a qualified bidder pursuant to NRS 338.1379 or 338.1382;

(b) The bidder is not responsive or responsible;

(c) The quality of the services, materials, equipment or labor offered does not conform to the approved plans or specifications; or

(d) The public interest would be served by such a rejection.

7. A public body may let a contract without competitive bidding if no bids were received in response to an advertisement for bids and:

(a) The public body publishes a notice stating that no bids were received and that the contract may be let without further bidding;

(b) The public body considers any bid submitted in response to the notice published pursuant to paragraph (a);

(c) The public body lets the contract not less than 7 days after publishing a notice pursuant to paragraph (a); and

(d) The contract is awarded to the lowest responsive and responsible bidder.

8. Before a public body may commence the performance of a public work itself pursuant to the provisions of this section, based upon a determination that the public interest would be served by rejecting any bids received in response to an advertisement for bids, the public body shall prepare and make available for public inspection a written statement containing:

(a) A list of all persons, including supervisors, whom the public body intends to assign to the public work, together with their classifications and an estimate of the direct and indirect costs of their labor;

(b) A list of all equipment that the public body intends to use on the public work, together with an estimate of the number of hours each item of equipment will be used and the hourly cost to use each item of equipment;

(c) An estimate of the cost of administrative support for the persons assigned to the public work;

(d) An estimate of the total cost of the public work, including, the fair market value of or, if known, the actual cost of all materials, supplies, labor and equipment to be used for the public work; and

(e) An estimate of the amount of money the public body expects to save by rejecting the bids and performing the public work itself.

9. This section does not apply to:

(a) Any utility subject to the provisions of chapter 318 or 710 of NRS;

(b) Any work of construction, reconstruction, improvement and maintenance of highways subject to NRS 408.323 or 408.327;

(c) Normal maintenance of the property of a school district;

(d) The Las Vegas Valley Water District created pursuant to chapter 167, Statutes of Nevada 1947, the Moapa Valley Water District created pursuant to chapter 477, Statutes of Nevada 1983 or the Virgin Valley Water District created pursuant to chapter 100, Statutes of Nevada 1993; ~~to~~

(e) The design and construction of a public work for which a public body contracts with a design-build team pursuant to NRS 338.1711 to 338.1727, inclusive ~~to~~ ;

(f) *A constructability review of a public work, which review a local government or its authorized representative is required to perform pursuant to section 14 of this act; or*

(g) *The preconstruction or construction of a public work for which a public body enters into a contract with a construction manager at risk pursuant to sections 2 to 12, inclusive, of this act.*

Sec. 18. NRS 338.143 is hereby amended to read as follows:

338.143 1. Except as otherwise provided in subsection 8 and NRS 338.1907, a local government or its authorized representative that awards a contract for a public work in accordance with paragraph (b) of subsection 1 of NRS 338.1373 shall not:

(a) Commence a public work for which the estimated cost exceeds \$100,000 unless it advertises in a newspaper qualified pursuant to chapter 238 of NRS that is published in the county where the public work will be performed for bids for the public work. If no qualified newspaper is published in the county where the public work will be performed, the required advertisement must be published in some qualified newspaper that is printed in the State of Nevada and has a general circulation in the county.

(b) Commence a public work for which the estimated cost is \$100,000 or less unless it complies with the provisions of NRS 338.1442, 338.1444 and 338.1446.

(c) Divide a project work into separate portions to avoid the requirements of paragraph (a) or (b).

2. At least once each quarter, the authorized representative of a local government shall report to the governing body any contract that the authorized representative awarded pursuant to subsection 1 in the immediately preceding quarter.

3. Approved plans and specifications for the bids must be on file at a place and time stated in the advertisement for the inspection of all persons desiring to bid thereon and for other interested persons. Contracts for the public work must be awarded on the basis of bids received.

4. Except as otherwise provided in subsection 5 and NRS 338.147, the local government or its authorized representative shall award a contract to the lowest responsive and responsible bidder.

5. Any bids received in response to an advertisement for bids may be rejected if the local government or its authorized representative responsible for awarding the contract determines that:

(a) The bidder is not responsive or responsible;

(b) The quality of the services, materials, equipment or labor offered does not conform to the approved plans or specifications; or

(c) The public interest would be served by such a rejection.

6. A local government may let a contract without competitive bidding if no bids were received in response to an advertisement for bids and:

(a) The local government publishes a notice stating that no bids were received and that the contract may be let without further bidding;

(b) The local government considers any bid submitted in response to the notice published pursuant to paragraph (a);

(c) The local government lets the contract not less than 7 days after publishing a notice pursuant to paragraph (a); and

(d) The contract is awarded to the lowest responsive and responsible bidder.

7. Before a local government may commence the performance of a public work itself pursuant to the provisions of this section, based upon a determination that the public interest would be served by rejecting any bids received in response to an advertisement for bids, the local government shall prepare and make available for public inspection a written statement containing:

(a) A list of all persons, including supervisors, whom the local government intends to assign to the public work, together with their classifications and an estimate of the direct and indirect costs of their labor;

(b) A list of all equipment that the local government intends to use on the public work, together with an estimate of the number of hours each item of equipment will be used and the hourly cost to use each item of equipment;

(c) An estimate of the cost of administrative support for the persons assigned to the public work;

(d) An estimate of the total cost of the public work, including the fair market value of or, if known, the actual cost of all materials, supplies, labor and equipment to be used for the public work; and

(e) An estimate of the amount of money the local government expects to save by rejecting the bids and performing the public work itself.

8. This section does not apply to:

(a) Any utility subject to the provisions of chapter 318 or 710 of NRS;

(b) Any work of construction, reconstruction, improvement and maintenance of highways subject to NRS 408.323 or 408.327;

(c) Normal maintenance of the property of a school district;

(d) The Las Vegas Valley Water District created pursuant to chapter 167, Statutes of Nevada 1947, the Moapa Valley Water District created pursuant to chapter 477, Statutes of Nevada 1983 or the Virgin Valley Water District created pursuant to chapter 100, Statutes of Nevada 1993; ~~for~~

(e) The design and construction of a public work for which a public body contracts with a design-build team pursuant to NRS 338.1711 to 338.1727, inclusive ~~for~~;

(f) *A constructability review of a public work, which review a local government or its authorized representative is required to perform pursuant to section 14 of this act; or*

(g) *The preconstruction or construction of a public work for which a public body enters into a contract with a construction manager at risk pursuant to sections 2 to 12, inclusive, of this act.*

Sec. 19. NRS 338.143 is hereby amended to read as follows:

338.143 1. Except as otherwise provided in subsection 8, a local government or its authorized representative that awards a contract for a public work in accordance with paragraph (b) of subsection 1 of NRS 338.1373 shall not:

(a) Commence a public work for which the estimated cost exceeds \$100,000 unless it advertises in a newspaper qualified pursuant to chapter 238 of NRS that is published in the county where the public work will be performed for bids for the public work. If no qualified newspaper is published within the county where the public work will be performed, the required advertisement must be published in some qualified newspaper that is printed in the State of Nevada and has a general circulation within the county.

(b) Commence a public work for which the estimated cost is \$100,000 or less unless it complies with the provisions of NRS 338.1442, 338.1444 or 338.1446.

(c) Divide a public work into separate portions to avoid the requirements of paragraph (a) or (b).

2. At least once each quarter, the authorized representative of a local government shall report to the governing body any contract that the authorized representative awarded pursuant to subsection 1 in the immediately preceding quarter.

3. Approved plans and specifications for the bids must be on file at a place and time stated in the advertisement for the inspection of all persons desiring to bid thereon and for other interested persons. Contracts for the public work must be awarded on the basis of bids received.

4. Except as otherwise provided in subsection 5 and NRS 338.147, the local government or its authorized representative shall award a contract to the lowest responsive and responsible bidder.

5. Any bids received in response to an advertisement for bids may be rejected if the local government or its authorized representative responsible for awarding the contract determines that:

(a) The bidder is not responsive or responsible;

(b) The quality of the services, materials, equipment or labor offered does not conform to the approved plans or specifications; or

(c) The public interest would be served by such a rejection.

6. A local government may let a contract without competitive bidding if no bids were received in response to an advertisement for bids and:

(a) The local government publishes a notice stating that no bids were received and that the contract may be let without further bidding;

(b) The local government considers any bid submitted in response to the notice published pursuant to paragraph (a);

(c) The local government lets the contract not less than 7 days after publishing a notice pursuant to paragraph (a); and

(d) The contract is awarded to the lowest responsive and responsible bidder.

7. Before a local government may commence the performance of a public work itself pursuant to the provisions of this section, based upon a determination that the public interest would be served by rejecting any bids received in response to an advertisement for bids, the local government shall prepare and make available for public inspection a written statement containing:

(a) A list of all persons, including supervisors, whom the local government intends to assign to the public work, together with their classifications and an estimate of the direct and indirect costs of their labor;

(b) A list of all equipment that the local government intends to use on the public work, together with an estimate of the number of hours each item of equipment will be used and the hourly cost to use each item of equipment;

(c) An estimate of the cost of administrative support for the persons assigned to the public work;

(d) An estimate of the total cost of the public work, including the fair market value of or, if known, the actual cost of all materials, supplies, labor and equipment to be used for the public work; and

(e) An estimate of the amount of money the local government expects to save by rejecting the bids and performing the public work itself.

8. This section does not apply to:

(a) Any utility subject to the provisions of chapter 318 or 710 of NRS;

(b) Any work of construction, reconstruction, improvement and maintenance of highways subject to NRS 408.323 or 408.327;

(c) Normal maintenance of the property of a school district;

(d) The Las Vegas Valley Water District created pursuant to chapter 167, Statutes of Nevada 1947, the Moapa Valley Water District created pursuant to chapter 477, Statutes of Nevada 1983 or the Virgin Valley Water District created pursuant to chapter 100, Statutes of Nevada 1993; ~~or~~

(e) The design and construction of a public work for which a public body contracts with a design-build team pursuant to NRS 338.1711 to 338.1727, inclusive ~~or~~;

(f) A constructability review of a public work, which review a local government or its authorized representative is required to perform pursuant to section 14 of this act; or

(g) The preconstruction or construction of a public work for which a public body enters into a contract with a construction manager at risk pursuant to sections 2 to 12, inclusive, of this act.

Sec. 20. NRS 338.1711 is hereby amended to read as follows:

338.1711 1. Except as otherwise provided in this section and NRS 338.161 to 338.168, inclusive, *and sections 2 to 12, inclusive, of this act*, a public body shall contract with a prime contractor for the construction of a public work for which the estimated cost exceeds \$100,000.

2. A public body may contract with a design-build team for the design and construction of a public work that is a discrete project if the public body has approved the use of a design-build team for the design and construction of the public work and the public work:

(a) Is the construction of a park and appurtenances thereto, the rehabilitation or remodeling of a public building, or the construction of an addition to a public building; or

(b) Has an estimated cost which exceeds \$10,000,000.

Sec. 21. NRS 338.1717 is hereby amended to read as follows:

338.1717 A public body may employ a registered architect, *general contractor, construction manager as agent*, landscape architect or licensed professional engineer as a consultant to assist the public body in overseeing the construction of a public work. An architect, *general contractor, construction manager as agent*, landscape architect or engineer so employed shall not:

1. Construct the public work; or

2. Assume overall responsibility for ensuring that the construction of the public work is completed in a satisfactory manner.

Sec. 22. 1. This section and sections 1 to 16, inclusive, 18, 20 and 21 of this act become effective on October 1, 2007.

2. Sections 16 and 18 of this act expire by limitation on April 30, 2013.

3. Sections 17 and 19 of this act become effective on May 1, 2013.

WARREN B. HARDY

JOHN J. LEE

BOB BEERS

Senate Conference Committee

DEBBIE SMITH

MARILYN KIRKPATRICK

CHAD CHRISTENSEN

Assembly Conference Committee

Senator Hardy moved that the Senate adopt the report of the first Conference Committee concerning Senate Bill No. 201.

Remarks by Senator Hardy.

Motion carried by a constitutional majority.

APPOINTMENT OF CONFERENCE COMMITTEES

President Krolicki appointed Senators Cegavske, McGinness and Woodhouse as a first Conference Committee to meet with a like committee of the Assembly for the further consideration of Senate Bill No. 239.

Senator Raggio moved that the Senate recess until 3:30 p.m.

Motion carried.

Senate in recess at 12:49 p.m.

SENATE IN SESSION

At 5:14 p.m.

President Krolicki presiding.

Quorum present.

REPORTS OF COMMITTEES

Mr. President:

Your Committee on Finance, to which was referred Senate Bill No. 166, 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 Government Affairs, to which was referred Assembly Bill No. 291, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

WARREN B. HARDY II, *Chair*

MESSAGES FROM THE ASSEMBLY

ASSEMBLY CHAMBER, Carson City, June 2, 2007

To the Honorable the Senate:

I have the honor to inform your honorable body that the Assembly on this day passed Senate Bills Nos. 38, 55, 250, 251, 252, 462, 463, 467, 468, 555, 573.

Also, I have the honor to inform your honorable body that the Assembly on this day passed, as amended, Assembly Bill No. 483.

Also, I have the honor to inform your honorable body that the Assembly amended, and on this day passed, as amended, Senate Bill No. 490, Amendment No. 1018, 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. 808 to Assembly Bill No. 462; Senate Amendment No. 999 to Assembly Bill No. 508.

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. 354, Assembly Amendments Nos. 930, 1017, and requests a conference, and appointed Assemblymen Anderson, Kirkpatrick 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. 516, Assembly Amendments Nos. 895, 1031, and requests a conference, and appointed Assemblymen Atkinson, Munford and Settlemeyer 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 Bobzien, Goicoechea and Parnell as a first Conference Committee concerning Assembly Bill No. 285.

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 Senate Bills Nos. 19, 352; Assembly Bill No. 13.

LUCINDA BENJAMIN

Assistant Chief Clerk of the Assembly

MOTIONS, RESOLUTIONS AND NOTICES

Senator Amodei moved that the action whereby Assembly Bill No. 483, just returned from the Governor, was passed be rescinded.

Remarks by Senator Amodei.

Motion carried.

Senator Amodei moved to take Assembly Bill No. 483 from the General File and be rereferred to the Committee on Judiciary.

Remarks by Senator Amodei.

Motion carried.

SECOND READING AND AMENDMENT

Senate Bill No. 166.

Bill read second time.

The following amendment was proposed by the Committee on Finance:

Amendment No. 1060.

"SUMMARY—Requires payment of increased salaries to certain school employees holding national certification. (BDR 34-1149)"

"AN ACT relating to schools; requiring school districts to pay increased salaries to certain ~~employees~~ professional school library media specialists who hold certain national certification; ~~recognized by the Commission on Professional Standards in Education;~~ requiring related information to be included in the annual budget report of each school district; ~~requiring the Commission to adopt certain regulations;~~ making an appropriation; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under existing law, a school district is required to pay increased salaries to those teachers and speech pathologists it employs who satisfy certain requirements, including the holding of certain national certification. (NRS 391.160) This bill provides for the payment of similar increased salaries for ~~other employees of a school district, including school nurses, school psychologists, school counselors, school social workers and audiologists~~ professional school library media specialists who satisfy certain similar requirements, including the holding of certain national certification.

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

Section 1. 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~~ *employees* who received an increase in salary pursuant to subsection 2 , 3 or 4 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. 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.

Sec. 2. NRS 391.160 is hereby amended to read as follows:

391.160 1. The salaries of teachers and other employees must be determined by the character of the service required. A school district shall not discriminate between male and female employees in the matter of salary.

2. Each year when determining the salary of a teacher who holds certification issued by the National Board for Professional Teaching Standards, a school district shall add 5 percent to the salary that the teacher would otherwise receive in 1 year for his classification on the schedule of salaries for the school district if:

(a) On or before January 31 of the school year, the teacher has submitted evidence satisfactory to the school district of his current certification; and

(b) The teacher is assigned by the school district to provide classroom instruction during that school year.

↪ No increase in salary may be given pursuant to this subsection during a particular school year to a teacher who submits evidence of certification after January 31 of that school year. For the first school year that a teacher submits evidence of his current certification, the board of trustees of the school district to whom the evidence was submitted shall pay the increase in salary required by this subsection retroactively to the beginning of that school year. Once a teacher has submitted evidence of such certification to the school district, the school district shall retain the evidence in its records, as applicable, for future school years. An increase in salary given in accordance with this subsection is in addition to any other increase to which the teacher may otherwise be entitled.

3. Each year when determining the salary of a person who is employed by a school district as a speech pathologist, the school district shall add 5 percent to the salary that the employee would otherwise receive in 1 year for his classification on the schedule of salaries for the school district if:

(a) On or before September 15 of the school year, the employee has submitted evidence satisfactory to the school district of his:

(1) Licensure as a speech pathologist by the Board of Examiners for Audiology and Speech Pathology; and

(2) Certification as being clinically competent in speech-language pathology by:

(I) The American Speech-Language-Hearing Association; or

(II) A successor organization to the American Speech-Language-Hearing Association that is recognized and determined to be acceptable by the Board of Examiners for Audiology and Speech Pathology; and

(b) The employee is assigned by the school district to serve as a speech pathologist during the school year.

↪ No increase in salary may be given pursuant to this subsection during a particular school year to an employee who submits evidence of licensure and certification after September 15 of that school year. Once an employee has submitted evidence of such licensure and certification to the school district, the school district shall retain the evidence in its records, as applicable, for future school years. An increase in salary given in accordance with this subsection is in addition to any other increase to which the employee may otherwise be entitled.

4. *Each year when determining the salary of a person who is employed by a school district as a ~~school nurse, school psychologist, school counselor, school social worker or audiologist and who holds the required national certification specified for his profession in the regulations of the Commission adopted pursuant to subsection 7.1~~ professional school library media specialist, the school district shall add 5 percent to the salary that the employee would otherwise receive in 1 year for his classification on the schedule of salaries of the school district if:*

(a) On or before September 15 of the school year, the employee has submitted evidence satisfactory to the school district of his current certification ~~for~~ as a professional school library media specialist issued by the National Board for Professional Teaching Standards; and

(b) The employee is assigned by the school district to ~~provide service in the profession for which he holds the certification~~ serve as a professional school library media specialist during that school year.

➔ No increase in salary may be given pursuant to this subsection during a particular school year to an employee who submits evidence of certification after September 15 of that school year. Once an employee has submitted evidence of such certification to the school district, the school district shall retain the evidence in its records, as applicable, for future school years. An increase in salary given in accordance with this subsection is in addition to any other increase to which the employee may otherwise be entitled.

5. In determining the salary of a licensed teacher who is employed by a school district after the teacher has been employed by another school district in this State, the present employer shall, except as otherwise provided in subsection ~~7;~~ ~~10;~~ 8:

(a) Give the teacher the same credit for previous teaching service as he was receiving from his former employer at the end of his former employment;

(b) Give the teacher credit for his final year of service with his former employer, if credit for that service is not included in credit given pursuant to paragraph (a); and

(c) Place the teacher on the schedule of salaries of the school district in a classification that is commensurate with the level of education acquired by the teacher, as set forth in the applicable negotiated agreement with the present employer.

~~5.~~ 6. A school district may give the credit required by subsection ~~4~~ 5 for previous teaching service earned in another state if the Commission has approved the standards for licensing teachers of that state. The Commission shall adopt regulations that establish the criteria by which the Commission will consider the standards for licensing teachers of other states for the purposes of this subsection. The criteria may include, without limitation, whether the Commission has authorized reciprocal licensure of educational personnel from the state under consideration.

~~6.~~ 7. ~~Except as otherwise provided in this subsection, the Commission shall adopt regulations specifying the required national certification for each profession listed in subsection 4 to qualify an employee to receive an increase in salary pursuant to that subsection. In adopting the regulations, the Commission shall consider whether the requirements for national certification for each such profession are at least as stringent as the requirements for the certification of a teacher by the National Board for Professional Teaching Standards. If, for any such profession, the Commission determines that this requirement is not met by any existing~~

~~national certification, the Commission shall adopt a regulation stating that the Commission has not specified any required national certification for that profession.~~

~~8.~~ In determining the salary of a licensed administrator, other than the superintendent of schools, who is employed by a school district after the administrator has been employed by another school district in this State, the present employer shall, except as otherwise provided in subsection ~~[7:]~~ ~~[9:]~~ 8:

(a) Give the administrator the same credit for previous administrative service as he was receiving from his former employer, at the end of his former employment;

(b) Give the administrator credit for his final year of service with his former employer, if credit for that service is not otherwise included in the credit given pursuant to paragraph (a); and

(c) Place the administrator on the schedule of salaries of the school district in a classification that is comparable to the classification the administrator had attained on the schedule of salaries of his former employer.

~~[7:]~~ ~~[9:]~~ 8. This section does not:

(a) Require a school district to allow a teacher or administrator more credit for previous teaching or administrative service than the maximum credit for teaching or administrative experience provided for in the schedule of salaries established by it for its licensed personnel.

(b) Permit a school district to deny a teacher or administrator credit for his previous teaching or administrative service on the ground that the service differs in kind from the teaching or administrative experience for which credit is otherwise given by the school district.

~~[8:]~~ ~~[10:]~~ ~~A school district shall pay the increases in salary required by subsections 2, 3 and 4 regardless of the amount of any legislative appropriation made for the increases.~~

~~[1:]~~ 9. As used in this section:

(a) "Previous administrative service" means the total of:

(1) Any period of administrative service for which an administrator received credit from his former employer at the beginning of his former employment; and

(2) His period of administrative service in his former employment.

(b) "Previous teaching service" means the total of:

(1) Any period of teaching service for which a teacher received credit from his former employer at the beginning of his former employment; and

(2) His period of teaching service in his former employment.

Sec. 3. ~~[On or before October 1, 2007, the Commission on Professional Standards in Education shall adopt regulations in accordance with subsection 7 of NRS 391.160, as amended by section 2 of this act.] (Deleted by amendment.)~~

Sec. 3.5. 1. There is hereby appropriated from the State General Fund to the State Distributive School Account the following sums to pay the

increase of salaries of professional school library media specialists required by NRS 391.160, as amended by section 2 of this act:

For the Fiscal Year 2007-2008.....\$18,078

For the Fiscal Year 2008-2009.....\$18,798

2. Any balance of the sums appropriated by subsection 1 remaining at the end of the respective fiscal years must not be committed for expenditure after June 30 of the respective fiscal years by the entity to which the appropriation is made or any entity to which money from the appropriation is granted or otherwise transferred in any manner, and any portion of the appropriated money remaining must not be spent for any purpose after September 19, 2008, and September 18, 2009, respectively, by either the entity to which the money was appropriated or the entity to which the money was subsequently granted or transferred, and must be reverted to the State General Fund on or before September 19, 2008, and September 18, 2009, respectively.

Sec. 4. Notwithstanding the provisions of NRS 391.160, as amended by section 2 of this act, an employee who wishes to receive an increase in salary for the 2007-2008 school year pursuant to subsection 4 of NRS 391.160, as amended by section 2 of this act, must submit evidence of his certification not later than November 1, 2007. If an employee submits such evidence on or before that date, the school district by which he is employed shall pay the required increase in salary retroactively to the beginning of the 2007-2008 school year.

Sec. 5. 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. 6. This act becomes effective on July 1, 2007.

Senator Raggio moved the adoption of the amendment.

Remarks by Senator Raggio.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 246.

Bill read second time.

The following amendment was proposed by the Committee on Finance:

Amendment No. 1120.

"SUMMARY — ~~Increases the number of district judges in the Second and Eighth Judicial Districts.~~ *Makes various changes concerning district judges.* (BDR 1-654)"

"AN ACT relating to courts; *creating a Tenth Judicial District*; increasing the number of district judges in the Second and Eighth Judicial Districts; increasing the number of district judges in the Second and Eighth Judicial Districts who must be judges of the family court; making an appropriation; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Section 1 of this bill creates a Tenth Judicial District for the Counties of Churchill and Mineral consisting of two district judges. Churchill County is removed from the Third Judicial District in section 1.3 and the number of judges in that district is reduced from three to two.

Section 1.5 of this bill increases the number of district judges in the Second Judicial District, which includes Washoe County, from 12 to 14. (NRS 3.010, 3.012) Both of the additional district judges must be judges of the family court, increasing the number of judges of the family court in the Second Judicial District from 4 to 6. (NRS 3.012)

Section 2 of this bill increases the number of district judges in the Eighth Judicial District, which includes Clark County, from 37 to ~~44~~ 43 (NRS 3.010, 3.018) Five of the ~~7~~ 6 additional district judges must be judges of the family court, increasing the number of judges of the family court in the Eighth Judicial District from 13 to 18. (NRS 3.018)

~~Section~~ Sections 4 and 4.5 of this bill makes an appropriation to pay for the salaries of the additional district judges.

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

Section 1. Chapter 3 of NRS is hereby amended by adding thereto a new section to read as follows:

For the Tenth Judicial District there must be two district judges.

Sec. 1.3. NRS 3.010 is hereby amended to read as follows:

3.010 The State is hereby divided into ~~nine~~ 10 judicial districts, as follows:

First Judicial District. Carson City and the County of Storey constitute the First Judicial District.

Second Judicial District. The County of Washoe constitutes the Second Judicial District.

Third Judicial District. The ~~Counties of Churchill and~~ County of Lyon ~~constitute~~ constitutes the Third Judicial District.

Fourth Judicial District. The County of Elko constitutes the Fourth Judicial District.

Fifth Judicial District. The Counties of ~~Mineral~~ Esmeralda and Nye constitute the Fifth Judicial District.

Sixth Judicial District. The Counties of Lander, Pershing and Humboldt constitute the Sixth Judicial District.

Seventh Judicial District. The Counties of Eureka, White Pine and Lincoln constitute the Seventh Judicial District.

Eighth Judicial District. The County of Clark constitutes the Eighth Judicial District.

Ninth Judicial District. The County of Douglas constitutes the Ninth Judicial District.

Tenth Judicial District. The Counties of Churchill and Mineral constitute the Tenth Judicial District.

~~Section 1.~~ *Sec. 1.5.* NRS 3.012 is hereby amended to read as follows:

3.012 For the Second Judicial District there must be ~~12~~ 14 district judges, ~~4~~ 6 of whom must be judges of the family court.

Sec. 1.7. NRS 3.013 is hereby amended to read as follows:

3.013 For the Third Judicial District there must be ~~three~~ two district judges.

Sec. 2. NRS 3.018 is hereby amended to read as follows:

3.018 For the Eighth Judicial District there must be ~~37~~ ~~44~~ 43 district judges, ~~13~~ 18 of whom must be judges of the family court.

Sec. 3. The additional district judges required for the Second Judicial District pursuant to section ~~1~~ 1.5 of this act, ~~and~~ the additional district judges required for the Eighth Judicial District pursuant to section 2 of this act and the additional district judge required for the Tenth Judicial District pursuant to section 1 of this act must be selected at the general election held on November 4, 2008, and take office on January 5, 2009. The terms of these judges expire on January 5, 2015.

Sec. 4. 1. There is hereby appropriated from the State General Fund to the District Judges' Salary Account the sum of ~~\$786,913~~ \$959,616 for the salaries of the additional district judges required pursuant to sections 1, 1.5 and 2 of this act.

2. Any remaining balance of the appropriation made by subsection 1 must not be committed for expenditure after June 30, 2009, and reverts to the State General Fund as soon as all payments of money committed have been made.

Sec. 4.5. 1. There is hereby appropriated from the State General Fund to the District Judges' Salary Account the sum of \$787,779 for the salaries of the additional district judges required pursuant to sections 1, 1.5 and 2 of this act.

2. Any remaining balance of the appropriation made by subsection 1 must not be committed for expenditure after June 30, 2009, and reverts to the State General Fund as soon as all payments of money committed have been made.

Sec. 5. The provisions of subsection 1 of NRS 354.599 do not apply to any additional expenses of a local government that are related to the provisions of this act.

Sec. 6. 1. This section and sections 3 and 5 of this act become effective on October 1, 2007.

2. Section 4 of this act becomes effective on July 1, 2008, ~~if~~, if Senate Bill No. 248 of this Session is enacted by the Legislature and approved by the Governor.

3. Section 4.5 of this act becomes effective on July 1, 2008, only if section 4 of this act does not become effective.

4. Sections 1 ~~and 2~~ to 2, inclusive, of this act become effective on January 5, 2009.

Senator Raggio moved the adoption of the amendment.

Remarks by Senator Raggio.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Assembly Bill No. 291.

Bill read second time.

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

Amendment No. 1110.

"SUMMARY—Revises provisions governing ~~the use of money deposited in a fund established to stabilize the operation of a school district.~~ local financial administration. (BDR 31-189)"

"AN ACT relating to local financial administration; expanding the purposes for which, in certain smaller counties, money may be expended from a school district fund established to stabilize the operation of the school district; requiring the boards of county commissioners in certain counties that have adopted certain land use ordinances to prepare an annual anticipated revenue plan; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law provides for each county to receive a portion of the proceeds of an ad valorem tax levied against mining operations in that county and for each county treasurer to apportion certain amounts of those proceeds to each local government or other local entity. (NRS 362.170) Existing law also authorizes each school district that receives a portion of those proceeds to set aside a portion of the amount received for a fund to mitigate the adverse effects upon the school district that result from a decline in revenues from the tax on mining operations or the opening or closing of a mining operation in the county. (NRS 362.171) ~~This~~ Section 2 of this bill expands those purposes to authorize school districts in counties with a population of less than 5,000 (currently Lincoln, Storey, Eureka and Esmeralda Counties) to use the money in the fund for certain specified purposes.

Existing law authorizes cities and counties to regulate and restrict the improvement of land within their jurisdictions. (NRS 278.020) Section 3 of this bill requires the board of county commissioners of a county whose population is less than 100,000 (currently counties other than Clark and Washoe Counties) that enacts an ordinance limiting the construction of residential or nonresidential units in the county to prepare, in consultation with the Department of Taxation, an annual anticipated revenue plan for the next 2 fiscal years. The plan must be transmitted to the Legislature and to the county clerk to be made available for public inspection.

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

Section 1. Chapter 354 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.

~~[Section 1.]~~ *Sec. 2. [Chapter 354 of NRS is hereby amended by adding thereto a new section to read as follows:]*

1. Each school district to which money is apportioned by a county pursuant to subsection 2 of NRS 362.170 may set aside a percentage of the amount apportioned to establish a school district fund for mitigation. Except as otherwise provided in subsection 2, money from the fund may be used by the school district only to mitigate adverse effects upon the school district which result from:

(a) A decline in the revenue received by the school district from the tax on the net proceeds of minerals during the 2 fiscal years immediately preceding the current fiscal year; or

(b) The opening or closing of an extractive operation from the net proceeds of which revenue has been or is reasonably expected to be derived pursuant to chapter 362 of NRS.

2. A school district in a county whose population is less than 5,000 may, if the revenues available to the school district for the current fiscal year are less than 90 percent of the revenues available to the school district for the immediately preceding fiscal year, expend such money in the fund created pursuant to subsection 1 to continue the district's instructional programs or those services and activities necessary to support the district's instructional programs which would otherwise be reduced or eliminated if not for the provisions of this section.

Sec. 3. 1. If the board of county commissioners of a county whose population is less than 100,000 enacts an ordinance after July 1, 2007, that limits the number of residential or nonresidential units which may be constructed in the county, the board, in consultation with the Department of Taxation, shall prepare an anticipated revenue plan for the county on or before August 1 of each year during the period in which the ordinance is in effect. Such a plan must address the fiscal year that commences during the year in which the plan is prepared and the immediately succeeding fiscal year and must include, without limitation:

(a) An analysis of the estimated or actual revenues credited to and expenditures made from the county general fund during those 2 fiscal years; and

(b) Except for the initial anticipated revenue plan submitted pursuant to this subsection, a comparison of the actual revenues credited to the county general fund during the fiscal year immediately preceding the fiscal years addressed in the plan with the revenues which were estimated for that fiscal year in the immediately preceding anticipated revenue plan.

2. As soon as practicable after preparing a plan pursuant to subsection 1, the board of county commissioners shall transmit a copy of the plan to:

(a) The Director of the Legislative Counsel Bureau for distribution to the Legislature; and

(b) The office of the county clerk of the county to be made available for public inspection.

Sec. 4. NRS 354.470 is hereby amended to read as follows:

354.470 NRS 354.470 to 354.626, inclusive, and sections 2 and 3 of this act may be cited as the Local Government Budget and Finance Act.

Sec. 5. NRS 354.474 is hereby amended to read as follows:

354.474 1. Except as otherwise provided in subsections 2 and 3, the provisions of NRS 354.470 to 354.626, inclusive, and sections 2 and 3 of this act apply to all local governments. For the purpose of NRS 354.470 to 354.626, inclusive, ~~+~~, and sections 2 and 3 of this act:

(a) "Local government" means every political subdivision or other entity which has the right to levy or receive money from ad valorem or other taxes or any mandatory assessments, and includes, without limitation, counties, cities, towns, boards, school districts and other districts organized pursuant to chapters 244A, 309, 318 and 379 of NRS, NRS 450.550 to 450.750, inclusive, and chapters 474, 541, 543 and 555 of NRS, and any agency or department of a county or city which prepares a budget separate from that of the parent political subdivision.

(b) "Local government" does not include the Nevada Rural Housing Authority.

2. An irrigation district organized pursuant to chapter 539 of NRS shall fix rates and levy assessments as provided in NRS 539.667 to 539.683, inclusive. The levy of such assessments and the posting and publication of claims and annual financial statements as required by chapter 539 of NRS shall be deemed compliance with the budgeting, filing and publication requirements of NRS 354.470 to 354.626, inclusive, and sections 2 and 3 of this act, but any such irrigation district which levies an ad valorem tax shall comply with the filing and publication requirements of NRS 354.470 to 354.626, inclusive, and sections 2 and 3 of this act, in addition to the requirements of chapter 539 of NRS.

3. An electric light and power district created pursuant to chapter 318 of NRS shall be deemed to have fulfilled the requirements of NRS 354.470 to 354.626, inclusive, and sections 2 and 3 of this act, for a year in which the district does not issue bonds or levy an assessment if the district files with the Department of Taxation a copy of all documents relating to its budget for that year which the district submitted to the Rural Electrification Administration of the United States Department of Agriculture.

Sec. 6. NRS 354.476 is hereby amended to read as follows:

354.476 As used in NRS 354.470 to 354.626, inclusive, and sections 2 and 3 of this act, unless the context otherwise requires, the words and terms defined in NRS 354.479 to 354.578, inclusive, have the meanings ascribed to them in those sections.

~~Sec. 2.~~ Sec. 7. NRS 362.171 is hereby amended to read as follows:

362.171 ~~{1}~~ Each county to which money is appropriated by subsection 1 of NRS 362.170 may set aside a percentage of that appropriation to establish a county fund for mitigation. Money from the fund may be appropriated by the board of county commissioners only to mitigate adverse effects upon the county, or the school district located in the county, which result from:

~~{(a)}~~ 1. A decline in the revenue received by the county from the tax on the net proceeds of minerals during the 2 fiscal years immediately preceding the current fiscal year; or

~~{(b)}~~ 2. The opening or closing of an extractive operation from the net proceeds of which revenue has been or is reasonably expected to be derived pursuant to this chapter.

~~{2.} Each school district to which money is apportioned by a county pursuant to subsection 2 of NRS 362.170 may set aside a percentage of the amount apportioned to establish a school district fund for mitigation. Money from the fund may be used by the school district only to mitigate adverse effects upon the school district which result from:~~

~~{(a)} A decline in the revenue received by the school district from the tax on the net proceeds of minerals during the 2 fiscal years immediately preceding the current fiscal year; or~~

~~{(b)} The opening or closing of an extractive operation from the net proceeds of which revenue has been or is reasonably expected to be derived pursuant to this chapter.~~

~~{Sec. 3.}~~ Sec. 8. This act becomes effective on July 1, 2007.

Senator Hardy moved the adoption of the amendment.

Remarks by Senator Hardy.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

GENERAL FILE AND THIRD READING

Senate Bill No. 471.

Bill read third time.

Roll call on Senate Bill No. 471:

YEAS—21.

NAYS—None.

Senate Bill No. 471 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 161.

Bill read third time.

Roll call on Assembly Bill No. 161:

YEAS—19.

NAYS—Titus, Wiener—2.

Assembly Bill No. 161 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

UNFINISHED BUSINESS
REPORTS OF CONFERENCE COMMITTEES

Mr. President:

The first Conference Committee concerning Assembly Bill No. 13, consisting of the undersigned members, has met and reports that:

It has agreed to recommend that the Amendment No. 843 of the Senate be concurred in.

JOSEPH J. HECK

DEBBIE SMITH

MIKE MCGINNESS

DAVID BOBZIEN

MAGGIE CARLTON

T. GRADY

Senate Conference Committee

Assembly Conference Committee

Senator Heck moved that the Senate adopt the report of the first Conference Committee concerning Assembly Bill No. 13.

Remarks by Senator Heck.

Motion carried by a constitutional majority.

APPOINTMENT OF CONFERENCE COMMITTEES

President Krolicki appointed Senators Horsford, Heck and Wiener as a first Conference Committee to meet with a like committee of the Assembly for the further consideration of Senate Bill No. 266.

Mr. President announced that if there were no objections, the Senate would recess subject to the call of the Chair.

Senate in recess at 5:27 p.m.

SENATE IN SESSION

At 6:02 p.m.

President Krolicki presiding.

Quorum present.

REPORTS OF COMMITTEES

Mr. President:

Your Committee on Human Resources and Education, to which was referred Assembly Bill No. 158, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

Also, your Committee on Human Resources and Education, to which was referred Assembly Bill No. 280, has had the same under consideration, and begs leave to report the same back with the recommendation: Rerefer to the Committee on Finance.

MAURICE E. WASHINGTON, *Chair*

Mr. President:

Your Committee on Natural Resources, to which was referred Assembly Bill No. 469, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

DEAN A. RHOADS, *Chair*

MOTIONS, RESOLUTIONS AND NOTICES

Senator Raggio moved that Assembly Bill No. 595 be taken from the General File and placed on the General File for the next legislative day.

Remarks by Senator Raggio.

Motion carried.

Senator Washington moved that Assembly Bill No. 280 be rereferred to the Committee on Finance.

Remarks by Senator Washington.

Motion carried.

GENERAL FILE AND THIRD READING

Senate Bill No. 166.

Bill read third time.

Roll call on Senate Bill No. 166:

YEAS—21.

NAYS—None.

Senate Bill No. 166 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 158.

Bill read third time.

Roll call on Assembly Bill No. 158:

YEAS—21.

NAYS—None.

Assembly Bill No. 158 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 246.

Bill read third time.

Roll call on Assembly Bill No. 246:

YEAS—21.

NAYS—None.

Assembly Bill No. 246 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 291.

Bill read third time.

Roll call on Assembly Bill No. 291:

YEAS—21.

NAYS—None.

Assembly Bill No. 291 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 469.

Bill read third time.

Roll call on Assembly Bill No. 469:

YEAS—21.

NAYS—None.

Assembly Bill No. 469 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

UNFINISHED BUSINESS

APPOINTMENT OF CONFERENCE COMMITTEES

President Krolicki appointed Senators Amodei, Wiener and Washington as a first Conference Committee to meet with a like committee of the Assembly for the further consideration of Senate Bill No. 131.

President Krolicki appointed Senators Lee, Raggio and Hardy as a first Conference Committee to meet with a like committee of the Assembly for the further consideration of Senate Bill No. 516.

SIGNING OF BILLS AND RESOLUTIONS

There being no objections, the President and Secretary signed Senate Bills Nos. 84, 90, 115, 143, 196, 222, 342, 498; Assembly Bills Nos. 14, 110, 128, 418, 445, 593, 624; Assembly Concurrent Resolution No. 34.

GUESTS EXTENDED PRIVILEGE OF SENATE FLOOR

On request of Senator Coffin, the privilege of the floor of the Senate Chamber for this day was extended to Anna Coffin.

Senator Raggio moved that the Senate adjourn until Sunday, June 3, 2007, at 11 a.m.

Motion carried.

Senate adjourned at 6:12 p.m.

Approved:

BRIAN K. KROLICKI
President of the Senate

Attest: CLAIRE J. CLIFT
Secretary of the Senate