

### THE SIXTY-FOURTH DAY

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CARSON CITY (Monday), April 6, 2009

Assembly called to order at 11:14 a.m.

Madam Speaker presiding.

Roll called.

All present.

Prayer by the Chaplain, Rajan Zed.

Om

bhur bhuvah svah

tat Savitur varenyam

bhargo devasya dhimahi

dhiyo you nah prachodayat

We meditate on the transcendental Glory of the Deity Supreme, who is inside the heart of the earth, inside the life of the sky, and inside the soul of the Heaven. May He stimulate and illuminate our minds.

Asato ma sad gamaya

Tamaso ma jyotir gamaya

Mrityor mamrtam gamaya

Lead me from the unreal to the Real.

Lead me from darkness to Light.

Lead me from death to immortality.

nīyatam kuru karma tvam karma jyayo hyakarmanah

sarirayatrapi ca te na prasiddhyedakarmanah

yajnarthatkarmano'nyatra loko'yam karmabandhanah

tadartham karma kaunteya muktasangah samacara

Fulfill all your duties; action is better than inaction. Even to maintain your body, you are obliged to act. Selfish action imprisons the world. Act selflessly, without any thought of personal profit.

tasmadasaktah satatam karyam karma samacara

asakto hyacarankarma paramapnoti purusah

karmanāiva hi samsiddhimasthita janakadayah

lokasangrahavevapi sampasyankartumarhasi

Strive constantly to serve the welfare of the world; by devotion to selflessness one attains the supreme goal of life. Do your work with the welfare of others always in mind.

Om saha naavavatu

Saha nau bhunaktu

Saha viiryan karavaavahai

Tejasvi naavadhiitamastu

Maa vidhvishhaavahai

May we be protected together.

May we be nourished together.

May we work together with great vigor.

May our study be enlightening.

May no obstacle arise between us.

samani va akutih  
samana hridayani vah  
samanam astu vo mano  
yatha vah susahasti

United your resolve, united your hearts,  
may your spirits be at one,  
that you may long together dwell  
in unity and concord!

Om Shanti, Shanti, Shanti.

Peace, Peace, Peace be unto all.

AMEN.

Pledge of allegiance to the Flag.

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

Motion carried.

#### REPORTS OF COMMITTEES

*Madam Speaker:*

Your Committee on Commerce and Labor, to which was referred Assembly Bill No. 90, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

MARCUS CONKLIN, *Chairman*

*Madam Speaker:*

Your Committee on Education, to which were referred Assembly Bills Nos. 26, 191, 243, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

BONNIE PARNELL, *Chair*

*Madam Speaker:*

Your Committee on Elections, Procedures, Ethics, and Constitutional Amendments, to which were referred Assembly Bills Nos. 231, 232, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

ELLEN M. KOIVISTO, *Chair*

*Madam Speaker:*

Your Committee on Health and Human Services, to which was referred Assembly Bills Nos. 76, 196 has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

DEBBIE SMITH, *Chair*

*Madam Speaker:*

Your Committee on Judiciary, to which were referred Assembly Bills Nos. 120, 253, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

BERNIE ANDERSON, *Chairman*

*Madam Speaker:*

Your Committee on Natural Resources, Agriculture, and Mining, to which was referred Assembly Bill No. 15, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

JERRY D. CLABORN, *Chair*

*Madam Speaker:*

Your Committee on Taxation, to which was referred Assembly Bill No. 329, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

Also, your Committee on Taxation, to which was referred Assembly Bill No. 403, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

KATHY MCCLAIN, *Chair*

*Madam Speaker:*

Your Committee on Transportation, to which were referred Assembly Bills Nos. 372, 417, 518, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

KELVIN ATKINSON, *Chairman*

## MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Ocegüera moved that Assembly Bills Nos. 15, 26, 76, 90, 120, 191, 196, 231, 232, 243, 253, 329, 372, 403, 417, and 518 just reported out of committee, be placed on the Second Reading File.

Motion carried.

## MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, April 2, 2009

*To the Honorable the Assembly:*

I have the honor to inform your honorable body that the Senate on this day adopted Assembly Concurrent Resolution No. 27.

Also, I have the honor to inform your honorable body that the Senate on this day adopted Senate Concurrent Resolution No. 23.

Also, I have the honor to inform your honorable body that the Senate on this day adopted, as amended, Senate Concurrent Resolutions Nos. 3 and 5.

SHERRY L. RODRIGUEZ  
*Assistant Secretary of the Senate*

## MOTIONS, RESOLUTIONS AND NOTICES

Senate Concurrent Resolution No. 3.

Assemblyman Ocegüera moved that the resolution be referred to the Committee on Natural Resources, Agriculture, and Mining.

Motion carried.

Senate Concurrent Resolution No. 5.

Assemblyman Ocegüera moved that the resolution be referred to the Committee on Natural Resources, Agriculture, and Mining.

Motion carried.

Senate Concurrent Resolution No. 23.

Assemblyman Manendo moved the adoption of the resolution.

Remarks by Assemblyman Manendo.

Resolution adopted.

NOTICE OF EXEMPTION

April 2, 2009

The Fiscal Analysis Division, pursuant to Joint Standing Rule 14.6, has determined the eligibility for exemption of: Senate Bills Nos. 278, 326, 385 and 394.

GARY GHIGGERI  
*Fiscal Analysis Division*

April 6, 2009

The Fiscal Analysis Division, pursuant to Joint Standing Rule 14.6, has determined the exemption of: Assembly Bills Nos. 149, 458, 520, 526, 528, 529, 530, 531, 532, 533 and 534.

Also, the Fiscal Analysis Division, pursuant to Joint Standing Rule 14.6, has determined the eligibility for exemption of: Assembly Bills Nos. 347, 359, 395, 399, 423, 427, 445, 451, 482, 497, 506, 515, 519, 522 and 523.

MARK STEVENS  
*Fiscal Analysis Division*

April 6, 2009

The Fiscal Analysis Division, pursuant to Joint Standing Rule 14.6, has determined the exemption of: Senate Bills Nos. 284, 346 and 367.

Also, the Fiscal Analysis Division, pursuant to Joint Standing Rule 14.6, has determined the eligibility for exemption of: Senate Bills Nos. 264, 359, 368, 372, 375, 377, 382 and 397.

GARY GHIGGERI  
*Fiscal Analysis Division*

Assemblyman Ocegüera moved that the reading of histories on all bills and resolutions be dispensed with for this legislative day.

Motion carried.

Assemblyman Arberry moved that Assembly Bill No. 107 be taken from the General File and rereferred to the Committee on Ways and Means.

Motion carried.

Assemblyman Atkinson moved that Assembly Bill No. 109 be taken from the Chief Clerk's desk and placed on General File.

Motion carried.

SECOND READING AND AMENDMENT

Assembly Bill No. 3.

Bill read second time.

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

Amendment No. 42.

SUMMARY—Requires each plot in each veterans' cemetery in this State to be landscaped with **natural** turf grass. (BDR 37-197)

AN ACT relating to veterans' cemeteries; requiring the area immediately surrounding each plot in each veterans' cemetery in this State to be

landscaped with **natural** turf grass; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires the Executive Director for Veterans' Services to establish, operate and maintain a veterans' cemetery in northern Nevada and a veterans' cemetery in southern Nevada and requires a cemetery superintendent to operate and maintain each cemetery. (NRS 417.200) This bill requires the cemetery superintendent to ensure that the area immediately surrounding each plot in each veterans' cemetery is landscaped with **natural** turf grass.

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

Section 1. NRS 417.200 is hereby amended to read as follows:

417.200 1. The Executive Director shall establish, operate and maintain a veterans' cemetery in northern Nevada and a veterans' cemetery in southern Nevada, and may, within the limits of legislative authorization, employ personnel and purchase equipment and supplies necessary for the operation and maintenance of the cemeteries. The Executive Director shall employ a cemetery superintendent to operate and maintain each cemetery.

2. *The cemetery superintendent shall ensure that the area immediately surrounding each plot in each veterans' cemetery is landscaped with **natural turf grass**.*

3. A person desiring to provide voluntary services to further the establishment, maintenance or operation of either of the cemeteries shall submit a written offer to the cemetery superintendent which describes the nature of the services. The cemetery superintendent shall consider all such offers and approve those he deems appropriate. The cemetery superintendent shall coordinate the provision of all services so approved.

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

Assemblywoman Kirkpatrick moved the adoption of the amendment.

Remarks by Assemblywoman Kirkpatrick.

Madam Speaker requested the privilege of the Chair for the purpose of making remarks.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 35.

Bill read second time.

The following amendment was proposed by the Committee on Corrections, Parole, and Probation:

Amendment No. 25.

AN ACT relating to offenders; revising the procedures for determining whether to grant a petition by an offender for release from lifetime supervision; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

This bill revises the circumstances under which a sentencing court or the State Board of Parole Commissioners must grant a petition by certain sex offenders for release from lifetime supervision. (NRS 176.0931) Specifically, this bill requires the court or Board to: (1) consider any reports submitted by the Division of Parole and Probation of the Department of Public Safety; and (2) ~~grant the petition if, after considering such a report, the court or Board determines that the offender's conduct during his lifetime supervision indicates his release from supervision is appropriate and the offender satisfies the other criteria for release from supervision.~~ consider whether the person has been convicted of certain offenses within the past 7 years, rather than the past 10 years, after his last conviction or release from incarceration.

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

Section 1. NRS 176.0931 is hereby amended to read as follows:

176.0931 1. If a defendant is convicted of a sexual offense, the court shall include in sentencing, in addition to any other penalties provided by law, a special sentence of lifetime supervision.

2. The special sentence of lifetime supervision commences after any period of probation or any term of imprisonment and any period of release on parole.

3. A person sentenced to lifetime supervision may petition the sentencing court or the State Board of Parole Commissioners for release from lifetime supervision. The sentencing court or the Board shall consider any report submitted by the Division concerning the person and grant a petition for release from a special sentence of lifetime supervision if:

(a) The person has complied with the requirements of the provisions of NRS 179D.010 to 179D.550, inclusive;

(b) The person has not been convicted of an offense that poses a threat to the safety or well-being of others for an interval of at least ~~10~~ 7 consecutive years after his last conviction or release from incarceration, whichever occurs later; and

(c) The person is not likely to pose a threat to the safety of others, as determined by a person professionally qualified to conduct psychosexual evaluations, if released from lifetime supervision ~~and~~

~~(d) The person's conduct during his term of lifetime supervision indicates that release from lifetime supervision is appropriate, as determined by the sentencing court or Board after considering any report submitted by the Division.~~

4. A person who is released from lifetime supervision pursuant to the provisions of subsection 3 remains subject to the provisions for registration as a sex offender and to the provisions for community notification, unless he

is otherwise relieved from the operation of those provisions pursuant to the provisions of NRS 179D.010 to 179D.550, inclusive.

5. As used in this section:

(a) "Offense that poses a threat to the safety or well-being of others" includes, without limitation:

(1) An offense that involves:

- (I) A victim less than 18 years of age;
- (II) A crime against a child as defined in NRS 179D.0357;
- (III) A sexual offense as defined in NRS 179D.097;
- (IV) A deadly weapon, explosives or a firearm;
- (V) The use or threatened use of force or violence;
- (VI) Physical or mental abuse;
- (VII) Death or bodily injury;
- (VIII) An act of domestic violence;
- (IX) Harassment, stalking, threats of any kind or other similar acts;
- (X) The forcible or unlawful entry of a home, building, structure, vehicle or other real or personal property; or

(XI) The infliction or threatened infliction of damage or injury, in whole or in part, to real or personal property.

(2) Any offense listed in subparagraph (1) that is committed in this State or another jurisdiction, including, without limitation, an offense prosecuted in:

- (I) A tribal court.
- (II) A court of the United States or the Armed Forces of the United States.

(b) "Person professionally qualified to conduct psychosexual evaluations" has the meaning ascribed to it in NRS 176.133.

(c) "Sexual offense" means:

(1) A violation of NRS 200.366, subsection 4 of NRS 200.400, NRS 200.710, 200.720, subsection 2 of NRS 200.730, NRS 201.180, paragraph (a) or subparagraph (2) of paragraph (b) of subsection 1 of NRS 201.195, NRS 201.230 or 201.450 or paragraph (a) or (b) of subsection 4 or paragraph (a) or (b) of subsection 5 of NRS 201.560;

(2) An attempt to commit an offense listed in subparagraph (1); or

(3) An act of murder in the first or second degree, kidnapping in the first or second degree, false imprisonment, burglary or invasion of the home if the act is determined to be sexually motivated at a hearing conducted pursuant to NRS 175.547.

Sec. 2. This act becomes effective on July 1, 2009.

Assemblyman Horne moved the adoption of the amendment.

Remarks by Assemblyman Horne.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 124.

Bill read second time.

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

Amendment No. 88.

AN ACT relating to unemployment compensation; revising provisions relating to certain agricultural labor as employment; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

In compliance with federal requirements, existing state law exempts from the Federal Unemployment Tax Act certain services performed by an alien admitted to the United States. To maintain compliance in the event of applicable changes in federal law, **section 1** of this bill provides that the existing exemption, as reflected under state law, must be eliminated if the federal exemption is eliminated. (NRS 612.090)

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

Section 1. NRS 612.090 is hereby amended to read as follows:

612.090 1. "Employment" includes agricultural labor if:

(a) The services are performed in the employ of a person who:

(1) Paid cash wages of \$20,000 or more during any calendar quarter of the current calendar year or preceding calendar year to persons employed in agricultural labor ~~or~~ **including, without limitation, an alien described in subsection 4 without regard to whether the alien or the services performed by the alien are required to be covered by the Federal Unemployment Tax Act;** or

(2) Employed 10 or more persons in agricultural labor **including, without limitation, an alien described in subsection 4 without regard to whether the alien or the services performed by the alien are required to be covered by the Federal Unemployment Tax Act,** some portion of the day for at least 20 days, each day being in a different calendar week, during the current calendar year or preceding calendar year whether or not the weeks were consecutive or the persons were employed at the same moment of time; and

(b) The services are performed:

(1) On a farm, in the employ of any person, in connection with cultivating the soil, or in connection with raising or harvesting any agricultural or horticultural commodity, including the raising, shearing, feeding, caring for, training and management of livestock, bees, poultry and fur-bearing animals and wildlife.

(2) In the employ of the owner or tenant or other operator of a farm, in connection with the operation, management, conservation, improvement or maintenance of the farm and its tools and equipment, or in salvaging timber



or clearing land of brush and other debris left by a hurricane, if the major part of the service is performed on a farm.

(3) In connection with the production or harvesting of any commodity defined as an agricultural commodity in section 15(g) of the Agricultural Marketing Act, 12 U.S.C. § 1141j, or in connection with the ginning of cotton, or in connection with the operation or maintenance of ditches, canals, reservoirs or waterways, not owned or operated for profit, used exclusively for supplying and storing water for farming purposes.

(4) Except as otherwise provided in subsection 2, in the employ of the operator of a farm in handling, planting, drying, packing, packaging, processing, freezing, grading, storing or delivering to storage or to market, or to a carrier for transportation to market, in its unmanufactured state, any agricultural or horticultural commodity, but only if the operator produced more than one-half of the commodity with respect to which such service is performed.

(5) Except as otherwise provided in subsection 2, in the employ of a group of operators of farms, or a cooperative organization of which such operators are members, in the performance of service described in subparagraph (4), but only if such operators produced more than one-half of the commodity with respect to which such service is performed.

(6) On a farm operated for profit although the service is not in the course of the employer's trade or business.

2. The provisions of subparagraphs (4) and (5) of paragraph (b) of subsection 1 do not apply to service performed in connection with commercial canning or commercial freezing or in connection with any agricultural or horticultural commodity after its delivery to a terminal market for distribution for consumption.

3. As used in this section, the term "farm" includes stock, dairy, poultry, fruit, fur-bearing animal and truck farms, plantations, ranches, nurseries, ranges, greenhouses or other similar structures used primarily for raising agricultural or horticultural commodities, and orchards.

4. The provisions of ~~[this section]~~ **paragraph (b) of subsection 1** do not apply to services performed ~~[before January 1, 1980,]~~ by an alien admitted to the United States to perform agricultural labor pursuant to sections 214(c) and 101(a)(15)(H) of the Immigration and Nationality Act, 8 U.S.C. §§ 1184(c) and ~~[101(a)(15)(H)]~~ **1101(a)(15)(H)(ii)(a)**, respectively ~~[,]~~, ***unless the alien or the services are required to be covered by the Federal Unemployment Tax Act.***

Sec. 2. This act becomes effective on July 1, 2009.

Assemblyman Conklin moved the adoption of the amendment.

Remarks by Assemblyman Conklin.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 193.

Bill read second time.

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

Amendment No. 119.

AN ACT relating to state financial administration; requiring certain governmental entities to report periodically to the Interim Finance Committee concerning the collection and abatement of fees and taxes; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

This bill requires certain governmental entities of this State, beginning with the fourth quarter of Fiscal Year 2008-2009 and concluding with the third quarter of Fiscal Year 2010-2011, to report to the Interim Finance Committee within ~~45~~ **60** days after the end of the immediately preceding fiscal quarter regarding the taxes and fees that: (1) were legally due to be paid to the entity; (2) the entity was able to collect; and (3) the entity did not collect or was otherwise unable to collect ~~it~~ **, to the extent that such information is available to the entity.** This bill also requires the Commission on Economic Development to report to the Interim Finance Committee on the same time schedule regarding each tax or fee that the Commission abated, exempted or otherwise waived and the duration of the applicable abatement, exemption or waiver. **All reports required to be filed pursuant to this bill are required to be submitted on a form provided by the Director of the Legislative Counsel Bureau.**

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

Section 1. 1. Beginning on July 1, 2009, and extending through April 15, 2011, the following governmental entities shall, within ~~45~~ **60** days after the end of the immediately preceding fiscal quarter, file with the Interim Finance Committee a report that complies with the requirements of subsection 2:

- (a) The Department of Taxation.
- (b) The State Gaming Control Board.
- (c) The Department of Motor Vehicles.
- (d) The Department of Employment, Training and Rehabilitation.
- (e) The Department of Business and Industry.
- (f) The Office of the State Controller.
- (g) The Office of the Secretary of State.

2. Each report required to be filed pursuant to subsection 1 must **be submitted on a form provided by the Director of the Legislative Counsel Bureau and** include the following components:

- (a) A statement of all taxes and fees that were legally due to be paid to the particular governmental entity in the immediately preceding fiscal quarter;

(b) A statement of the total of all taxes and fees that the particular governmental entity actually collected in the immediately preceding fiscal quarter;

(c) A statement of all taxes and fees that the particular governmental entity, in the immediately preceding fiscal quarter, failed to collect or otherwise did not collect as the result of an abatement, exemption or another reason ~~[- and] , to the extent that such information is available to the governmental entity;~~

(d) A statement of the total amount of all taxes and fees that remain legally due to be paid to the particular governmental entity for any past fiscal years up to and including the immediately preceding fiscal quarter of the current fiscal year ~~[-] ; and~~

**(e) Such other information relating to the provisions of this section as may be requested by the Director of the Legislative Counsel Bureau.**

Sec. 2. 1. Beginning on July 1, 2009, and extending through April 15, 2011, the Commission on Economic Development shall, within ~~[-] 60~~ days after the end of the immediately preceding fiscal quarter, file with the Interim Finance Committee a report that complies with the requirements of subsection 2.

2. Each report required to be filed pursuant to subsection 1 must **be submitted on a form provided by the Director of the Legislative Counsel Bureau and** include a description of every abatement, exemption or other type of waiver that the Commission on Economic Development granted with respect to a tax or fee during the immediately preceding fiscal quarter. The description must include, without limitation:

(a) An estimate of the total amount of money the payment of which was abated, exempted or otherwise waived; ~~[- and]~~

(b) The duration of the abatement, exemption or other type of waiver ~~[-] ; and~~

**(c) Such other information relating to the provisions of this section as may be requested by the Director of the Legislative Counsel Bureau.**

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

Assemblywoman Kirkpatrick moved the adoption of the amendment.

Remarks by Assemblywoman Kirkpatrick.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 194.

Bill read second time.

The following amendment was proposed by the Committee on Natural Resources, Agriculture, and Mining:

Amendment No. 120.

AN ACT relating to wildlife; ~~[- expanding]~~ **revising** the system of assessing demerit points for wildlife convictions to ~~[- include]~~ **exclude** certain convictions concerning master guides and subguides; prohibiting a person

from providing compensation to a person acting as a master guide or subguide without proof of licensure; ~~requiring a master guide or subguide to report certain violations relating to wildlife; increasing~~ **revising** the penalty for acting as a master guide or subguide without a license issued by the Department of Wildlife; providing penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires **the Board of Wildlife Commissioners to establish a system of assessing demerit points for a person who is convicted of violating certain laws and regulations in this State relating to hunting, fishing and trapping. Existing law also sets forth certain laws for which a violation is not included in the system of assessing demerit points. (NRS 501.1812-501.1818) Section 3 of this bill includes acting as a guide or subguide without a license within the group of laws for which a violation is not included in the system of assessing demerit points. (NRS 501.1812)**

**Existing law requires** each person who provides service as a hunting or fishing guide for compensation or who provides that service as an incidental service to customers of a commercial enterprise to have a master guide license issued by the Department of Wildlife. Existing law also requires any person who assists a master guide and acts as a guide in the course of that activity to have a subguide license issued by the Department. (NRS 504.390) Existing law provides that a person who acts as a master guide or subguide without first obtaining a license from the Department is guilty of a gross misdemeanor. (NRS 504.395) **Section 9 of this bill ~~increases~~ revises the penalty for committing such a violation ~~from~~ by providing that the person is guilty of a gross misdemeanor ~~to~~ for a first offense and guilty of a category E felony. ~~to~~ for a second or subsequent offense. Section 9 also requires the Board of Wildlife Commissioners to revoke any hunting, fishing or trapping license, permit or privilege issued to the person and refuse to issue any new hunting, fishing or trapping license to the person for 5 years. Sections 1 and 2 of this bill conform existing references to such a violation to account for the change in the penalty. Section 5 of this bill prohibits a person from knowingly compensating a person who engages in activity for which a master guide license or subguide license is required unless the person engaging in that activity provides proof that he is the holder of such a license to the person providing the compensation. Section 5 makes a violation of that prohibition a ~~gross~~ misdemeanor. ~~Section 6 of this bill requires a holder of a master guide license or subguide license to notify a game warden or other appropriate federal or state agency if the holder of the master guide license or subguide license observes or becomes aware of a violation of certain federal or state laws or regulations governing wildlife. Section 6 imposes a misdemeanor penalty against the holder of the master guide license or subguide license if he fails to report the violation promptly.~~ Sections 7 and 8 of this bill **define the word "compensation" and also revise the existing** definition of "guide"**

for the purpose of requiring the issuance of master guide licenses and subguide licenses. (NRS 504.390)

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

Section 1. NRS 501.171 is hereby amended to read as follows:

501.171 1. A county advisory board to manage wildlife shall submit written nominations for appointments to the Commission upon the request of the Governor and may submit nominations at any other time.

2. After consideration of the written nominations submitted by a county advisory board to manage wildlife and any additional candidates for appointment to the Commission, the Governor shall appoint to the Commission:

- (a) One member who is actively engaged in the conservation of wildlife;
- (b) One member who is actively engaged in farming;
- (c) One member who is actively engaged in ranching;
- (d) One member who represents the interests of the general public; and
- (e) Five members who during at least 3 of the 4 years immediately preceding their appointment held a resident license to fish or hunt, or both, in Nevada.

3. The Governor shall not appoint to the Commission any person who has been convicted of:

- (a) A felony or gross misdemeanor for a violation of NRS 501.376;
- (b) A gross misdemeanor for a violation of NRS 502.060 ; ~~for 504.395;~~
- ~~or~~
- (c) ***A felony or gross misdemeanor for a violation of NRS 504.395; or***
- (d) Two or more violations of the provisions of chapters 501 to 504, inclusive, of NRS,

↪ during the previous 10 years.

4. Not more than three members may be from the same county whose population is 400,000 or more, not more than two members may be from the same county whose population is 100,000 or more but less than 400,000, and not more than one member may be from the same county whose population is less than 100,000.

5. The Commission shall annually select a Chairman and a Vice Chairman from among its members. A person shall not serve more than two consecutive terms as Chairman.

Sec. 2. NRS 501.172 is hereby amended to read as follows:

501.172 1. A member of the Commission may be removed from office for just cause.

2. A member of the Commission must be removed from office for:

- (a) A conviction of a felony or gross misdemeanor for a violation of NRS 501.376;
  - (b) A conviction of a gross misdemeanor for a violation of NRS 502.060 ;
- ~~for 504.395; or~~

(c) *A conviction of a felony or gross misdemeanor for a violation of NRS 504.395; or*

(d) Two or more convictions of violating the provisions of chapters 501 to 504, inclusive, of NRS.

Sec. 3. NRS 501.1812 is hereby amended to read as follows:

501.1812 As used in NRS 501.1812 to 501.1818, inclusive, unless the context otherwise requires:

1. "License" means a license or tag issued by the Department for:

(a) Recreational hunting or fishing; or

(b) Taking fur-bearing mammals, trapping unprotected mammals or selling raw furs for profit.

2. "Permit" means a permit issued by the Department for recreational hunting or fishing.

3. "Wildlife conviction" means a conviction obtained in any court of competent jurisdiction in this State, including, without limitation, a conviction obtained upon a plea of nolo contendere or upon a forfeiture of bail not vacated in any such court, for a violation of:

(a) A provision of this title or any regulation adopted pursuant to this title other than a provision of NRS 502.370, 502.390, 503.185, 503.310 or 504.295 to ~~[504.390,] ~~[504.380,]~~ 504.398~~, inclusive; or

(b) A provision of the Lacey Act ~~[Amendment]~~ *Amendments* of 1981, ~~[Public Law 97-79,]~~ *16 U.S.C. §§ 3371 et seq.*, if the violation of that provision is based on a violation of a law or regulation of this State.

Sec. 4. ~~[Chapter 504 of NRS is hereby amended by adding thereto the provisions set forth as sections 5 and 6 of this act.] (Deleted by amendment.)~~

Sec. 5. Chapter 504 of NRS is hereby amended by adding thereto a new section to read as follows:

1. *A person shall not, directly or indirectly, knowingly compensate a person who holds himself out as providing guide service or engaging in business as a master guide or subguide, or acting in any other capacity for which a master guide license or subguide license is required pursuant to NRS 504.390, unless the person acting in that capacity provides proof that he is a holder of such a master guide license or subguide license to the person providing the compensation.*

2. *A person who violates the provisions of subsection 1 is guilty of a ~~[gross]~~ misdemeanor.*

Sec. 6. ~~[1. If a holder of a master guide license or subguide license observes or otherwise becomes aware of a violation of any provision of this title, a regulation adopted pursuant to this title or a federal law or regulation governing wildlife, the holder of the license shall promptly report the violation to a game warden or other appropriate federal or state agency.~~

~~2. In addition to any revocation of or refusal to issue a license pursuant to subsection 9 of NRS 504.390, a person who violates the~~

~~provisions of subsection 1 is guilty of a misdemeanor.~~ (Deleted by amendment.)

Sec. 7. NRS 504.390 is hereby amended to read as follows:

504.390 1. As used in this section, unless the context *otherwise* requires ~~otherwise, "guide"~~:

(a) **"Compensation" means any remuneration given in exchange for providing guide service which is predicated on a business relationship between the parties. The term does not include any reimbursement for shared trip expenses, including, without limitation, expenses for gasoline, food or any other costs that are generally associated with persons who are engaging in recreational hunting or fishing together.**

(b) **"Guide" means to assist another person for compensation in hunting wild mammals or wild birds and fishing ~~and~~ and includes the transporting of another person or his equipment to hunting and fishing locations within a general hunting and fishing area whether or not the guide determines the destination or course of travel.**

2. Each person who provides guide service for compensation or provides guide service as an incidental service to customers of any commercial enterprise, whether a direct fee is charged for the guide service or not, must obtain a master guide license from the Department. Such a license must not be issued to any person who has not reached 21 years of age.

3. Except as otherwise provided in this subsection, each person who assists a person who is required to have a master guide license and acts as a guide in the course of that activity must obtain a subguide license from the Department. Such a license must not be issued to any person who has not reached 18 years of age. The provisions of this subsection do not apply to a person who:

(a) Is employed by or assists a person who holds a master guide license solely for the purpose of cooking, cutting wood, ~~or~~ caring for, grooming or saddling livestock, ~~or~~ **or transporting a person by motor vehicle to or from a public facility for transportation, including, without limitation, a public airport.**

(b) Holds a master guide license which authorizes him to provide services for the same species and in the same areas as the guide who employs him or requests his assistance and has submitted to the Department a notarized statement which indicates that he is employed by or provides assistance to the guide. The statement must be signed by both guides.

4. Fees for master guide and subguide licenses must be as provided in NRS 502.240.

5. Any person who desires a master guide license must apply for the license on a form prescribed and furnished by the Department. The application must contain the social security number of the applicant and such other information as the Commission may require by regulation. If that person was not licensed as a master guide during the previous licensing year, his application must be accompanied by a nonrefundable fee of \$1,500.

6. Any person who desires a subguide license must apply for the license on a form prescribed and furnished by the Department. If that person was not licensed as a subguide during the previous licensing year, his application must be accompanied by a nonrefundable fee of \$50.

7. It is unlawful for the holder of a master guide license to operate in any area where a special use permit is required without first obtaining a permit unless he is employed by or providing assistance to a guide pursuant to subsection 3.

8. The holder of a master guide license shall maintain records of the number of hunters and fishermen served, and any other information which the Department may require concerning fish and game taken by such persons. The information must be furnished to the Department on request.

9. If any licensee under this section, or person served by a licensee, is convicted of a violation of any provision of this title or chapter 488 of NRS, the Commission may revoke the license of the licensee and may refuse issuance of another license to the licensee for a period not to exceed 5 years.

10. The Commission may adopt regulations covering the conduct and operation of a guide service.

11. The Department may issue master guide and subguide licenses that are valid only in certain management areas, management units or administrative regions in such a manner as may be determined by the regulations of the Commission.

Sec. 8. NRS 504.390 is hereby amended to read as follows:

504.390 1. As used in this section, unless the context *otherwise* requires ~~otherwise, "guide"~~ :

**(a) "Compensation" means any remuneration given in exchange for providing guide service which is predicated on a business relationship between the parties. The term does not include any reimbursement for shared trip expenses, including, without limitation, expenses for gasoline, food or any other expenses that are generally associated with persons who are engaging in recreational hunting or fishing together.**

**(b) "Guide" means to assist another person for compensation in hunting wild mammals or wild birds and fishing ~~and~~ and includes the transporting of another person or his equipment to hunting and fishing locations within a general hunting and fishing area whether or not the guide determines the destination or course of travel.**

2. Each person who provides guide service for compensation or provides guide service as an incidental service to customers of any commercial enterprise, whether a direct fee is charged for the guide service or not, must obtain a master guide license from the Department. Such a license must not be issued to any person who has not reached 21 years of age.

3. Except as otherwise provided in this subsection, each person who assists a person who is required to have a master guide license and acts as a guide in the course of that activity must obtain a subguide license from the Department. Such a license must not be issued to any person who has not



reached 18 years of age. The provisions of this subsection do not apply to a person who:

(a) Is employed by or assists a person who holds a master guide license solely for the purpose of cooking, cutting wood, ~~for~~ caring for, grooming or saddling livestock, ~~or~~ transporting a person by motor vehicle to or from a public facility for transportation, including, without limitation, a public airport.

(b) Holds a master guide license which authorizes him to provide services for the same species and in the same areas as the guide who employs him or requests his assistance and has submitted to the Department a notarized statement which indicates that he is employed by or provides assistance to the guide. The statement must be signed by both guides.

4. Fees for master guide and subguide licenses must be as provided in NRS 502.240.

5. Any person who desires a master guide license must apply for the license on a form prescribed and furnished by the Department. The application must contain such information as the Commission may require by regulation. If that person was not licensed as a master guide during the previous licensing year, his application must be accompanied by a nonrefundable fee of \$1,500.

6. Any person who desires a subguide license must apply for the license on a form prescribed and furnished by the Department. If that person was not licensed as a subguide during the previous licensing year, his application must be accompanied by a nonrefundable fee of \$50.

7. It is unlawful for the holder of a master guide license to operate in any area where a special use permit is required without first obtaining a permit unless he is employed by or providing assistance to a guide pursuant to subsection 3.

8. The holder of a master guide license shall maintain records of the number of hunters and fishermen served, and any other information which the Department may require concerning fish and game taken by such persons. The information must be furnished to the Department on request.

9. If any licensee under this section, or person served by a licensee, is convicted of a violation of any provision of this title or chapter 488 of NRS, the Commission may revoke the license of the licensee and may refuse issuance of another license to the licensee for a period not to exceed 5 years.

10. The Commission may adopt regulations covering the conduct and operation of a guide service.

11. The Department may issue master guide and subguide licenses that are valid only in certain management areas, management units or administrative regions in such a manner as may be determined by the regulations of the Commission.

Sec. 9. NRS 504.395 is hereby amended to read as follows:

504.395 1. Any person who purposefully or knowingly acts as a master guide or as a subguide without first obtaining a license pursuant to NRS 504.390 is guilty of :

(a) For a first offense, a gross misdemeanor.

(b) For a second or subsequent offense, a category E felony and shall be punished as provided in NRS 193.130.

2. Any vessel, vehicle, aircraft, pack or riding animal or other equipment used by a person operating in violation of subsection 1 is subject to forfeiture upon the conviction of that person of a gross misdemeanor or felony if that person knew or should have known that the vessel, vehicle, aircraft, animal or equipment would be used in violation of subsection 1.

3. In addition to any penalty imposed pursuant to subsection 1, if a person is convicted of violating a provision of that subsection, the Commission shall:

(a) Revoke any license, permit or privilege issued to that person pursuant to this title; and

(b) Refuse to issue any new license, permit or privilege to the person for 5 years after the date of the conviction.

Sec. 10. 1. This section and sections 1 to 7, inclusive, and 9 of this act become effective on October 1, 2009.

2. Section 7 of this act expires by limitation on the date on which the provisions of 42 U.S.C. § 666 requiring each state to establish procedures under which the state has authority to withhold or suspend, or to restrict the use of professional, occupational and recreational licenses of persons who:

(a) Have failed to comply with a subpoena or warrant relating to a proceeding to determine the paternity of a child or to establish or enforce an obligation for the support of a child; or

(b) Are in arrears in the payment for the support of one or more children,  
 ↪ are repealed by the Congress of the United States.

3. Section 8 of this act becomes effective on the date on which the provisions of 42 U.S.C. § 666 requiring each state to establish procedures under which the state has authority to withhold or suspend, or to restrict the use of professional, occupational and recreational licenses of persons who:

(a) Have failed to comply with a subpoena or warrant relating to a proceeding to determine the paternity of a child or to establish or enforce an obligation for the support of a child; or

(b) Are in arrears in the payment for the support of one or more children,  
 ↪ are repealed by the Congress of the United States.

Assemblyman Claborn moved the adoption of the amendment.

Remarks by Assemblyman Claborn.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

## MOTIONS, RESOLUTIONS AND NOTICES

Assemblywoman Kirkpatrick moved that upon return from the printer Assembly Bill No. 3 be rereferred to the Committee on Ways and Means.

Motion carried.

Assembly Bill No. 266.

Bill read second time and ordered to third reading.

Assembly Bill No. 459.

Bill read second time and ordered to third reading.

Madam Speaker announced if there were no objections, the Assembly would recess subject to the call of the Chair.

Assembly in recess at 12:02 p.m.

## ASSEMBLY IN SESSION

At 12:03 p.m.

Madam Speaker presiding.

Quorum present.

Assembly Bill No. 15.

Bill read second time.

The following amendment was proposed by the Committee on Natural Resources, Agriculture, and Mining:

Amendment No. 204.

SUMMARY—Revises provisions governing ~~notice of~~ sterilization requirements for dogs and cats. (BDR 50-203)

AN ACT relating to animals; requiring notice of any sterilization requirements for dogs and cats required by local ordinance to be posted in a public park and the office of each licensed veterinarian; requiring a retailer or dealer who sells a dog or cat to disclose to the purchaser any sterilization requirements for the animal required by local ordinance; **providing that any local ordinance that requires the sterilization of dogs may not be enforced with respect to certain dogs**; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law governs the sterilization of pets that are released by various releasing agencies, including societies to prevent cruelty to animals, animal shelters, nonprofit entities that provide temporary shelter for pets and organizations that take into custody pets which have been abandoned, abused or neglected. (NRS 574.600-574.660) **Section 1** of this bill requires each licensed veterinarian to post in his office written notice of any sterilization requirements for dogs or cats required by local ordinance. **Section 1** further requires a governmental entity with jurisdiction over a public park to post written notice in the park of any sterilization requirements for the animals required by local ordinance. **Sections 2 and 3** of this bill require a retailer or

dealer who sells a dog or cat to disclose to the purchaser any sterilization requirements for the animal required by local ordinance. (NRS 574.460, 574.470) A retailer or dealer who fails to comply with the disclosure requirements is subject to an administrative fine imposed by the Director of the State Department of Agriculture in an amount not to exceed \$250 for the first violation, \$500 for the second violation and \$1,000 for each subsequent violation. (NRS 574.485) **Section 3 also provides that any local ordinance which requires the sterilization of dogs may not be enforced with respect to a dog that is used primarily for hunting, purposes relating to farming or agriculture, breeding or drawing heavy loads, or as a service animal or service animal in training.**

**Section 4 of this bill provides that a retailer, dealer or operator must not separate a dog or cat from its mother until it is 8 weeks of age or accustomed to taking food or nourishment other than by nursing, whichever is later. (NRS 574.500)**

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

Section 1. Chapter 574 of NRS is hereby amended by adding thereto a new section to read as follows:

*1. A licensed veterinarian shall post written notice in a conspicuous place in his office of any sterilization requirements for dogs or cats required by local ordinance.*

*2. A governmental entity with jurisdiction over a public park in which dogs or cats are allowed shall post written notice in a conspicuous place in the park of any sterilization requirements for dogs or cats required by local ordinance.*

*3. As used in this section, "licensed veterinarian" has the meaning ascribed to it in NRS 638.007.*

Sec. 2. NRS 574.460 is hereby amended to read as follows:

574.460 1. A retailer or dealer shall, before selling a cat, provide the purchaser of the cat with a written statement that discloses:

- (a) The name, address and telephone number of the retailer or dealer.
- (b) The date the cat was born, if known.
- (c) The name and address of the person from whom the retailer or dealer obtained the cat and, if the person holds a license issued by the United States Department of Agriculture, the person's federal identification number.
- (d) The name and address of the breeder of the cat, if any, and, if the breeder holds a license issued by the United States Department of Agriculture, the breeder's federal identification number.

(e) The registration numbers, if any, of the cat's sire and dam with the appropriate breed registry or any health certifications from a health certification organization such as the Orthopedic Foundation for Animals or its successor organization, if any.

(f) A record of any immunizations administered to the cat before the time of sale, including the type of vaccine, date of administration and name and address of the veterinarian who prescribed the vaccine.

(g) ***Any sterilization requirements for the cat required by local ordinance.***

(h) The medical history of the cat, including, without limitation:

(1) The date that a veterinarian examined and, if applicable, reexamined the cat pursuant to subsections 1 and 2 of NRS 574.450 and determined that the cat did not have any illness, disease or other condition that is terminal or requires immediate hospitalization or immediate surgical intervention. For the purposes of this subparagraph, the presence of internal or external parasites does not constitute an illness, disease or other condition that is terminal or requires immediate hospitalization or immediate surgical intervention, unless the cat is clinically ill as a result of the parasite.

(2) Whether any treatment or medication has been administered by the veterinarian who examined or, if applicable, reexamined the cat pursuant to subsections 1 and 2 of NRS 574.450 and if such treatment or medication was administered, a statement indicating on what date it was administered and for what illness, disease or condition.

(3) **The date on which the veterinarian sterilized the cat, if applicable.**

(4) The name and address of the veterinarian who performed the examinations, ~~for~~ reexaminations **or sterilization** or administered any treatments or medications.

~~{(h)}~~ (i) That a copy of the veterinarian's evaluation of the health of the cat made pursuant to NRS 574.450 is available to the purchaser.

2. The written statement must be signed and dated by the retailer or dealer and contain a space for the purchaser to sign and date the statement as an attestation that he has read and understands the disclosures contained in the statement.

Sec. 3. NRS 574.470 is hereby amended to read as follows:

574.470 1. A retailer or dealer shall, before selling a dog, provide the purchaser of the dog with a written statement that discloses:

(a) The name, address and telephone number of the retailer or dealer.

(b) The date the dog was born, if known.

(c) The name and address of the person from whom the retailer or dealer obtained the dog and, if the person holds a license issued by the United States Department of Agriculture, the person's federal identification number.

(d) The name and address of the breeder of the dog, if any, and, if the breeder holds a license issued by the United States Department of Agriculture, the breeder's federal identification number.

(e) The registration numbers, if any, of the dog's sire and dam with the appropriate breed registry or any health certificates from a health certification organization such as the Orthopedic Foundation for Animals or its successor organization, if any.

(f) A record of any immunizations administered to the dog before the time of sale, including the type of vaccine, date of administration and name and address of the veterinarian who prescribed the vaccine.

(g) ***Any sterilization requirements for the dog required by local ordinance.***

(h) The medical history of the dog, including, without limitation:

(1) The date that a veterinarian examined and, if applicable, reexamined the dog pursuant to subsections 1 and 2 of NRS 574.450 and determined that the dog did not have any illness, disease or other condition that is terminal or requires immediate hospitalization or immediate surgical intervention. For the purposes of this subparagraph, the presence of internal or external parasites does not constitute an illness, disease or other condition that is terminal or requires immediate hospitalization or immediate surgical intervention, unless the dog is clinically ill as a result of the parasite.

(2) Whether any treatment or medication has been administered by the veterinarian who examined or, if applicable, reexamined the dog pursuant to subsections 1 and 2 of NRS 574.450 and, if such treatment or medication was administered, a statement indicating on what date it was administered and for what illness, disease or condition.

(3) **The date on which the veterinarian sterilized the dog, if applicable.**

(4) The name and address of the veterinarian who performed the examinations, ~~for~~ reexaminations **or sterilization** or administered any treatments or medications.

~~{(h)}~~ (i) That a copy of the veterinarian's evaluation of the health of the dog performed pursuant to NRS 574.450 is available to the purchaser.

2. The written statement must be signed and dated by the retailer or dealer and contain a space for the purchaser to sign and date the statement as an attestation that he has read and understands the disclosures contained in the statement.

**3. Any local ordinance that requires the sterilization of dogs may not be enforced with respect to a dog that is used primarily:**

**(a) For hunting;**

**(b) For purposes relating to farming or agriculture;**

**(c) For breeding;**

**(d) For drawing heavy loads; or**

**(e) As a service animal or a service animal in training, as those terms are defined in NRS 426.097 and 426.099, respectively.**

**Sec. 4. NRS 574.500 is hereby amended to read as follows:**

574.500 A retailer, dealer or operator shall not separate a dog or cat from its mother until it is **8 weeks of age or** accustomed to taking food or nourishment other than by nursing ~~it~~, **whichever is later.**

Assemblyman Claborn moved the adoption of the amendment.

Remarks by Assemblyman Claborn.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 26.

Bill read second time.

The following amendment was proposed by the Committee on Education:  
Amendment No. 28.

AN ACT relating to charter schools; revising the deadline for submission of an application for renewal of a written charter; revising provisions governing the exemption from annual performance audits for certain charter schools; **revising certain annual reports concerning the progress made by charter schools**; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

**Section 1** of this bill changes the deadline by which a charter school must submit an application for renewal of the written charter from 90 days to 120 days before the expiration of the charter. (NRS 386.530)

A charter school that meets certain requirements, including certain financial and performance standards, is eligible for an exemption from the requirement of an annual performance audit and must instead undergo a performance audit every 3 years. (NRS 386.5515) **Section 2** of this bill provides that if such a charter school no longer satisfies the requirements for an exemption or if ~~good cause~~ **reasonable evidence of noncompliance concerning the educational progress** exists, the charter school will be required to submit to an annual performance audit. After undergoing the annual performance audit, the charter school may reapply for the exemption.

**Existing law requires the board of trustees of a school district and a college or university within the Nevada System of Higher Education which sponsors a charter school to submit an annual report to the State Board of Education on the evaluation of the progress made by the charter school in achieving its educational goals and objectives. (NRS 386.610) Section 3 of this bill requires an annual report to be made by the Department of Education for each charter school sponsored by the State Board.**

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

Section 1. NRS 386.530 is hereby amended to read as follows:

386.530 1. Except as otherwise provided in subsection 2, an application for renewal of a written charter may be submitted to the sponsor of the charter school not less than ~~90~~ **120** days before the expiration of the charter. The application must include the information prescribed by the regulations of the Department. The sponsor shall conduct an intensive review and evaluation of the charter school in accordance with the regulations of the Department. The sponsor shall renew the charter unless it finds the existence of any ground for revocation set forth in NRS 386.535. The sponsor shall provide written notice of its determination not fewer than 30 days before the expiration of the charter. If the sponsor intends not to renew the charter, the written notice must:

(a) Include a statement of the deficiencies or reasons upon which the action of the sponsor is based; and

(b) Prescribe a period of not less than 30 days during which the charter school may correct any such deficiencies.

➔ If the charter school corrects the deficiencies to the satisfaction of the sponsor within the time prescribed in paragraph (b), the sponsor shall renew the charter of the charter school.

2. A charter school may submit an application for renewal of its initial charter after 3 years of operation of the charter school. The application must include the information prescribed by the regulations of the Department. The sponsor shall conduct an intensive review and evaluation of the charter school in accordance with the regulations of the Department. The sponsor shall renew the charter unless it finds the existence of any ground for revocation set forth in NRS 386.535. The sponsor shall provide written notice of its determination. If the sponsor intends not to renew the charter, the written notice must:

(a) Include a statement of the deficiencies or reasons upon which the action of the sponsor is based; and

(b) Prescribe a period of not less than 30 days during which the charter school may correct any such deficiencies.

➔ If the charter school corrects the deficiencies to the satisfaction of the sponsor within the time prescribed in paragraph (b), the sponsor shall renew the charter of the charter school.

Sec. 2. NRS 386.5515 is hereby amended to read as follows:

386.5515 1. To the extent money is available from legislative appropriation or otherwise, a charter school may apply to the Department for money for facilities if:

(a) The charter school has been operating in this State for at least 5 consecutive years and is in good financial standing;

(b) Each financial audit and each performance audit of the charter school required by the Department contains no major notations, corrections or errors concerning the charter school for at least 5 consecutive years;

(c) The charter school has met or exceeded adequate yearly progress as determined pursuant to NRS 385.3613 or has demonstrated improvement in the achievement of pupils enrolled in the charter school, as indicated by annual measurable objectives determined by the State Board, for the majority of the years of its operation;

(d) The charter school offers instruction on a daily basis during the school week of the charter school on the campus of the charter school; and

(e) At least 75 percent of the pupils enrolled in the charter school who are required to take the high school proficiency examination have passed that examination, if the charter school enrolls pupils at a high school grade level.

2. A charter school that satisfies the requirements of subsection 1 shall submit to a performance audit as required by the Department one time every 3 years. The sponsor of the charter school and the Department shall not



request a performance audit of the charter school more frequently than every 3 years without ~~showing good cause for such a request.~~ **reasonable evidence of noncompliance concerning the educational progress of the charter school based upon the annual report submitted to the State Board pursuant to NRS 386.610. If the charter school no longer satisfies the requirements of subsection 1 or** ~~good cause exists for an annual performance audit.~~ **if reasonable evidence of noncompliance concerning the educational progress of the charter school exists based upon the annual report, the charter school shall, upon written notice from the sponsor, submit to an annual performance audit. Such a charter school:**

(a) *May, after undergoing the annual performance audit, reapply to the sponsor to determine whether the charter school satisfies the requirements of subsection 1.*

(b) *Is not eligible for any available money pursuant to subsection 1 until the sponsor determines that the charter school satisfies the requirements of that subsection.*

3. A charter school that does not satisfy the requirements of subsection 1 shall submit a quarterly report of the financial status of the charter school if requested by the sponsor of the charter school.

**Sec. 3. NRS 386.610 is hereby amended to read as follows:**

386.610 1. On or before August 15 of each year, if the **State Board, the** board of trustees of a school district or a college or university within the Nevada System of Higher Education sponsors a charter school, the **Department, the** board of trustees or the institution, as applicable, shall submit a written report to the State Board. The written report must include:

(a) An evaluation of the progress of each charter school sponsored by the **State Board, the** board of trustees or **the** institution, as applicable, in achieving its educational goals and objectives.

(b) A description of all administrative support and services provided by the **Department, the** school district or **the** institution, as applicable, to the charter school.

2. The governing body of a charter school shall, after 3 years of operation under its initial charter, submit a written report to the sponsor of the charter school. The written report must include a description of the progress of the charter school in achieving its educational goals and objectives. If the charter school submits an application for renewal in accordance with the regulations of the Department, the sponsor may renew the written charter of the school pursuant to subsection 2 of NRS 386.530.

~~Sec. 3.~~ **Sec. 4.** This act becomes effective on July 1, 2009.

Assemblywoman Parnell moved the adoption of the amendment.

Remarks by Assemblywoman Parnell.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 76.

Bill read second time.

The following amendment was proposed by the Committee on Health and Human Services:

Amendment No. 68.

AN ACT relating to the protection of children; exempting certain relatives from licensure as foster care providers as a condition to placing a child in their custody in certain circumstances; revising provisions governing the background check required for obtaining a license as a foster care provider ; ~~and for placing a child who is in the custody of an agency which provides child welfare services in a home in an emergency situation;~~ and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires the licensing authority for foster homes to obtain fingerprints from applicants for a license to conduct a foster home, prospective employees of the applicant or of a licensee and from any resident of the foster home who is 18 years of age or older for the purpose of conducting a criminal background check. (NRS 424.033) Existing law similarly requires such a background check of any adult resident of a home in which an agency which provides child welfare services wishes to place a child in an emergency situation. (NRS 432B.391) In addition, the federal Adam Walsh Child Protection and Safety Act of 2006, Public Law 109-248, amended title IV of the Social Security Act to require fingerprint-based checks of the national crime information databases and to require checks of any state registry of child abuse and neglect before placing a child in a prospective foster home or with adoptive parents. To comply with this federal Act, **section 1** of this bill requires the licensing authority for foster homes to ~~conduct a preliminary name based check of the records of criminal history for~~ **obtain permission from** each applicant for a license to conduct a foster home, each prospective employee of the applicant or of a licensee and any resident of the foster home who is 18 years of age or older. ~~(NRS 424.033) Section 1 further requires the licensing authority to obtain permission from each such person~~ to conduct a child abuse and neglect screening in every state in which the person has resided during the last 5 years and then to conduct such a screening. In addition, **section 1** requires ~~each licensing authority~~ **the Division of Child and Family Services of the Department of Health and Human Services** to assist the licensing authorities of other states in conducting a child abuse and neglect screening of a person who has resided in this State if the person has signed a written permission authorizing the screening. ~~Section 3 of this bill imposes the same requirements on an agency which provides child welfare services before placing a child in a home in an emergency situation and requires such cooperation by an agency which provides child welfare services with agencies in other states that are conducting a screening of a person who has resided in this State if the person has signed a written permission authorizing~~

~~the screening. (NRS 432B.391)]~~ **and authorizes the Division to charge a fee for providing such information in an amount not to exceed the actual cost to the Division to provide the information.**

Existing law requires each foster home to be licensed. (NRS 424.030) "Foster home" includes a family home in which one to six children under the age of 18 are cared for by a person who is not related within the first degree of consanguinity or affinity with or without compensation. (NRS 424.013, 424.014) **Section 2** of this bill expands the exemptions from the provisions governing licensure of foster homes so that those provisions do not apply to a person who ~~voluntarily~~ provides care to a minor child who is in the custody of an agency which provides child welfare services if the caregiver is related to the child within the ~~third~~ **fifth** degree of consanguinity and the caregiver has not applied for a license. (NRS 424.090)

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

Section 1. NRS 424.033 is hereby amended to read as follows:

424.033 1. Each applicant for a license to conduct a foster home, prospective employee of that applicant or of a person who is licensed to conduct a foster home, or resident of a foster home who is 18 years of age or older must submit to the licensing authority or its approved designee ~~to~~:

(a) A complete set of his fingerprints and written permission authorizing the licensing authority or its approved designee to forward those fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report to enable the licensing authority or its approved designee to conduct an investigation pursuant to NRS 424.031 ~~to~~; *and*

(b) *Written permission to conduct a child abuse and neglect screening.*

2. *For each person who submits the documentation required pursuant to subsection 1, the licensing authority or its approved designee shall ~~not~~*

~~(a) Conduct a preliminary Federal Bureau of Investigation Interstate Identification Index name-based check of the records of criminal history; and~~

~~(b) Conduct~~ *conduct a child abuse and neglect screening of the person in every state in which the person has resided during the immediately preceding 5 years.*

3. The licensing authority or its approved designee may exchange with the Central Repository or the Federal Bureau of Investigation any information respecting the fingerprints submitted.

~~[3.]~~ 4. ~~Each licensing authority in this State~~ **The Division shall assist the licensing authority of another state that is conducting a child abuse and neglect screening of a person who has resided in this State by providing information which is necessary to conduct the screening if the person who is the subject of the screening has signed a written permission authorizing the licensing authority to conduct a child abuse and neglect screening. The Division may charge a fee for providing such information**

**in an amount which does not exceed the actual cost to the Division to provide the information.**

5. When a report from the Federal Bureau of Investigation is received by the Central Repository, it shall immediately forward a copy of the report to the licensing authority or its approved designee.

Sec. 2. NRS 424.090 is hereby amended to read as follows:

424.090 The provisions of this chapter do not apply to homes in which:

1. Care is provided only for a neighbor's or friend's child on an irregular or occasional basis for a brief period, not to exceed 90 days.

2. Care is provided by the legal guardian.

3. Care is provided for an exchange student.

4. Care is provided to enable a child to take advantage of educational facilities that are not available in his home community.

5. Any child or children are received, cared for and maintained pending completion of proceedings for adoption of such child or children, except as otherwise provided in regulations adopted by the Division.

6. Except as otherwise provided in regulations adopted by the Division, care is voluntarily provided to a minor child who is:

(a) Related to the ~~caretaker~~ **caregiver** by blood, adoption or marriage; and

(b) Not in the custody of an agency which provides child welfare services.

7. **Care is ~~voluntarily~~ provided to a minor child who is in the custody of an agency which provides child welfare services pursuant to chapter 432B of NRS if:**

**(a) The caregiver is related to the child within the ~~third~~ fifth degree of consanguinity; and**

**(b) The caregiver ~~has not applied for licensure~~ is not licensed pursuant to the provisions of this chapter.**

Sec. 3. ~~NRS 432B.391 is hereby amended to read as follows:~~

~~432B.391 1. An agency which provides child welfare services or its approved designee [may,] shall, in accordance with the procedures set forth in 28 C.F.R. §§ 901 et. seq., conduct a preliminary Federal Bureau of Investigation Interstate Identification Index name-based check of the records of criminal history of a resident who is 18 years of age or older of a home in which the agency which provides child welfare services wishes to place a child in an emergency situation to determine whether the person investigated has been arrested for or convicted of any crime.~~

~~2. Upon request of an agency which provides child welfare services that wishes to place a child in a home in an emergency situation, or upon request of the approved designee of the agency which provides child welfare services, a resident who is 18 years of age or older of the home in which the agency which provides child welfare services wishes to place the child must submit to the agency which provides child welfare services or its approved designee [a]—~~

~~(a) A complete set of his fingerprints and written permission authorizing the agency which provides child welfare services or its approved designee to forward those fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report. The agency which provides child welfare services or its approved designee shall forward the fingerprints to the Central Repository for Nevada Records of Criminal History within the time set forth in federal law or regulation [.] ; and~~

~~(b) Written permission to conduct a child abuse and neglect screening. The agency which provides child welfare services or its approved designee shall conduct a child abuse and neglect screening of the person in every state in which the person has resided during the immediately preceding 5 years.~~

~~3. If a resident who is 18 years of age or older of a home in which an agency which provides child welfare services places a child in an emergency situation refuses to provide a complete set of fingerprints or written permission to conduct a child abuse and neglect screening to the agency which provides child welfare services or its approved designee upon request pursuant to subsection 2, the agency which provides child welfare services must immediately remove the child from the home.~~

~~4. An agency which provides child welfare services shall assist an agency which provides child welfare services of another state and which is conducting a child abuse and neglect screening of a person who has resided in this State by providing information which is necessary to conduct the screening if the person who is the subject of the screening has signed a written permission authorizing the agency to conduct a child abuse and neglect screening.] (Deleted by amendment.)~~

Assemblywoman Smith moved the adoption of the amendment.

Remarks by Assemblywoman Smith.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 90.

Bill read second time.

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

Amendment No. 155.

AN ACT relating to deceptive trade practices; requiring that information obtained in the course of certain investigations and proceedings be kept confidential in certain circumstances; authorizing the Attorney General to share such information, and otherwise cooperate with, officials of the Federal Government and other states; ~~allowing the Attorney General to bring a civil action against a person engaging in certain deceptive trade practices; revising definitions relating to telecommunication services.]~~ and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law allows the Attorney General to investigate suspected deceptive trade practices and to institute proceedings to seek certain remedies for such violations. (Chapter 598 of NRS)

**Section 1** of this bill requires that information obtained in the course of certain investigations and proceedings be kept confidential in certain circumstances. **Section 1** also authorizes the Attorney General to share such information, and otherwise cooperate with, officials of the Federal Government and other states.

~~¶ Section 4 of this bill authorizes the Attorney General to seek civil remedies against persons engaging in certain deceptive trade practices. (NRS 598.0963)~~

~~Sections 10 and 11 of this bill revise definitions relating to telecommunication services.]~~

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

Section 1. Chapter 598 of NRS is hereby amended by adding thereto a new section to read as follows:

*1. The Attorney General, in the course of the investigation of any alleged violations of this chapter, may obtain and use any intelligence, investigative information or other information obtained as the result of a subpoena or civil investigative demand or made available to the Attorney General on a confidential or similarly restricted basis. Any such intelligence or information received must retain its confidential status under the laws of this State and is exempt from the provisions of NRS 239.010.*

*2. The Attorney General may withhold from public inspection or refuse to disclose to a person, for such time as the Attorney General considers necessary, any intelligence or information obtained pursuant to subsection 1 or NRS 598.0963 that, in the Attorney General's judgment, would impede or otherwise interfere with an investigation that is currently pending.*

*3. The Attorney General may cooperate with and coordinate the enforcement of the provisions of this chapter with officials of the Federal Government and the several states, including, but not limited to, the sharing of information and evidence obtained in accordance with subsection 1 or NRS 598.0963.*

Sec. 2. NRS 598.0903 is hereby amended to read as follows:

598.0903 As used in NRS 598.0903 to 598.0999, inclusive, **and section 1 of this act**, unless the context otherwise requires, the words and terms defined in NRS 598.0905 to 598.0947, inclusive, have the meanings ascribed to them in those sections.

Sec. 3. NRS 598.0955 is hereby amended to read as follows:

598.0955 1. The provisions of NRS 598.0903 to 598.0999, inclusive, **and section 1 of this act** do not apply to:

(a) Conduct in compliance with the orders or rules of, or a statute administered by, a federal, state or local governmental agency.

(b) Publishers, including outdoor advertising media, advertising agencies, broadcasters or printers engaged in the dissemination of information or reproduction of printed or pictorial matter who publish, broadcast or reproduce material without knowledge of its deceptive character.

(c) Actions or appeals pending on July 1, 1973.

2. The provisions of NRS 598.0903 to 598.0999, inclusive, **and section 1 of this act** do not apply to the use by a person of any service mark, trademark, certification mark, collective mark, trade name or other trade identification which was used and not abandoned prior to July 1, 1973, if the use was in good faith and is otherwise lawful except for the provisions of NRS 598.0903 to 598.0999, inclusive ~~[ ]~~, **and section 1 of this act**.

Sec. 4. NRS 598.0963 is hereby amended to read as follows:

598.0963 1. Whenever the Attorney General is requested in writing by the Commissioner or the Director to represent him in instituting a legal proceeding against a person who has engaged or is engaging in a deceptive trade practice, the Attorney General may bring an action in the name of the State of Nevada against that person on behalf of the Commissioner or Director.

2. The Attorney General may institute ~~civil or~~ criminal proceedings to enforce the provisions of NRS 598.0903 to 598.0999, inclusive ~~[ ]~~, **and section 1 of this act**. The Attorney General is not required to obtain leave of the court before instituting ~~civil or~~ criminal proceedings pursuant to this subsection.

3. If the Attorney General has reason to believe that a person has engaged or is engaging in a deceptive trade practice, the Attorney General may bring an action in the name of the State of Nevada against that person to obtain a temporary restraining order, a preliminary or permanent injunction, or other appropriate relief.

4. If the Attorney General has cause to believe that a person has engaged or is engaging in a deceptive trade practice, the Attorney General may issue a subpoena to require the testimony of any person or the production of any documents, and may administer an oath or affirmation to any person providing such testimony. The subpoena must be served upon the person in the manner required for service of process in this State or by certified mail with return receipt requested. An employee of the Attorney General may personally serve the subpoena.

Sec. 5. NRS 598.0967 is hereby amended to read as follows:

598.0967 1. The Commissioner and the Director, in addition to other powers conferred upon them by NRS 598.0903 to 598.0999, inclusive, **and section 1 of this act**, may issue subpoenas to require the attendance of witnesses or the production of documents, conduct hearings in aid of any investigation or inquiry and prescribe such forms and adopt such regulations as may be necessary to administer the provisions of NRS 598.0903 to

598.0999, inclusive ~~¶~~, **and section 1 of this act**. Such regulations may include, without limitation, provisions concerning the applicability of the provisions of NRS 598.0903 to 598.0999, inclusive, **and section 1 of this act** to particular persons or circumstances.

2. Service of any notice or subpoena must be made as provided in N.R.C.P. 45(c).

Sec. 6. NRS 598.0971 is hereby amended to read as follows:

598.0971 1. If, after an investigation, the Commissioner has reasonable cause to believe that any person has been engaged or is engaging in any deceptive trade practice in violation of NRS 598.0903 to 598.0999, inclusive, **and section 1 of this act**, the Commissioner may issue an order directed to the person to show cause why the Commissioner should not order the person to cease and desist from engaging in the practice. The order must contain a statement of the charges and a notice of a hearing to be held thereon. The order must be served upon the person directly or by certified or registered mail, return receipt requested.

2. If, after conducting a hearing pursuant to the provisions of subsection 1, the Commissioner determines that the person has violated any of the provisions of NRS 598.0903 to 598.0999, inclusive, **and section 1 of this act** or if the person fails to appear for the hearing after being properly served with the statement of charges and notice of hearing, the Commissioner may make a written report of his findings of fact concerning the violation and cause to be served a copy thereof upon the person and any intervener at the hearing. If the Commissioner determines in the report that such a violation has occurred, he may order the violator to:

(a) Cease and desist from engaging in the practice or other activity constituting the violation;

(b) Pay the costs of conducting the investigation, costs of conducting the hearing, costs of reporting services, fees for experts and other witnesses, charges for the rental of a hearing room if such a room is not available to the Commissioner free of charge, charges for providing an independent hearing officer, if any, and charges incurred for any service of process, if the violator is adjudicated to have committed a violation of NRS 598.0903 to 598.0999, inclusive ~~¶~~, **and section 1 of this act**; and

(c) Provide restitution for any money or property improperly received or obtained as a result of the violation.

↪ The order must be served upon the person directly or by certified or registered mail, return receipt requested. The order becomes effective upon service in the manner provided in this subsection.

3. Any person whose pecuniary interests are directly and immediately affected by an order issued pursuant to subsection 2 or who is aggrieved by the order may petition for judicial review in the manner provided in chapter 233B of NRS. Such a petition must be filed within 30 days after the service of the order. The order becomes final upon the filing of the petition.



4. If a person fails to comply with any provision of an order issued pursuant to subsection 2, the Commissioner may, through the Attorney General, at any time after 30 days after the service of the order, cause an action to be instituted in the district court of the county wherein the person resides or has his principal place of business requesting the court to enforce the provisions of the order or to provide any other appropriate injunctive relief.

5. If the court finds that:

(a) The violation complained of is a deceptive trade practice;  
(b) The proceedings by the Commissioner concerning the written report and any order issued pursuant to subsection 2 are in the interest of the public; and

(c) The findings of the Commissioner are supported by the weight of the evidence,

↳ the court shall issue an order enforcing the provisions of the order of the Commissioner.

6. Except as otherwise provided in NRS 598.0974, an order issued pursuant to subsection 5 may include:

(a) A provision requiring the payment to the Commissioner of a penalty of not more than \$5,000 for each act amounting to a failure to comply with the Commissioner's order; or

(b) Such injunctive or other equitable or extraordinary relief as is determined appropriate by the court.

7. Any aggrieved party may appeal from the final judgment, order or decree of the court in a like manner as provided for appeals in civil cases.

8. Upon the violation of any judgment, order or decree issued pursuant to subsection 5 or 6, the Commissioner, after a hearing thereon, may proceed in accordance with the provisions of NRS 598.0999.

Sec. 7. NRS 598.0973 is hereby amended to read as follows:

598.0973 1. Except as otherwise provided in NRS 598.0974, in any action brought pursuant to NRS 598.0979 to 598.099, inclusive, **and section 1 of this act**, if the court finds that a person has engaged in a deceptive trade practice directed toward an elderly person or a person with a disability, the court may, in addition to any other civil or criminal penalty, impose a civil penalty of not more than \$12,500 for each violation.

2. In determining whether to impose a civil penalty pursuant to subsection 1, the court shall consider whether:

(a) The conduct of the person was in disregard of the rights of the elderly person or person with a disability;

(b) The person knew or should have known that his conduct was directed toward an elderly person or a person with a disability;

(c) The elderly person or person with a disability was more vulnerable to the conduct of the person because of the age, health, infirmity, impaired understanding, restricted mobility or disability of the elderly person or person with a disability;

(d) The conduct of the person caused the elderly person or person with a disability to suffer actual and substantial physical, emotional or economic damage;

(e) The conduct of the person caused the elderly person or person with a disability to suffer:

(1) Mental or emotional anguish;

(2) The loss of the primary residence of the elderly person or person with a disability;

(3) The loss of the principal employment or source of income of the elderly person or person with a disability;

(4) The loss of money received from a pension, retirement plan or governmental program;

(5) The loss of property that had been set aside for retirement or for personal or family care and maintenance;

(6) The loss of assets which are essential to the health and welfare of the elderly person or person with a disability; or

(7) Any other interference with the economic well-being of the elderly person or person with a disability, including the encumbrance of his primary residence or principal source of income; or

(f) Any other factors that the court deems to be appropriate.

Sec. 8. NRS 598.0974 is hereby amended to read as follows:

598.0974 A civil penalty must not be imposed against any person who engages in a deceptive trade practice pursuant to NRS 598.0903 to 598.0999, inclusive, **and section 1 of this act** in a civil proceeding brought by the Commissioner, Director or Attorney General if a fine has previously been imposed against that person by the Department of Motor Vehicles pursuant to NRS 482.554, for the same act.

Sec. 9. NRS 598.0999 is hereby amended to read as follows:

598.0999 1. Except as otherwise provided in NRS 598.0974, a person who violates a court order or injunction issued pursuant to the provisions of NRS 598.0903 to 598.0999, inclusive, **and section 1 of this act**, upon a complaint brought by the Commissioner, the Director, the district attorney of any county of this State or the Attorney General shall forfeit and pay to the State General Fund a civil penalty of not more than \$10,000 for each violation. For the purpose of this section, the court issuing the order or injunction retains jurisdiction over the action or proceeding. Such civil penalties are in addition to any other penalty or remedy available for the enforcement of the provisions of NRS 598.0903 to 598.0999, inclusive ~~and section 1 of this act~~, **and section 1 of this act**.

2. Except as otherwise provided in NRS 598.0974, in any action brought pursuant to the provisions of NRS 598.0903 to 598.0999, inclusive, **and section 1 of this act**, if the court finds that a person has willfully engaged in a deceptive trade practice, the Commissioner, the Director, the district attorney of any county in this State or the Attorney General bringing the action may recover a civil penalty not to exceed \$5,000 for each violation. The court in

any such action may, in addition to any other relief or reimbursement, award reasonable attorney's fees and costs.

3. A natural person, firm, or any officer or managing agent of any corporation or association who knowingly and willfully engages in a deceptive trade practice:

(a) For the first offense, is guilty of a misdemeanor.

(b) For the second offense, is guilty of a gross misdemeanor.

(c) For the third and all subsequent offenses, is guilty of a category D felony and shall be punished as provided in NRS 193.130.

↪ The court may require the natural person, firm, or officer or managing agent of the corporation or association to pay to the aggrieved party damages on all profits derived from the knowing and willful engagement in a deceptive trade practice and treble damages on all damages suffered by reason of the deceptive trade practice.

4. Any offense which occurred within 10 years immediately preceding the date of the principal offense or after the principal offense constitutes a prior offense for the purposes of subsection 3 when evidenced by a conviction, without regard to the sequence of the offenses and convictions.

5. If a person violates any provision of NRS 598.0903 to 598.0999, inclusive, **and section 1 of this act, NRS 598.100 to 598.2801, inclusive, 598.305 to 598.395, inclusive, 598.405 to 598.525, inclusive, 598.741 to 598.787, inclusive, or 598.840 to 598.966, inclusive,** fails to comply with a judgment or order of any court in this State concerning a violation of such a provision, or fails to comply with an assurance of discontinuance or other agreement concerning an alleged violation of such a provision, the Commissioner or the district attorney of any county may bring an action in the name of the State of Nevada seeking:

(a) The suspension of the person's privilege to conduct business within this State; or

(b) If the defendant is a corporation, dissolution of the corporation.

↪ The court may grant or deny the relief sought or may order other appropriate relief.

6. If a person violates any provision of NRS 228.500 to 228.640, inclusive, fails to comply with a judgment or order of any court in this State concerning a violation of such a provision, or fails to comply with an assurance of discontinuance or other agreement concerning an alleged violation of such a provision, the Attorney General may bring an action in the name of the State of Nevada seeking:

(a) The suspension of the person's privilege to conduct business within this State; or

(b) If the defendant is a corporation, dissolution of the corporation.

↪ The court may grant or deny the relief sought or may order other appropriate relief.

Sec. 10. ~~NRS 598.9682 is hereby amended to read as follows:~~

~~598.9682 "Provider" means:~~

~~1.—[A telecommunication provider as defined in NRS 704.027;] **A person who is in the business of providing a telecommunication service;**~~

~~2.—An agent, employee, independent contractor or representative of such a [telecommunication provider;] **person;** or~~

~~3.—A person who originates a charge for a telecommunication service and directly or indirectly bills a customer for the charge.] **(Deleted by amendment.)**~~

Sec. 11. ~~[NRS 598.9684 is hereby amended to read as follows:~~

~~598.9684 —“Telecommunication service” [has the meaning ascribed to it in NRS 704.028.] **means a service that is designed or has the capability to generate, process, store, retrieve, convey, emit, transmit, receive, relay, record or reproduce any data, information, image, program, signal or sound over a communication system or network, including, without limitation, a communication system or network that uses analog, digital, electronic, electromagnetic, magnetic or optical technology.] (Deleted by amendment.)**~~

Assemblyman Conklin moved the adoption of the amendment.

Remarks by Assemblyman Conklin.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 120.

Bill read second time and ordered to third reading.

Assembly Bill No. 191.

Bill read second time.

The following amendment was proposed by the Committee on Education:

Amendment No. 69.

SUMMARY ~~[Removes the prospective expiration of a provision requiring]~~ **Revises provisions governing** certain examinations of the height and weight of pupils. (BDR ~~[S 827]~~ **34-827**)

AN ACT relating to education; **revising provisions governing examinations of the height and weight of pupils enrolled in public schools;** removing the prospective expiration of ~~the~~ **the** requirement that ~~[certain physical examinations in public schools include an examination of the height and weight of a representative sample of pupils;]~~ **those examinations be conducted;** and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law requires each school to conduct physical examinations of pupils in certain grades to determine if a child has scoliosis, a visual or auditory problem or a gross physical defect, and to conduct examinations of the height and weight of a representative sample of pupils in certain grades. (NRS 392.420) The requirement for examinations of the height and weight of a representative sample of pupils in certain grades is scheduled to expire on June 30, 2010. (Chapter 414, Statutes of Nevada 2007, p. 1873) ~~[This]~~

**Section 2 of this bill** removes the prospective expiration of the requirement that each school conduct examinations of the height and weight of a representative sample of pupils. **Section 1 of this bill revises the grades in which the examinations of the height and weight of a representative sample of pupils are conducted to require each school district to conduct and report on the examinations for grades 4, 7 and 10 and authorizes a school district to conduct the examinations in other grade levels. (NRS 392.420)**

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

**Section 1. NRS 392.420 is hereby amended to read as follows:**

392.420 1. In each school at which he is responsible for providing nursing services, a school nurse shall plan for and carry out, or supervise qualified health personnel in carrying out, a separate and careful observation and examination of every child who is regularly enrolled in a grade specified by the board of trustees or superintendent of schools of the school district in accordance with this subsection to determine whether the child has scoliosis, any visual or auditory problem, or any gross physical defect. The grades in which the observations and examinations must be carried out are as follows:

(a) For visual and auditory problems:

(1) Before the completion of the first year of initial enrollment in elementary school;

(2) In at least one additional grade of the elementary schools; and

(3) In one grade of the middle or junior high schools and one grade of the high schools; and

(b) For scoliosis, in at least one grade of schools below the high schools.

↪ Any person other than a school nurse, including, without limitation, a person employed at a school to provide basic first aid and health services to pupils, who performs an observation or examination pursuant to this subsection must be trained by a school nurse to conduct the observation or examination.

2. In addition to the requirements of subsection 1, each school district shall conduct examinations of the height and weight of a representative sample of pupils enrolled in ~~at least one grade of the:~~

~~(a) Elementary schools within the school district;~~

~~(b) Middle schools or junior high schools within the school district; and~~

~~(c) High schools;~~ grades 4, 7 and 10 in the schools within the school

district. In addition to those grade levels, a school district may conduct examinations of the height and weight of a representative sample of pupils enrolled in other grade levels within the school district.

↪ The Health Division of the Department of Health and Human Services shall define “representative sample” in collaboration with the school districts for purposes of this subsection.

3. If any child is attending school in a grade above one of the specified grades and has not previously received such an observation and examination, he must be included in the current schedule for observation and examination. Any child who is newly enrolled in the district must be examined for any medical condition for which children in a lower grade are examined.

4. A special examination for a possible visual or auditory problem must be provided for any child who:

- (a) Is enrolled in a special program;
- (b) Is repeating a grade;
- (c) Has failed an examination for a visual or auditory problem during the previous school year; or
- (d) Shows in any other way that he may have such a problem.

5. The school authorities shall notify the parent or guardian of any child who is found or believed to have scoliosis, any visual or auditory problem, or any gross physical defect, and shall recommend that appropriate medical attention be secured to correct it.

6. In any school district in which state, county or district public health services are available or conveniently obtainable, those services may be used to meet the responsibilities assigned under the provisions of this section. The board of trustees of the school district may employ qualified personnel to perform them. Any nursing services provided by such qualified personnel must be performed in compliance with chapter 632 of NRS.

7. The board of trustees of a school district may adopt a policy which encourages the school district and schools within the school district to collaborate with:

- (a) Qualified health care providers within the community to perform, or assist in the performance of, the services required by this section; and
- (b) Postsecondary educational institutions for qualified students enrolled in such an institution in a health-related program to perform, or assist in the performance of, the services required by this section.

8. The school authorities shall provide notice to the parent or guardian of a child before performing on the child the examinations required by this section. The notice must inform the parent or guardian of the right to exempt the child from all or part of the examinations. Any child must be exempted from an examination if his parent or guardian files with the teacher a written statement objecting to the examination.

9. ~~Each~~ **Except as otherwise provided in this subsection, each** school nurse or a designee of a school nurse, including, without limitation, a person employed at a school to provide basic first aid and health services to pupils, shall report the results of the examinations conducted pursuant to this section in each school at which he is responsible for providing services to the State Health Officer in the format prescribed by the State Health Officer. **If a school district conducts examinations of the height and weight of a representative sample of pupils enrolled in grade levels other than the grade levels required by subsection 2, the results of those examinations**

**must not be included in the report submitted to the State Health Officer.**

Each such report must exclude any identifying information relating to a particular child. The State Health Officer shall compile all such information he receives to monitor the health status of children and shall retain the information.

~~{Section 1.}~~ **Sec. 2.** Section 5 of chapter 414, Statutes of Nevada 2007, at page 1873, is hereby amended to read as follows:

Sec. 5. ~~{1.}~~ This section and sections 1 and 4 of this act become effective on July 1, 2007.

~~{2.—Section 1 of this act expires by limitation on June 30, 2010.~~

~~{3.—Section 2 of this act becomes effective on July 1, 2010.}~~

~~{Sec. 2.}~~ **Sec. 3.** Section 2 of chapter 414, Statutes of Nevada 2007, at page 1872, is hereby repealed.

**Sec. 4. The Legislative Committee on Health Care shall, during the 2009-2010 interim, examine issues related to the weight and health of children, including, without limitation, any information reported to the State Health Officer pursuant to NRS 392.420, as amended by section 1 of this act. The Committee may identify programs, practices and studies to address the needs of children in this State related to maintaining a healthy weight.**

~~{Sec. 3.}~~ **Sec. 5.** This act becomes effective upon passage and approval.

TEXT OF REPEALED SECTION

Section 2 of chapter 414, Statutes of Nevada 2007, at page 1872:

Sec. 2. NRS 392.420 is hereby amended to read as follows:

392.420 1. In each school at which he is responsible for providing nursing services, a school nurse shall plan for and carry out, or supervise qualified health personnel in carrying out, a separate and careful observation and examination of every child who is regularly enrolled in a grade specified by the board of trustees or superintendent of schools of the school district in accordance with this subsection to determine whether the child has scoliosis, any visual or auditory problem, or any gross physical defect. The grades in which the observations and examinations must be carried out are as follows:

(a) For visual and auditory problems:

(1) Before the completion of the first year of initial enrollment in elementary school;

(2) In at least one additional grade of the elementary schools; and

(3) In one grade of the middle or junior high schools and one grade of the high schools; and

(b) For scoliosis, in at least one grade of schools below the high schools.

↪ Any person other than a school nurse, including, without limitation, a person employed at a school to provide basic first aid and health services to pupils, who performs an observation or examination pursuant to this

subsection must be trained by a school nurse to conduct the observation or examination.

~~2. In addition to the requirements of subsection 1, each school district shall conduct examinations of height and weight of a representative sample of pupils in at least one grade of the:~~

- ~~(a) Elementary schools within the school district;~~
- ~~(b) Middle schools or junior high schools within the school district; and~~
- ~~(c) High schools within the school district;~~

~~→ The Health Division of the Department of Health and Human Services shall define “representative sample” in collaboration with the school districts for purposes of this subsection.~~

~~3.} If any child is attending school in a grade above one of the specified grades and has not previously received such an observation and examination, he must be included in the current schedule for observation and examination. Any child who is newly enrolled in the district must be examined for any medical condition for which children in a lower grade are examined.~~

~~{4.} 3. A special examination for a possible visual or auditory problem must be provided for any child who:~~

- ~~(a) Is enrolled in a special program;~~
- ~~(b) Is repeating a grade;~~
- ~~(c) Has failed an examination for a visual or auditory problem during the previous school year; or~~
- ~~(d) Shows in any other way that he may have such a problem.~~

~~{5.} 4. The school authorities shall notify the parent or guardian of any child who is found or believed to have scoliosis, any visual or auditory problem, or any gross physical defect, and shall recommend that appropriate medical attention be secured to correct it.~~

~~{6.} 5. In any school district in which state, county or district public health services are available or conveniently obtainable, those services may be used to meet the responsibilities assigned under the provisions of this section. The board of trustees of the school district may employ qualified personnel to perform them. Any nursing services provided by such qualified personnel must be performed in compliance with chapter 632 of NRS.~~

~~{7.} 6. The board of trustees of a school district may adopt a policy which encourages the school district and schools within the school district to collaborate with:~~

- ~~(a) Qualified health care providers within the community to perform, or assist in the performance of, the services required by this section; and~~
- ~~(b) Postsecondary educational institutions for qualified students enrolled in such an institution in a health-related program to perform, or assist in the performance of, the services required by this section.~~

~~{8.} 7. The school authorities shall provide notice to the parent or guardian of a child before performing on the child the examinations required by this section. The notice must inform the parent or guardian of the right to exempt the child from all or part of the examinations. Any child must be~~



exempted from an examination if his parent or guardian files with the teacher a written statement objecting to the examination.

~~[9.]~~ 8. Each school nurse or a designee of a school nurse, including, without limitation, a person employed at a school to provide basic first aid and health services to pupils, shall report the results of the examinations conducted pursuant to this section in each school at which he is responsible for providing services to the State Health Officer in the format prescribed by the State Health Officer. Each such report must exclude any identifying information relating to a particular child. The State Health Officer shall compile all such information he receives to monitor the health status of children and shall retain the information.

Assemblywoman Parnell moved the adoption of the amendment.

Remarks by Assemblywoman Parnell.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 196.

Bill read second time.

The following amendment was proposed by the Committee on Health and Human Services:

Amendment No. 57.

AN ACT relating to public health; revising provisions relating to the licensure of facilities for refractive surgery; providing for the closure of a facility for refractive surgery if the facility is operating without a license; revising provisions governing collaboration agreements between optometrists and ophthalmologists; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires a person, state or local government or agency thereof to obtain a license to operate or maintain a medical facility, including a facility for refractive surgery. (NRS 449.0151, 449.030) Existing administrative regulations of the State Board of Health exempt a licensed ophthalmologist from these requirements for licensure of a facility if the ophthalmologist provides other ophthalmological medical services in addition to surgical treatments for refractive errors of the eye. (NAC 449.4502) **Section 7** of this bill codifies into statute an exemption for certain licensed ophthalmologists who provide surgical procedures in addition to surgical treatments for refractive errors of the eye and adds a requirement that the ophthalmologist file an affidavit with the Health Division of the Department of Health and Human Services attesting that he provides the additional surgical procedures.

**Section 8** of this bill requires a facility for refractive surgery to ensure that: (1) all surgical treatments for refractive errors of the eye are performed by a licensed ophthalmologist; and (2) a licensed ophthalmologist is available for

postoperative care if the medical needs of a patient necessitate the services of an ophthalmologist.

**Section 9** of this bill authorizes the Health Division to issue an order to cease and desist upon belief that a person, state or local government or an agency thereof is operating a facility for refractive surgery without a license. **Section 9** also provides that the Health Division may file an action in court for issuance of an injunction and imposition of a civil penalty.

Existing law authorizes an optometrist to, based upon the individual needs of a patient, collaborate with an ophthalmologist for the provision of care to the patient under certain conditions. (NRS 636.374) Section 13 of this bill adds to the conditions a requirement that the collaborating optometrist refer a patient back to the collaborating ophthalmologist, or another ophthalmologist in his absence, if the patient requires care by an ophthalmologist.

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

Section 1. Chapter 449 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to ~~9~~ **10**, inclusive, of this act.

Sec. 2. *As used in sections 2 to ~~9~~ **10**, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 3 to 6, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 3. *"Ophthalmologist" means a physician who is qualified to perform laser surgery or intense pulsed light therapy on the globe of the eye pursuant to NRS 630.371 or 633.693.*

Sec. 4. *"Postoperative care" means assessing, monitoring or treating a patient while the patient is recovering or healing from a surgical treatment for a refractive error of the eye.*

Sec. 5. *"Preoperative care" means assessing or treating a patient in preparation for a surgical treatment for a refractive error of the eye.*

Sec. 6. *"Surgical treatment for a refractive error of the eye" means the surgical treatment of a patient with a refractive error of the eye by:*

1. *Photorefractive keratectomy;*
2. *Laser in situ keratomileusis;*
3. *Conductive keratoplasty;*
4. *Implantation of an intraocular lens; or*
5. *Any other available technology, technique or procedure which surgically treats refractive errors of the eye and which has been approved by the United States Food and Drug Administration.*

Sec. 7. *A person is not required to obtain a license to operate and maintain a facility for refractive surgery pursuant to the provisions of this chapter if the person:*

1. *Is an ophthalmologist;*

2. *Provides surgical procedures to patients at the facility in addition to preoperative care, postoperative care and surgical treatments for refractive errors of the eye; and*

3. *Files with the Health Division an affidavit attesting that the person provides surgical procedures at the facility in addition to preoperative care, postoperative care and surgical treatments for refractive errors of the eye.*

Sec. 8. *A facility for refractive surgery shall ensure that:*

1. *All surgical treatments for refractive errors of the eye performed at the facility are performed only by an ophthalmologist.*

2. *The ophthalmologist who performs a surgical treatment for refractive errors of the eye at the facility:*

(a) *Is available in person for postoperative care if the medical needs of a patient necessitate the services of an ophthalmologist; or*

(b) *Enters into an agreement with another ophthalmologist to be available in person for postoperative care if the medical needs of the patient necessitate the services of an ophthalmologist.*

Sec. 9. 1. *If the Health Division believes that a person who is required to obtain a license pursuant to this chapter is operating a facility for refractive surgery without such a license, the Health Division may issue an order to cease and desist the operation of the facility. The order must be served upon the person directly or by certified or registered mail, return receipt requested. The order becomes effective upon service.*

2. *An order issued pursuant to subsection 1 expires 30 days after the date of service unless the Health Division institutes an action in a court of competent jurisdiction seeking an injunction.*

3. *Upon a showing by the Health Division that a person is operating a facility for refractive surgery without a license issued pursuant to this chapter, a court of competent jurisdiction may:*

(a) *Enjoin the person from operating the facility.*

(b) *Impose a civil penalty to be recovered by the Health Division of not more than \$10,000 for the first offense and of not less than \$10,000 or more than \$20,000 for a second or subsequent offense.*

4. *A person enjoined or penalized pursuant to subsection 3 may not apply for a license to operate a facility for refractive surgery for a period of 6 months after the date on which the court issues the injunction or penalty.*

Sec. 10. *The provisions of sections 2 to 10, inclusive, of this act do not prohibit an ophthalmologist from collaborating with an optometrist to provide care to a patient if the collaboration complies with the requirements of NRS 636.374.*

~~Sec. 10.~~ Sec. 11. NRS 449.00387 is hereby amended to read as follows:

449.00387 1. "Facility for refractive surgery" means a freestanding facility that provides limited medical services ~~for~~ *relating to surgical treatments for patients with refractive errors of the eye, including the preoperative care and evaluation of those patients, ~~with refractive errors of~~*

~~the eye and~~ the surgical treatment of those patients ~~[ ]~~ *and the postoperative care and evaluation of those patients.*

2. *As used in this section:*

(a) *"Postoperative care" has the meaning ascribed to it in section 4 of this act.*

(b) *"Preoperative care" has the meaning ascribed to it in section 5 of this act.*

~~[Sec. 11.]~~ **Sec. 12.** NRS 449.210 is hereby amended to read as follows:

449.210 1. Except as otherwise provided in ~~[subsections 2 and 3,]~~ **subsection 2 and section 9 of this act**, a person who operates a medical facility or facility for the dependent without a license issued by the Health Division is guilty of a misdemeanor.

2. A person who operates a residential facility for groups without a license issued by the Health Division:

(a) Is liable for a civil penalty to be recovered by the Attorney General in the name of the Health Division for the first offense of not more than \$10,000 and for a second or subsequent offense of not less than \$10,000 ~~[not]~~ **or** more than \$20,000;

(b) Shall ~~[be required to]~~ move all of the persons who are receiving services in the residential facility for groups to a residential facility for groups that is licensed at his own expense; and

(c) May not apply for a license to operate a residential facility for groups for a period of 6 months after he is punished pursuant to this section.

3. Unless otherwise required by federal law, the Health Division shall deposit all civil penalties collected pursuant to this section into a separate account in the State General Fund to be used for the protection of the health, safety and well-being of patients, including residents of residential facilities for groups.

**Sec. 13. NRS 636.374 is hereby amended to read as follows:**

636.374 An optometrist may, based upon the individual needs of a particular patient, collaborate with an ophthalmologist for the provision of care to the patient, for a fixed fee, regarding one or more surgical procedures if:

1. The collaborating parties prepare and maintain in their respective medical records regarding the patient, written documentation of each procedure and other service performed by each collaborating party which includes the date each procedure and other service is performed;

2. The fixed fee is divided between the collaborating parties in proportion to the services personally performed by each of them; ~~[and]~~

3. **The collaborating parties agree that the collaborating optometrist will refer the patient back to the collaborating ophthalmologist or, if the collaborating ophthalmologist is not available, another ophthalmologist designated by the collaborating ophthalmologist to provide care to the**

**patient if the medical needs of the patient necessitate the provision of care by an ophthalmologist; and**

**4.** The collaborating parties provide to the patient and maintain in their respective medical records regarding the patient, a written document, signed by each of the collaborating parties and the patient, containing:

- (a) The name, business address and telephone number of each of the collaborating parties;
- (b) The amount of the fixed fee for the procedures and services;
- (c) The proportion of that fee to be received by each collaborating party;
- (d) A statement, signed by the patient and a witness who is not one of the collaborating parties, that the patient voluntarily, knowingly and willingly desires the performance of the postoperative care by the collaborating optometrist;
- (e) A statement that the patient is entitled to return to the collaborating ophthalmologist for postoperative care at any time after the surgery; and
- (f) A statement which:

(1) Indicates that the practice of optometry and ophthalmology are respectively regulated by the Nevada State Board of Optometry and the Board of Medical Examiners; and

(2) Contains the address and telephone number of each of those Boards.

~~Sec. 12.~~ **Sec. 14.** This act becomes effective on July 1, 2009.

Assemblywoman Smith moved the adoption of the amendment.

Remarks by Assemblywoman Smith.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 231.

Bill read second time.

The following amendment was proposed by the Committee on Elections, Procedures, Ethics, and Constitutional Amendments:

Amendment No. 79.

AN ACT relating to lobbying; exempting certain veterans from the requirement to pay any fee established for registration as an uncompensated lobbyist; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

The Legislative Commission is authorized to establish fees for registration as a lobbyist. (NRS 218.932) This bill exempts a veteran who is not compensated for his lobbying activities and who provides proof of his discharge or release from military service under honorable conditions from the requirement to pay any fee established for registration as an uncompensated lobbyist.

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

Section 1. NRS 218.932 is hereby amended to read as follows:

218.932 1. The Legislative Commission shall adopt regulations to carry out the provisions of NRS 218.900 to 218.944, inclusive, may, *except as otherwise provided in this subsection*, require fees for registration, payable into the Legislative Fund, and may classify lobbyists for this purpose. *A veteran who does not receive compensation for his lobbying activities is not required to pay any fee established for registration if he provides proof of his discharge or release from the Armed Forces of the United States, a reserve component thereof or the ~~Nevada~~ National Guard under honorable conditions.*

2. The Director shall:

(a) Prepare and furnish forms for the statements and reports required to be filed.

(b) Prepare and publish uniform methods of accounting and reporting to be used by persons required to file such statements and reports, including guidelines for complying with the reporting requirements of NRS 218.900 to 218.944, inclusive.

(c) Accept and file any information voluntarily supplied that exceeds the requirements of NRS 218.900 to 218.944, inclusive.

(d) Develop a filing, coding and cross-indexing system consistent with the purposes of NRS 218.900 to 218.944, inclusive.

(e) Make the statements and reports available for public inspection during regular office hours.

(f) Preserve the statements and reports for a period of 5 years from the date of filing.

(g) Compile and keep current an alphabetical list of registrants, including their address, the name and address of each person for whom the registrant is lobbying and the principal areas of interest on which he expects to lobby. A copy of the list must be furnished to each Legislator, to the clerks of the respective counties for preservation and public inspection, and to any person who requests a copy and pays the cost of reproduction.

Sec. 2. NRS 218.940 is hereby amended to read as follows:

218.940 1. Except as otherwise provided in this ~~subsection,~~ *section*, a registrant who files an activity report after the time provided in NRS 218.926 shall pay to the Director a fee for late filing of \$10 for each day that it was late, but the Director may reduce or waive this fee upon a finding of just cause. ~~The~~

2. *Except as otherwise provided in this subsection, the* Legislative Commission may by regulation exempt a classification of lobbyist from the fee for late filing.

~~2.~~ *A veteran who does not receive compensation for his lobbying activities is exempt from the fee for late filing if he provides proof of his discharge or release from the Armed Forces of the United States, a reserve component thereof or the ~~Nevada~~ National Guard under honorable conditions.*

3. An activity report with respect to which a late filing fee has been paid by the registrant or waived by the Director shall be deemed timely filed, and the late filing is not a public offense.

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

Assemblywoman Koivisto moved the adoption of the amendment.

Remarks by Assemblywoman Koivisto.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 232.

Bill read second time.

The following amendment was proposed by the Committee on Elections, Procedures, Ethics, and Constitutional Amendments:

Amendment No. 80.

SUMMARY—Revises provisions governing the Legislative Commission and the Interim Finance Committee. (BDR 17-810)

AN ACT relating to the State Legislature; revising provisions governing the Legislative Commission and the Interim Finance Committee; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law creates the Legislative Commission, consisting of 12 members, and requires the Legislature to determine by joint rule at each regular session the following for the Legislative Commission: (1) the method of determining the regular and alternate members; (2) the method for filling vacancies; (3) the terms of office of the members; and (4) the method of selecting and the term of office for the Chairman. (NRS 218.660) Subsection 5 of Joint Standing Rule No. 11 adopted by the 2009 Legislative Session provides that the membership of a member of the Legislative Commission who does not become a candidate for reelection or who is defeated for reelection terminates on the day next after the election and requires the vacancy to be filled as provided in the Rule. Section 1 of this bill codifies in statute the provisions of the Joint Standing Rule concerning the termination of the membership of a member of the Legislative Commission who does not become a candidate for reelection or who is defeated.

Under existing law, the Interim Finance Committee is created in the Legislative Counsel Bureau to perform certain fiscal functions primarily during the legislative interims. The Interim Finance Committee is composed of the members of the Assembly Standing Committee on Ways and Means and the Senate Standing Committee on Finance, known as the money committees, during the current or immediately preceding legislative session. (NRS 218.6825)

Under existing law, the chairmanship of the Interim Finance Committee alternates each legislative interim between the immediate past Chairman of the money committee of each House of the Legislature. The term of the

Chairman of the Interim Finance Committee extends from the convening of one legislative session until the convening of the next legislative session. (NRS 218.6825) ~~This~~ **Section 2 of this** bill provides that the term of the Chairman of the Interim Finance Committee terminates before the convening of the next regular session of the Legislature if a new Chairman of the applicable money committee has been designated, after the intervening general election, for the next regular session of the Legislature.

Existing law provides that the membership on the Interim Finance Committee of any member who does not become a candidate for reelection or who is defeated for reelection continues until the convening of the next legislative session. (NRS 218.6825) ~~This~~ **Section 2 of this** bill terminates the membership of such a member on the day next after the general election, which is the same day on which his term of office as a Legislator ends. (Nev. Const. Art. 4, §§ 3, 4) ~~This bill~~ **Section 2** provides for the appointment of an alternate to fill the vacancy until the members of the applicable money committee have been designated for the ensuing regular session of the Legislature or until another alternate has been appointed. ~~This bill~~ **Section 2** also provides that the persons designated to serve on the money committees for the ensuing regular session become members of the Interim Finance Committee at the time those persons are so designated.

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

**Section 1. NRS 218.660 is hereby amended to read as follows:**

218.660 1. There is hereby created in the Legislative Counsel Bureau a Legislative Commission consisting of 12 members.

2. At each regular session of the Legislature held in odd-numbered years, the Senate shall, by resolution, designate six Senators as regular members of the Legislative Commission and six Senators as alternates, and the Assembly shall, by resolution, designate six Assemblymen as regular members of the Legislative Commission and six Assemblymen as alternates.

3. The Legislature shall determine by joint rule at each regular session of the Legislature in odd-numbered years:

(a) The method of determining the majority party and the minority party regular and alternate membership on the Legislative Commission.

(b) The method of filling vacancies on the Legislative Commission.

(c) ~~The terms of office of members.~~

~~(d)~~ The method of selecting the Chairman.

~~(e)~~ **(d)** The term of office of the Chairman.

**4. The members of the Legislative Commission serve until their successors are appointed by resolution as provided in this section, except that the membership of any member who does not become a candidate for reelection or who is defeated for reelection terminates on the day next after the election and the vacancy must be filled as provided by the joint rule adopted pursuant to subsection 3.**



~~{Section 1.}~~ **Sec. 2.** NRS 218.6825 is hereby amended to read as follows:

218.6825 1. There is hereby created in the Legislative Counsel Bureau an Interim Finance Committee . *Except as otherwise provided in this section, the Interim Finance Committee is* composed of the members of the Assembly Standing Committee on Ways and Means and the Senate Standing Committee on Finance during the current or immediately preceding session of the Legislature. ~~{The}~~

**2. *Except as otherwise provided in this subsection, the*** immediate past Chairman of the Senate Standing Committee on Finance is the Chairman of the Interim Finance Committee for the period ending with the convening of each even-numbered regular session of the Legislature. The immediate past Chairman of the Assembly Standing Committee on Ways and Means is the Chairman of the Interim Finance Committee during the next legislative interim, and the chairmanship alternates between the houses of the Legislature according to this pattern.

~~{2.}~~ ***The term of the Chairman of the Interim Finance Committee terminates if a new Chairman of the Assembly Standing Committee on Ways and Means or the Senate Standing Committee on Finance, as the case may be, is designated for the next regular session of the Legislature, in which case that person so designated serves as the Chairman of the Committee until the convening of that regular session.***

**3.** If any regular member of the *Interim Finance* Committee informs the Secretary that he will be unable to attend a particular meeting, the Secretary shall notify the Speaker of the Assembly or the Majority Leader of the Senate, as the case may be, to appoint an alternate for that meeting from the same house and political party as the absent member.

~~{3.}~~ **4. *Except as otherwise provided in subsection 5, the term of a member of the Interim Finance Committee expires upon the convening of the next regular session of the Legislature unless the member is replaced by the appointing authority. If the Speaker designate of the Assembly or the Majority Leader designate of the Senate designates members of the Assembly Standing Committee on Ways and Means or the Senate Standing Committee on Finance, as applicable, for the next ensuing regular session of the Legislature, the designated members become members of the Interim Finance Committee. A member may be reappointed.***

**5.** The membership of any member who does not become a candidate for reelection or who is defeated for reelection ~~{continues until the next session of the Legislature is convened.~~

~~4.}~~ ***terminates on the day next after the general election. The Speaker designate of the Assembly or the Majority Leader designate of the Senate, as the case may be, shall appoint an alternate to fill the vacancy on the Interim Finance Committee. Except as otherwise provided in this subsection, each alternate serves on the Committee:***

*(a) If he is a member of the Assembly, until the Speaker designate of the Assembly designates the members of the Assembly Standing Committee on Ways and Means for the next ensuing regular session of the Legislature or appoints a different alternate.*

*(b) If he is a member of the Senate, until the Majority Leader designate of the Senate designates the members of the Senate Standing Committee on Finance for the next ensuing regular session of the Legislature or appoints a different alternate.*

6. The Director of the Legislative Counsel Bureau shall act as the Secretary of the Interim Finance Committee.

~~{5-}~~ 7. A majority of the members of the Assembly Standing Committee on Ways and Means and a majority of the members of the Senate Standing Committee on Finance, jointly, may call a meeting of the Interim Finance Committee if the Chairman does not do so.

~~{6-}~~ 8. In all matters requiring action by the Interim Finance Committee, the vote of the Assembly and Senate members must be taken separately. No action may be taken unless it receives the affirmative vote of a majority of the Assembly members and a majority of the Senate members.

~~{7-}~~ 9. Except during a regular or special session of the Legislature, each member of the Interim Finance Committee and appointed alternate is entitled to receive the compensation provided for a majority of the members of the Legislature during the first 60 days of the preceding regular session for each day or portion of a day during which he attends a Committee meeting or is otherwise engaged in Committee work plus the per diem allowance provided for state officers and employees generally and the travel expenses provided pursuant to NRS 218.2207. All such compensation must be paid from the Contingency Fund in the State Treasury.

Assemblywoman Koivisto moved the adoption of the amendment.

Remarks by Assemblywoman Koivisto.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 243.

Bill read second time.

The following amendment was proposed by the Committee on Education:

Amendment No. 152.

AN ACT relating to education; requiring certain employers to grant leave to a parent, guardian or custodian of a child enrolled in public school or private school to participate in certain school conferences, ~~and~~ activities ~~and~~ **and events**; prohibiting employers from taking certain retaliatory actions against an employee who takes the authorized leave; **authorizing a parent, guardian or custodian who is retaliated against to request a hearing before the Labor Commissioner**; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

**Section 1** of this bill requires employers who employ 50 or more employees to grant to a parent, guardian or custodian of a child enrolled in a public school 4 hours of leave from his place of employment, **which must be taken in increments of 1 hour,** per school year per child to attend school-related activities **or events** or to volunteer at the school in which his child is enrolled. **Section 1** also requires the leave to be taken at a mutually agreed upon time and the employer is not required to pay the employee for the leave.

Existing law makes it unlawful for any employer or his agent to terminate the employment of a person who is a parent, guardian or custodian of a child enrolled in public school because the person attended a conference requested by a school administrator or was notified of an emergency involving the child at school. (NRS 392.920) **Section 2** of this bill revises the prohibited acts by an employer or his agent to include demoting, suspending or otherwise discriminating against a parent, guardian or custodian of a child. **Section 2** also prohibits the termination, demotion, suspension or other discrimination of a parent, guardian or custodian of a child who takes leave authorized by **section 1** ~~of this bill and authorizes a parent, guardian or custodian of a child who is terminated, demoted, suspended or otherwise discriminated against to request a hearing before the Labor Commissioner.~~

**Section 4** of this bill imposes the same requirements on employers for the parents, guardians and custodians of children enrolled in a private school. **Section 5** of this bill prohibits an employer or his agent from terminating, demoting, suspending or otherwise discriminating against a parent, guardian or custodian of a child enrolled in a private school for attending a conference requested by a school administrator, being notified of an emergency involving the child at school or taking leave authorized by **section 4**. **Section 5** **also authorizes a hearing before the Labor Commissioner.**

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

Section 1. Chapter 392 of NRS is hereby amended by adding thereto a new section to read as follows:

***1. An employer shall grant a parent, guardian or custodian of a child who is enrolled in a public school leave from his place of employment for 4 hours per school year, which must be taken in increments of at least 1 hour, to:***

- (a) Attend parent-teacher conferences;***
- (b) Attend school-related activities ~~and~~ during regular school hours;***
- (c) Volunteer or otherwise be involved at the school in which his child is enrolled ~~and~~ during regular school hours; and***
- (d) Attend school-sponsored events.***

***↪ The leave must be at a time mutually agreed upon by the employer and the employee.***

2. *An employer may require:*

(a) *An employee to provide a written request for the leave at least ~~48 hours~~ 5 school days before the leave is taken; and*

(b) *An employee who takes leave pursuant to this section to provide documentation that during the time of the leave, the employee attended or was otherwise involved at the school or school-related activity for one of the purposes set forth in subsection 1.*

3. *An employer is not required to pay an employee for any leave taken pursuant to this section.*

4. *A parent, guardian or custodian must be granted leave in accordance with this section for each child of the parent, guardian or custodian who is enrolled in public school.*

5. *As used in this section, "employer" means any person who has 50 or more employees for each working day in each of 20 or more calendar weeks in the current calendar year.*

Sec. 2. NRS 392.920 is hereby amended to read as follows:

392.920 1. It is unlawful for an employer or his agent to:

(a) *Terminate the employment of , **or to demote, suspend or otherwise discriminate against,** a person who, as the parent, guardian or custodian of a child:*

(1) *Appears at a conference requested by an administrator of the school attended by the child; ~~or~~*

(2) *Is notified during his work by a school employee of an emergency regarding the child; or*

(3) *Takes leave pursuant to section 1 of this act if the employer is subject to the requirements of that section; or*

(b) *Assert to the person that his appearance or prospective appearance at such a conference , ~~or~~ the receipt of such a notification during his work **or leave taken pursuant to section 1 of this act** will result in the termination of his employment ~~or~~ **or a demotion, suspension or other discrimination in the terms and conditions of his employment.***

2. *Any person who violates the provisions of subsection 1 is guilty of a misdemeanor.*

3. *A person **who is** discharged from employment **or who is demoted, suspended or otherwise discriminated against** in violation of subsection 1 may ~~commence a civil action against his employer within 1 year after the date of the alleged violation and obtain:~~*

~~(a) Wages and benefits lost as a result of the violation;~~

~~(b) An order of reinstatement without loss of position, seniority or benefits;~~

~~(c) Damages equal to the amount of the lost wages and benefits; and~~

~~(d) Reasonable attorney's fees fixed by the court.~~ **request a hearing before the Labor Commissioner. The employer shall provide the person who is discharged from employment or who is demoted, suspended or otherwise discriminated against with all the forms necessary to request**

such a hearing. The hearing must be conducted in the manner prescribed in NRS 607.205 to 607.215, inclusive.

Sec. 3. Chapter 394 of NRS is hereby amended by adding thereto the provisions set forth as sections 4 and 5 of this act.

Sec. 4. 1. *An employer shall grant a parent, guardian or custodian of a child who is enrolled in a private school leave from his place of employment for 4 hours per school year, which must be taken in increments of at least 1 hour, to:*

- (a) *Attend parent-teacher conferences;*
- (b) *Attend school-related activities ~~+~~ ~~and~~ during regular school hours;*
- (c) *Volunteer or otherwise be involved at the school in which his child is enrolled ~~+~~ ~~+~~ during regular school hours; and*
- (d) *Attend school-sponsored events.*

↪ *The leave must be at a time mutually agreed upon by the employer and the employee.*

2. *An employer may require:*

(a) *An employee to provide a written request for the leave at least ~~48 hours~~ 5 school days before leave is taken; and*

(b) *An employee who takes leave pursuant to this section to provide documentation that during the time of the leave, the employee attended or was otherwise involved at the private school or school-related activity for one of the purposes set forth in subsection 1.*

3. *An employer is not required to pay an employee for any leave taken pursuant to this section.*

4. *A parent, guardian or custodian must be granted leave in accordance with this section for each child of the parent, guardian or custodian who is enrolled in private school.*

5. *As used in this section, "employer" means any person who has 50 or more employees for each working day in each of 20 or more calendar weeks in the current calendar year.*

Sec. 5. 1. *It is unlawful for an employer or his agent to:*

(a) *Terminate the employment of, or to demote, suspend or otherwise discriminate against, a person who, as the parent, guardian or custodian of a child:*

(1) *Appears at a conference requested by an administrator of the private school attended by the child;*

(2) *Is notified during his work by a school employee of an emergency regarding the child; or*

(3) *Takes leave pursuant to section 4 of this act if the employer is subject to the requirements of that section; or*

(b) *Assert to the person that his appearance or prospective appearance at such a conference, the receipt of such a notification during his work or leave taken pursuant to section 4 of this act will result in the termination of his employment or a demotion, suspension or other discrimination in the terms and conditions of his employment.*

2. Any person who violates the provisions of subsection 1 is guilty of a misdemeanor.

3. A person who is discharged from employment or who is demoted, suspended or otherwise discriminated against in violation of subsection 1 may ~~commence a civil action against his employer within 1 year after the date of the alleged violation and obtain:~~

~~(a) Wages and benefits lost as a result of the violation;~~

~~(b) An order of reinstatement without loss of position, seniority or benefits;~~

~~(c) Damages equal to the amount of the lost wages and benefits; and~~

~~(d) Reasonable attorney's fees fixed by the court.] request a hearing before the Labor Commissioner. The employer shall provide the person who is discharged from employment or who is demoted, suspended or otherwise discriminated against with all the forms necessary to request such a hearing. The hearing must be conducted in the manner prescribed in NRS 607.205 to 607.215, inclusive.~~

Sec. 6. NRS 394.201 is hereby amended to read as follows:

394.201 NRS 394.201 to 394.351, inclusive, **and sections 4 and 5 of this act** may be cited as the Private Elementary and Secondary Education Authorization Act.

Sec. 7. This act becomes effective on ~~July 1,~~ **August 15,** 2009.

Assemblywoman Parnell moved the adoption of the amendment.

Remarks by Assemblywoman Parnell.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 253.

Bill read second time and ordered to third reading.

Assembly Bill No. 329.

Bill read second time and ordered to third reading.

Assembly Bill No. 372.

Bill read second time and ordered to third reading.

Assembly Bill No. 403.

Bill read second time.

The following amendment was proposed by the Committee on Taxation:

Amendment No. 164.

AN ACT relating to taxes on retail sales; revising various provisions governing sales and use taxes to ensure continued compliance with the Streamlined Sales and Use Tax Agreement; providing for the submission to the voters of the question whether the Sales and Use Tax Act of 1955 should be amended to authorize the Legislature to amend ~~for repeal~~ a provision of that Act ~~[without additional voter approval]~~ **only** when necessary to resolve a

conflict with a federal law or interstate agreement for the administration of sales and use taxes; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides for the administration of sales and use taxes in this State pursuant to the Simplified Sales and Use Tax Administration Act, the Sales and Use Tax Act and the Local School Support Tax Law. (Chapters 360B, 372 and 374 of NRS) Under existing law, the Legislature has found and declared that this State should enter into an interstate agreement to simplify and modernize sales and use tax administration to reduce the burden of tax compliance for all sellers and types of commerce. (NRS 360B.020) Existing law requires the Nevada Tax Commission to enter into the Streamlined Sales and Use Tax Agreement and take all other actions reasonably required to implement the provisions of the Agreement. (NRS 360B.110) **Sections 1-9** of this bill carry out recent amendments to the Agreement regarding the exclusion of electronically transferred products from certain required definitions, the certification by the State of the software of certain computer programs that calculate the taxes due on a sale, a limited waiver of liability for sellers who fail to collect a tax increase that becomes effective within 30 days after the enactment of a statute which provides for that increase, and the exclusion of certain delivery charges from the calculation of sales and use taxes.

Existing law authorizes the adoption of an ordinance for the imposition of a sales and use tax in Nye County to support public safety services. (Nye County Sales and Use Tax Act of 2007) **Section 10** of this bill revises the requirements for such an ordinance in accordance with the provisions of the Streamlined Sales and Use Tax Agreement imposing restrictions on the date of implementation of changes in tax rates.

Existing law includes various provisions of the Sales and Use Tax Act of 1955. (NRS 372.010-372.115, 372.185-372.205, 372.260-372.284, 372.285-372.326, 372.327-372.345, 372.350) Under existing law, the provisions of that Act, which was submitted to and approved by the voters at the 1956 General Election, cannot be amended or repealed without additional voter approval. (Nev. Const. Art. 19, § 1) **Sections 11-19** of this bill provide for the submission to the voters of an amendment to that Act to authorize the Legislature to amend that Act ~~[without any additional voter approval]~~ **only** if such a legislative amendment is necessary to resolve a conflict with any federal law or interstate agreement for the administration of sales and use taxes, and the legislative amendment does not increase the rate of a tax imposed pursuant to that Act or narrow the scope of a tax exemption approved by the voters.

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

Section 1. Chapter 360B of NRS is hereby amended by adding thereto a new section to read as follows:

1. *"Specified digital products" means electronically transferred digital audio works, digital audiovisual works and digital books.*

2. *As used in this section:*

(a) *"Digital audio works" means works that result from the fixation of a series of musical, spoken or other sounds, including ringtones.*

(b) *"Digital audiovisual works" means a series of related images which, when shown in succession, impart an impression of motion, together with accompanying sounds, if any.*

(c) *"Digital books" means works that are generally recognized in the ordinary and usual sense as books.*

(d) *"Electronically transferred" means obtained by a purchaser by means other than tangible storage media.*

(e) *"Ringtones" means digitized sound files that are downloaded onto a device and may be used to alert the customer with respect to a communication.*

Sec. 2. NRS 360B.225 is hereby amended to read as follows:

360B.225 The Department shall:

1. Review the software submitted for the certification of a certified automated system pursuant to the Agreement and, if the Department determines that the software ~~[adequately classifies each exemption from the sales and use taxes imposed in this State which is based upon the description of a product.]~~ *accurately reflects the taxability of the product categories included in the program*, certify its acceptance of the ~~[classifications made by the system.]~~ *determination of the taxability of the product categories included in the program.*

2. Except as otherwise provided in subsection 3:

(a) If a certified service provider acting on behalf of a registered seller fails to collect the correct amount of any sales or use tax imposed in this State as a result of his reliance on the certification of the Department pursuant to subsection 1 regarding the certified automated system used by that certified service provider, waive any liability of the certified service provider, and of the registered seller on whose behalf the certified service provider is acting, for:

(1) The amount of the sales or use tax which the certified service provider fails to collect as a result of that reliance; and

(2) Any penalties and interest on that amount.

(b) If a registered seller who elects to use a certified automated system pursuant to subsection 3 of NRS 360B.200 fails to collect the correct amount of any sales or use tax imposed in this State as a result of his reliance on the certification of the Department pursuant to subsection 1 regarding the certified automated system used by that registered seller, waive any liability of the registered seller for:

(1) The amount of the sales or use tax which the registered seller fails to collect as a result of that reliance; and

(2) Any penalties and interest on that amount.



3. Notify a certified service provider or a registered seller who elects to use a certified automated system pursuant to subsection 3 of NRS 360B.200 if the Department determines that the taxability of any item or transaction is being incorrectly classified by the certified automated system used by the certified service provider or registered seller. The provisions of subsection 2 do not require the waiver of any liability for the incorrect classification of an item or transaction regarding which notice was provided to the certified service provider or registered seller pursuant to this subsection if the incorrect classification occurs more than 10 days after the receipt of that notice.

Sec. 3. NRS 360B.250 is hereby amended to read as follows:

360B.250 The Department shall:

1. If a registered seller fails to collect the correct amount of any sales or use tax imposed in this State as a result of his reasonable reliance on the information posted pursuant to NRS 360B.230 or his compliance with subsection 2 of NRS 360B.240, waive any liability of the registered seller for:

(a) The amount of the sales or use tax which the registered seller fails to collect as a result of that reliance; and

(b) Any penalties and interest on that amount.

2. If a certified service provider acting on behalf of a registered seller fails to collect the correct amount of any sales or use tax imposed in this State as a result of his reasonable reliance on the information posted pursuant to NRS 360B.230 or his compliance with subsection 2 of NRS 360B.240, waive any liability of the certified service provider, and of the registered seller on whose behalf the certified service provider is acting, for:

(a) The amount of the sales or use tax which the certified service provider fails to collect as a result of that reliance; and

(b) Any penalties and interest on that amount.

3. Waive any liability of a purchaser for any sum for which the liability of a registered seller or certified service provider is required to be waived pursuant to subsection 1 or 2 with regard to a transaction involving that purchaser.

4. If a purchaser fails to pay the correct amount of any sales or use tax imposed in this State as a result of his reasonable reliance on the information posted pursuant to NRS 360B.230, waive any liability of the purchaser for:

(a) The amount of the sales or use tax which the purchaser fails to pay as a result of that reliance; and

(b) Any penalties and interest on that amount.

**5. *If an increase in the rate of any sales or use tax imposed in this State becomes effective within 30 days after the enactment of a statute providing for that increase, waive any liability of a registered seller for:***

***(a) The amount of the sales or use tax which the registered seller fails to collect at the increased rate; and***

***(b) Any penalties and interest on that amount,***

↪ *unless the registered seller fails to collect the tax at the rate in effect immediately preceding that increase, the registered seller's failure to collect the tax at the increased rate extends beyond the first 30 days after the enactment of the statute providing for that increase, the registered seller fraudulently fails to collect the tax at the increased rate or the registered seller solicits purchasers based on the rate in effect immediately preceding that increase.*

Sec. 4. NRS 360B.290 is hereby amended to read as follows:

360B.290 Any invoice, billing or other document given to a purchaser that indicates the sales price for which tangible personal property is sold must state separately any amount received by the seller for:

1. *Any transportation, shipping or postage charges for the delivery of the property to a location designated by the purchaser.*

2. Any installation charges for the property;

~~{2-}~~ 3. Any credit for any trade-in which is specifically exempted from the sales price of the property pursuant to chapter 372 or 374 of NRS;

~~{3-}~~ 4. Any interest, financing and carrying charges from credit extended on the sale; and

~~{4-}~~ 5. Any taxes legally imposed directly on the consumer.

Sec. 5. NRS 360B.400 is hereby amended to read as follows:

360B.400 In administering the provisions of this chapter and chapters 372 and 374 of NRS, and in carrying out the provisions of the Agreement, the Department shall construe the terms defined in NRS 360B.405 to 360B.495, inclusive, *and section 1 of this act*, unless the context otherwise requires, in the manner prescribed by those sections.

Sec. 6. NRS 360B.415 is hereby amended to read as follows:

360B.415 "Computer software" means a set of coded instructions designed to cause a computer or automatic data processing equipment to perform a task. *The term does not include any specified digital products.*

Sec. 7. NRS 360B.425 is hereby amended to read as follows:

360B.425 "Delivery charges" means charges by a seller of personal property for the preparation and delivery of the property to a location designated by the purchaser of the property, including, but not limited to, charges for transportation, shipping, postage, handling, crating and packing ~~{-}~~, *except that the term does not include any charges for transportation, shipping or postage which are stated separately pursuant to NRS 360B.290.*

Sec. 8. NRS 360B.480 is hereby amended to read as follows:

360B.480 1. "Sales price" means the total amount of consideration, including cash, credit, property and services, for which personal property is sold, leased or rented, valued in money, whether received in money or otherwise, and without any deduction for:

(a) The seller's cost of the property sold;

(b) The cost of materials used, labor or service cost, interest, losses, all costs of transportation to the seller, all taxes imposed on the seller, and any other expense of the seller;

(c) Any charges by the seller for any services necessary to complete the sale, including any delivery charges *which are not stated separately pursuant to NRS 360B.290* and excluding any installation charges which are stated separately pursuant to NRS 360B.290; and

(d) Except as otherwise provided in subsection 2, any credit for any trade-in.

2. The term does not include:

(a) *Any delivery charges which are stated separately pursuant to NRS 360B.290;*

(b) Any installation charges which are stated separately pursuant to NRS 360B.290;

~~[(b)]~~ (c) Any credit for any trade-in which is:

(1) Specifically exempted from the sales price pursuant to chapter 372 or 374 of NRS; and

(2) Stated separately pursuant to NRS 360B.290;

~~[(c)]~~ (d) Any discounts, including those in the form of cash, term or coupons that are not reimbursed by a third party, which are allowed by a seller and taken by the purchaser on a sale;

~~[(d)]~~ (e) Any interest, financing and carrying charges from credit extended on the sale of personal property, if stated separately pursuant to NRS 360B.290; and

~~[(e)]~~ (f) Any taxes legally imposed directly on the consumer which are stated separately pursuant to NRS 360B.290.

3. The term includes consideration received by a seller from a third party if:

(a) The seller actually receives consideration from a person other than the purchaser and the consideration is directly related to a price reduction or discount on the sale;

(b) The seller has an obligation to pass the price reduction or discount through to the purchaser;

(c) The amount of the consideration attributable to the sale is fixed and determinable by the seller at the time of the sale of the item to the purchaser; and

(d) Any of the following criteria is satisfied:

(1) The purchaser presents a coupon, certificate or other documentation to the seller to claim a price reduction or discount, and the coupon, certificate or other documentation is authorized, distributed or granted by a third party with the understanding that the third party will reimburse any seller to whom the coupon, certificate or other documentation is presented.

(2) The purchaser identifies himself to the seller as a member of a group or organization entitled to a price reduction or discount. For the purposes of this subparagraph, a preferred customer card that is available to any patron does not constitute membership in such a group.

(3) The price reduction or discount is identified as a third-party price reduction or discount on the invoice received by the purchaser or on a coupon, certificate or other documentation presented by the purchaser.

Sec. 9. NRS 360B.485 is hereby amended to read as follows:

360B.485 "Tangible personal property" includes, but is not limited to, electricity, water, gas, steam and prewritten computer software. ***The term does not include any products that are transferred electronically to a purchaser.***

Sec. 10. Section 15 of the Nye County Sales and Use Tax Act of 2007, being chapter 545, Statutes of Nevada 2007, at page 3425, is hereby amended to read as follows:

Sec. 15. An ordinance enacted pursuant to this act must include provisions in substance as follows:

1. A provision imposing a tax on the gross receipts of any retailer from the sale of all tangible personal property sold at retail or stored, used or otherwise consumed in the County, including incorporated cities in the County, at a rate that does not exceed one-half of 1 percent.

2. Provisions substantially identical to those contained in chapter 374 of NRS, insofar as applicable.

3. A provision that an amendment to chapter 374 of NRS enacted after the effective date of the ordinance, not inconsistent with this act, automatically becomes part of the ordinance imposing the tax.

4. A provision that the Board shall contract with the Department, before the effective date of the ordinance, to perform all the functions incident to the administration or operation of the tax in the County.

5. A provision that a purchaser is entitled to a refund, in accordance with the provisions of NRS 374.635 to 374.720, inclusive, of the amount of the tax required to be paid that is attributable to the tax imposed on the sale of, and the storage, use or other consumption in the County, including incorporated cities in the County, of, tangible personal property used for the performance of a written contract for the construction of an improvement to real property:

(a) That was entered into on or before the effective date of the tax; or

(b) For which a binding bid was submitted before that date if the bid was afterward accepted, and pursuant to the terms of the contract or bid, the contract price or bid amount may not be adjusted to reflect the imposition of the tax.

6. A provision that specifies the date on which the tax must first be imposed ~~to~~ ***or on which any change in the rate of tax becomes effective***, which must ~~not be earlier than~~ ***be the first day of the [second calendar month following] first calendar quarter that begins at least 120 days after*** the effective date of the ordinance.

Sec. 11. The Legislature hereby finds and declares that:

1. There has been a rapid increase during recent years in the conduct of interstate commerce through telecommunication and electronic means.

2. Many of the merchants who transact these forms of interstate commerce have been discouraged by the substantial burdens of ascertaining and complying with the extremely diverse and detailed tax laws of each state from making the efforts necessary to collect sales and use taxes on behalf of the states in which they do not maintain a place of business.

3. As a result of the proliferation of these forms of interstate commerce and federal restrictions on the ability of each state to collect sales and use taxes from merchants who do not maintain a place of business in that state, the people of this State are losing millions of dollars in state and local tax revenue.

4. The nonpayment of Nevada sales and use taxes by merchants in other states provides those merchants with an unfair competitive advantage over local merchants who lawfully pay the sales and use taxes due in this State.

5. As a result of the similarity of these circumstances in the various states, considerable efforts are being made to provide more uniformity, simplicity and fairness in the administration and collection of sales and use taxes in this country, including the introduction and consideration of congressional legislation and the participation by Nevada and many other states in the Streamlined Sales and Use Tax Agreement.

6. Compliance with the Streamlined Sales and Use Tax Agreement and its amendments has and will continue to require amendments to the Nevada Sales and Use Tax Act, and it is anticipated that any congressional legislation will also necessitate such amendments.

7. The Nevada Sales and Use Tax Act was approved by referendum at the General Election in 1956 and therefore, pursuant to Section 1 of Article 19 of the Constitution of the State of Nevada, may not be "amended, annulled, repealed, set aside, suspended or in any way made inoperative except by the direct vote of the people."

8. Unlike the circumstances in other states where legislatures have the direct authority to amend sales and use tax laws in a timely manner, the period required for the legislative enactment and subsequent voter approval of any necessary amendments to the Nevada Sales and Use Tax Act has placed the ability of this State to comply with the Streamlined Sales and Use Tax Agreement and any congressional legislation in serious jeopardy.

9. It would be beneficial to the public welfare for the people of this State by direct vote to authorize the Legislature to enact without any additional voter approval such amendments to the Nevada Sales and Use Tax Act as are necessary to resolve conflicts with any congressional legislation or interstate agreements providing for the administration, collection or enforcement of sales and use taxes.

Sec. 12. At the General Election on November 2, 2010, a proposal must be submitted to the registered voters of this State to amend the Sales and Use Tax Act, which was enacted by the 47th Session of the Legislature of the State of Nevada and approved by the Governor in 1955, and subsequently

approved by the people of this State at the General Election held on November 6, 1956.

Sec. 13. At the time and in the manner provided by law, the Secretary of State shall transmit the proposed act to the several county clerks, and the county clerks shall cause it to be published and posted as provided by law.

Sec. 14. The proclamation and notice to the voters given by the county clerks pursuant to law must be in substantially the following form:

Notice is hereby given that at the General Election on November 2, 2010, a question will appear on the ballot for the adoption or rejection by the registered voters of the State of the following proposed act:

AN ACT to amend an Act entitled “An Act to provide revenue for the State of Nevada; providing for sales and use taxes; providing for the manner of collection; defining certain terms; providing penalties for violation, and other matters properly relating thereto.” approved March 29, 1955, as amended.

THE PEOPLE OF THE STATE OF NEVADA DO ENACT AS FOLLOWS:

Section 1. The above-entitled Act, being chapter 397, Statutes of Nevada 1955, at page 788, is hereby amended by adding thereto a new section to be designated as section 153.5, immediately following section 153.2, to read as follows:

~~Sec. 153.5. *[The people of the State of Nevada hereby authorize the Legislature to enact, without an additional direct vote of the people, legislation that amends, annuls, repeals, sets aside, suspends or otherwise makes inoperative any provision of this Act, being chapter 397, Statutes of Nevada 1955, at page 762, only if such legislation:*~~

~~1. *Is necessary to resolve a conflict with any federal statute or regulation or interstate agreement for the administration, collection or enforcement of sales and use taxes;*~~

~~2. *Does not increase the rate of any tax imposed pursuant to this Act;*~~  
~~and~~

~~3. *Does not narrow the scope of any tax exemption provided pursuant to the provisions of sections 48 to 67.1, inclusive, of this Act, as amended by the direct vote of the people.*~~

*The people of the State of Nevada hereby authorize the Legislature to enact legislation that amends, annuls, repeals, sets aside, suspends or otherwise makes inoperative any provision of this Act, being chapter 397, Statutes of Nevada 1955, at page 762, only if such legislation meets all of the following criteria:*

1. *It is necessary to resolve a conflict with any federal statute or regulation or interstate agreement for the administration, collection or enforcement of sales and use taxes;*

2. *It does not increase the rate of any tax imposed pursuant to this Act;*  
and

**3. It does not narrow the scope of any tax exemption provided pursuant to the provisions of sections 48 to 67.1, inclusive, of this Act, as amended by the direct vote of the people.**

Sec. 2. This act becomes effective on January 1, 2011.

Sec. 15. The ballot page assemblies and the paper ballots to be used in voting on the question must present the question in substantially the following form:

~~Shall the Sales and Use Tax Act of 1955 be amended to authorize the Legislature to amend or repeal any provision of this Act without an additional direct vote of the people if necessary to resolve a conflict with any federal law or interstate agreement for the administration, collection or enforcement of sales and use taxes?~~ **Shall the Sales and Use Tax Act of 1955 be amended to authorize the Legislature to amend a provision of this Act only if necessary to resolve a conflict with any federal law or interstate agreement for the administration, collection or enforcement of sales and use taxes?**

Yes  No

Sec. 16. The explanation of the question which must appear on each paper ballot and sample ballot and in every publication and posting of notice of the question must be in substantially the following form:

(Explanation of Question)

~~The proposed amendment to the Sales and Use Tax Act of 1955 would authorize the Legislature to enact legislation amending or repealing any provision of this Act without obtaining additional voter approval only if that legislation is necessary to resolve a conflict with any federal law or interstate agreement for the administration, collection or enforcement of sales and use taxes, that legislation does not increase the rate of any tax imposed pursuant to this Act, and that legislation does not narrow the scope of a tax exemption approved by the direct vote of the people.~~ **The proposed amendment to the Sales and Use Tax Act of 1955 would authorize the Legislature to enact legislation amending a provision of this Act only if that legislation is necessary to resolve a conflict with any federal law or interstate agreement for the administration, collection or enforcement of sales and use taxes, that legislation does not increase the rate of any tax imposed pursuant to this Act, and that legislation does not narrow the scope of a tax exemption approved by the direct vote of the people.**

Sec. 17. If a majority of the votes cast on the question is yes, the amendment to the Sales and Use Tax Act of 1955 becomes effective on January 1, 2011. If less than a majority of votes cast on the question is yes, the question fails and the amendment to the Sales and Use Tax Act of 1955 does not become effective.

Sec. 18. All general election laws not inconsistent with this act are applicable.

Sec. 19. Any informalities, omissions or defects in the content or making of the publications, proclamations or notices provided for in this act

and by the general election laws under which this election is held must be so construed as not to invalidate the adoption of the act by a majority of the registered voters voting on the question if it can be ascertained with reasonable certainty from the official returns transmitted to the Office of the Secretary of State whether the proposed amendment was adopted by a majority of those registered voters.

Sec. 20. The amendatory provisions of section 10 of this act do not apply to any ordinance enacted before the effective date of this act.

Sec. 21. This act becomes effective upon passage and approval.

Assemblywoman McClain moved the adoption of the amendment.

Remarks by Assemblywoman McClain.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 417.

Bill read second time and ordered to third reading.

Assembly Bill No. 518.

Bill read second time and ordered to third reading.

#### MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Ocegüera moved that Assembly Bill No. 88 be taken from its position on the General File and placed at the bottom of the General File.

Motion carried.

Assemblywoman Kirkpatrick moved that upon return from the printer Assembly Bill No. 193 be rereferred to the Committee on Ways and Means.

Motion carried.

Assemblyman Ocegüera moved that Assembly Bill No. 301 be taken from its position on the General File and placed at the bottom of the General File.

Motion carried.

Assemblyman Ocegüera moved that Assembly Joint Resolution No. 7 be taken from its position on the General File and placed at the bottom of the General File.

Motion carried.

#### GENERAL FILE AND THIRD READING

Assembly Bill No. 16.

Bill read third time.

Remarks by Assemblyman Ocegüera.

Roll call on Assembly Bill No. 16:

YEAS—42.

NAYS—None.

Assembly Bill No. 16 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.



Assembly Bill No. 21.

Bill read third time.

Remarks by Assemblyman Claborn.

Roll call on Assembly Bill No. 21:

YEAS—42.

NAYS—None.

Assembly Bill No. 21 having received a constitutional majority,  
Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 75.

Bill read third time.

Remarks by Assemblyman Goicoechea.

Roll call on Assembly Bill No. 75:

YEAS—42.

NAYS—None.

Assembly Bill No. 75 having received a constitutional majority,  
Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 93.

Bill read third time.

Remarks by Assemblyman Hambrick.

Roll call on Assembly Bill No. 93:

YEAS—42.

NAYS—None.

Assembly Bill No. 93 having received a constitutional majority,  
Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 96.

Bill read third time.

Remarks by Assemblyman Denis.

Roll call on Assembly Bill No. 96:

YEAS—42.

NAYS—None.

Assembly Bill No. 96 having received a constitutional majority,  
Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 100.

Bill read third time.

Remarks by Assemblyman Hardy.

Roll call on Assembly Bill No. 100:

YEAS—42.

NAYS—None.

Assembly Bill No. 100 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 137.

Bill read third time.

Remarks by Assemblyman Hardy.

Roll call on Assembly Bill No. 137:

YEAS—42.

NAYS—None.

Assembly Bill No. 137 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 164.

Bill read third time.

Remarks by Assemblyman Horne.

Roll call on Assembly Bill No. 164:

YEAS—42.

NAYS—None.

Assembly Bill No. 164 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 169.

Bill read third time.

Remarks by Assemblyman Atkinson.

Roll call on Assembly Bill No. 169:

YEAS—42.

NAYS—None.

Assembly Bill No. 169 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Assembly Bill No. 180.

Bill read third time.

Remarks by Assemblymen Goicoechea and Carpenter.

Roll call on Assembly Bill No. 180:

YEAS—42.

NAYS—None.

Assembly Bill No. 180 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

#### MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Ocegüera moved that Assembly Bills Nos. 88, 109, 237, 264, 280, 301, 306, 327, 332, 393, 412, 477; Assembly Joint Resolution No. 7; Senate Bills Nos. 38 and 109; Senate Joint Resolution No. 9 of the

74th Session be taken from the General File and placed on the General File for the next legislative day.

Motion carried.

GUESTS EXTENDED PRIVILEGE OF ASSEMBLY FLOOR

On request of Assemblyman Anderson, the privilege of the floor of the Assembly Chamber for this day was extended to Cassandra Bell, Brad Truax, Loretta Harper, Doug Jydstrup, Patrick Collins, Juanita Oard, Mina Coy, Ivy Rasmussen, Scott Miller, Jennifer Webb-Cook, Peg Bean and Marian Conrad.

On request of Assemblyman Arberry, the privilege of the floor of the Assembly Chamber for this day was extended to Lavonne Lewis and Helen Hassel.

On request of Assemblyman Atkinson, the privilege of the floor of the Assembly Chamber for this day was extended to Verlia Davis-Hoggard.

On request of Assemblyman Christensen, the privilege of the floor of the Assembly Chamber for this day was extended to Vikki Courtney.

On request of Assemblyman Claborn, the privilege of the floor of the Assembly Chamber for this day was extended to Robert Benson.

On request of Assemblyman Cobb, the privilege of the floor of the Assembly Chamber for this day was extended to James Jempsa and Herb Santos.

On request of Assemblyman Denis, the privilege of the floor of the Assembly Chamber for this day was extended to Andrew Swanson.

On request of Assemblywoman Dondero Loop, the privilege of the floor of the Assembly Chamber for this day was extended to Paul Vargas, Alan Morgan, and Ouida Brown.

On request of Assemblywoman Gansert, the privilege of the floor of the Assembly Chamber for this day was extended to Anna Avik.

On request of Assemblyman Hambrick, the privilege of the floor of the Assembly Chamber for this day was extended to Kerri Soper and Hilarie Grey.

On request of Assemblyman Hardy, the privilege of the floor of the Assembly Chamber for this day was extended to Rudy Manthei.

On request of Assemblywoman Kirkpatrick, the privilege of the floor of the Assembly Chamber for this day was extended to Brianna Lamanna.

On request of Assemblywoman Leslie, the privilege of the floor of the Assembly Chamber for this day was extended to the following students from Reno High School: Gina Bradley, Roger Carlson, Eric Dickensheets,

William Dunn, Molly Gill, Arieal Jenkins, Griffin Kirsch, Christian Lees, Erik McCallister, Kylie Miller, Hannah Profit, Victoria Rae, Lexus Rogers, Juan Saldana, Bonnie Sullivan, Anthony Tran, Aaron Walsh, Ashley Ward, Olivia Alonso, Kendra Amidon, Chase Barnard, Sophia Bayless, Andrew Biasi, Anthony Banaldi, Richard Brizendine, Bonnie Brooksbank, Morgan Caverhill, Joan Chang, Kaitlyn Cole, Hina Gandher, Kylie Fortier, Erica Greif, Diana Jia, Michelle Laxalt, Michael Lin Brande, Matthew Linaman, Allana Noyes, Kelly O'Connell, Robert Ruelas, Gwendolyn Seeman, Zachary Speth, Ruby Sukhraj, Megan Tabano, Mauricio Urias, Marquise Van Tassel, Brent Welsh, Alexander Wilson, Jennifer Yates, Jamie Harris, Brian Alderman, Mitchell Benning, Paul Brizendine, Taylor Bruce, John Caverhill, Tianjiao Cheng, Ryan Chien, John Cooper, Amaro Dasilva, Samuel Elvick, Mallory Fisher, Courtney Gill, Whitney Ginsburg, Joseph Hoel, David Jamieson, Elliot Koontz, Nicole Lovass-Nagy, Charles McArthur, William Monroe, Catriona Moody, Jacob Parker, Shelby Parkinson, Cameron Piette, Samantha Puzey, Haley Quirk, Daniel Schuveiller, Brandi Van Ry, Shawn Walters, Michael Weiss, Grayson Wilt, Ethan Witt, Joseph Albright, Samuel Broadhead, Justice Colby, Ramiro Corral, Theresa Gabrielli, Dustin Gallo, David Graves, Alyssa Grew, Sterling Hall, Esther Hayes, Sarah Hettinger, Olivia Hu, Clinton Kolseth, Austin Koontz, Cheryl Lee, John Muir, Courtney Mutchler, Lauren Parobek, Maxwell Pullman, Kimberly Scheible, Claire Schneider, Kayla Sheridan, Erica Stoddard, Dylan Szewczak, Philip Tissier, Ariana Stobaugh, Danielle Ballard, Alyssa Bland, Ariana Cramer, Jeremy Freeman, Heather Hagan, Wesley Hansen, Joseph Hemenway, Johanna Josephson, Brianna Kelley, Aaron Laden, Wesley Munson, Kieran Murphy, Alexander Papadacos, Jorge Rubio, Drew Sheehy, Chase Taficanti, Tarra Budge, Marisol Arredondo, Nathan Barnard, Dorina Ceka, Trevoe Christensen, Samuel Dworkin, Meng Jiang, Josh Lundin, Christian Manning, Kate Manning, Smantha Montiel, Andrianna Moore, Gavin Meyers, Robin Pellicciarani, James Pierce, Justin Rashidi, Zachary Roubo, Gracian Sallaberry, Arielle Shapiro, Jessica Thai, Tatjana Thomas, Rebecca Thompson, Justin Warren, Alexander Weiske, and Britni Whitehead; former Assemblywoman Chris Giunchigliani.

On request of Assemblyman McArthur, the privilege of the floor of the Assembly Chamber for this day was extended to Bridget Zick and Tom Wellman.

On request of Assemblywoman McClain, the privilege of the floor of the Assembly Chamber for this day was extended to Ruby Caliendo and Shirley Webb.

On request of Assemblyman Mortenson, the privilege of the floor of the Assembly Chamber for this day was extended to Nedra Armstrong and Juana Jordan.

On request of Assemblyman Munford, the privilege of the floor of the Assembly Chamber for this day was extended to Verlia Hoggard and Shirley Hampton.

On request of Assemblyman Ocegüera, the privilege of the floor of the Assembly Chamber for this day was extended to Suzanne Roozemdaal.

On request of Assemblyman Segerblom, the privilege of the floor of the Assembly Chamber for this day was extended to Kim Kallas, Evan Kallas, and Chelsea Kallas.

On request of Assemblywoman Smith, the privilege of the floor of the Assembly Chamber for this day was extended to Mitchell Foreman.

On request of Assemblywoman Spiegel, the privilege of the floor of the Assembly Chamber for this day was extended to Fred Redfern and Andrew Eisen.

On request of Assemblyman Stewart, the privilege of the floor of the Assembly Chamber for this day was extended to Ruben Murillo, Maria Martinez, Leslie Stewart, Duff Stewart, Megan Stewart, Dayne Stewart, Erica Stewart, and Jaime Stewart.

Assemblyman Ocegüera moved that the Assembly adjourn until Thursday, April 9, 2009, at 11 a.m.

Motion carried.

Assembly adjourned at 12:44 p.m.

Approved:

BARBARA E. BUCKLEY  
*Speaker of the Assembly*

Attest: SUSAN FURLONG REIL

*Chief Clerk of the Assembly*