

**THE SEVENTY-THIRD DAY**

---

CARSON CITY (Wednesday), April 15, 2009

Assembly called to order at 11:06 a.m.

Madam Speaker presiding.

Roll called.

All present.

Prayer by the Chaplain, Pastor Albert Tilstra.

Give us open minds, O God, minds ready to receive and to welcome such new light of knowledge as it is Your will to reveal. Let not the past ever be so dear to us as to set a limit to the future. Give us the courage to change our minds when that is needed. Let us be tolerant of the thoughts of others, for we never know in what voice You will speak.

We pray that we may keep our ears open to Your voice and make us a little more deaf to whispers of men and women who would persuade us from our duty, for we know in our hearts that only in Your will is the peace and prosperity of our state.

AMEN.

Pledge of allegiance to the Flag.

Assemblyman Conklin 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 were referred Assembly Bills Nos. 148, 399, 521, 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 Corrections, Parole, and Probation, to which were referred Assembly Bills Nos. 117, 238, 259, 265, 384, 385, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

WILLIAM C. HORNE, *Chairman*

*Madam Speaker:*

Your Committee on Education, to which was referred Assembly Bill No. 319, 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 Judiciary, to which were referred Assembly Bills Nos. 47, 209, 239, 283, 353, 481, 499 has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

Also, your Committee on Judiciary, to which was rereferred Assembly Bill No. 189, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

BERNIE ANDERSON, *Chairman*

*Madam Speaker:*

Your Committee on Transportation, to which was referred Assembly Bill No. 25, 503, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

KELVIN ATKINSON, *Chairman*

#### MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Ocegüera moved that Assembly Bills Nos. 25, 47, 117, 148, 189, 209, 238, 239, 259, 265, 283, 319, 353, 384, 385, 399, 481, 499, 503, 521 just reported out of committee, be placed on the appropriate reading file.

Motion carried.

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

Motion carried.

Assemblyman Anderson moved that Assembly Bill No. 251 be taken from the General File and placed on the Chief Clerk's desk.

Motion carried.

Assemblywoman Parnell moved that Assembly Bill No. 359 be taken from the General File and placed on the Chief Clerk's desk.

Motion carried.

Assemblywoman Koivisto moved that Assembly Joint Resolution No. 14 be taken from the General File and placed on the Chief Clerk's desk.

Motion carried.

#### MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, April 14, 2009

*To the Honorable the Assembly:*

I have the honor to inform your honorable body that the Senate on this day adopted Senate Concurrent Resolution No. 16.

Also, I have the honor to inform your honorable body that the Senate on this day adopted, as amended, Senate Concurrent Resolution No. 2.

SHERRY L. RODRIGUEZ  
*Assistant Secretary of the Senate*

#### MOTIONS, RESOLUTIONS AND NOTICES

Senate Concurrent Resolution No. 2.

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

Motion carried.

Senate Concurrent Resolution No. 16.

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

Motion carried.

NOTICE OF EXEMPTION

April 15, 2009

The Fiscal Analysis Division, pursuant to Joint Standing Rule 14.6, has determined the eligibility for exemption of: Assembly Bills Nos. 65 and 504.

MARK STEVENS  
Fiscal Analysis Division

SECOND READING AND AMENDMENT

Assembly Bill No. 25.

Bill read second time.

The following amendment was proposed by the Committee on Transportation:

Amendment No. 368.

SUMMARY ~~Authorizes the waiver of certain~~ **Revises provisions governing** examinations of applicants for a Nevada driver's license. ~~who are licensed in another jurisdiction.~~ (BDR 43-343)

AN ACT relating to motor vehicles; ~~removing the restriction on the authority of the Department of Motor Vehicles to waive~~ **prohibiting the waiver of** certain examinations of applicants for a Nevada driver's license who are licensed in another jurisdiction but have not attained ~~25~~ **21** years of age; **providing an exception; establishing fees for the administration of certain examinations for noncommercial drivers' licenses;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes the Department of Motor Vehicles to waive certain examinations for a person applying for a Nevada driver's license who possesses a valid driver's license of the same type or class issued by another jurisdiction but does not allow such a waiver if the person has not attained 25 years of age. (NRS 483.330) ~~This bill removes that restriction and allows~~ **Section 1 of this bill prohibits** such a waiver for a person who has not attained ~~25~~ **21** years of age. ~~It~~ **subject to certain exceptions.**

**Existing law authorizes the Department to require every applicant for a driver's license to submit to an examination that may include components which test the applicant's knowledge, skills and abilities. (NRS 483.330) Section 1.5 of this bill requires the Department to charge a fee of \$25 for the administration of the examination for a noncommercial driver's license and a fee of \$10 for each readministration of that examination to the same person.**

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

Section 1. NRS 483.330 is hereby amended to read as follows:

483.330 1. The Department may require every applicant for a driver's license, including a commercial driver's license issued pursuant to NRS 483.900 to 483.940, inclusive, to submit to an examination. The examination may include:

(a) A test of the applicant's ability to understand official devices used to control traffic;

(b) A test of his knowledge of practices for safe driving and the traffic laws of this State;

(c) Except as otherwise provided in subsection 2, a test of his eyesight; and

(d) Except as otherwise provided in subsection 3, an actual demonstration of his ability to exercise ordinary and reasonable control in the operation of a motor vehicle of the type or class of vehicle for which he is to be licensed.

↪ The examination may also include such further physical and mental examination as the Department finds necessary to determine the applicant's fitness to drive a motor vehicle safely upon the highways.

2. The Department may provide by regulation for the acceptance of a report from an ophthalmologist, optician or optometrist in lieu of an eye test by a driver's license examiner.

3. If the Department establishes a type or classification of driver's license to operate a motor vehicle of a type which is not normally available to examine an applicant's ability to exercise ordinary and reasonable control of such a vehicle, the Department may, by regulation, provide for the acceptance of an affidavit from a:

(a) Past, present or prospective employer of the applicant; or

(b) Local joint apprenticeship committee which had jurisdiction over the training or testing, or both, of the applicant,

↪ in lieu of an actual demonstration.

4. The Department may waive an examination pursuant to subsection 1 for a person applying for a Nevada driver's license who possesses a valid driver's license of the same type or class issued by another jurisdiction unless that person:

(a) Has not attained ~~[25]~~ 21 years of age [;], except that the Department may, based on the driving record of the applicant, waive the examination to demonstrate his ability to exercise ordinary and reasonable control in the operation of a motor vehicle of the same type or class of vehicle for which he is to be licensed;

(b) Has had his license or privilege to drive a motor vehicle suspended, revoked or cancelled or has been otherwise disqualified from driving during the immediately preceding 4 years;

(c) ~~((b))~~ Has been convicted of a violation of NRS 484.37955 or, during the immediately preceding 7 years, of a violation of NRS 484.379, 484.3795 or 484.379778 or a law of any other jurisdiction that prohibits the same or similar conduct;

(d) ~~((e))~~ Has restrictions to his driver’s license which the Department must reevaluate to ensure the safe driving of a motor vehicle by that person;

(e) ~~((d))~~ Has had three or more convictions of moving traffic violations on his driving record during the immediately preceding 4 years; or

(f) ~~((e))~~ Has been convicted of any of the offenses related to the use or operation of a motor vehicle which must be reported pursuant to the provisions of Parts 1327 et seq. of Title 23 of the Code of Federal Regulations relating to the National Driver Register Problem Driver Pointer System during the immediately preceding 4 years.

**Sec. 1.5. NRS 483.410 is hereby amended to read as follows:**

483.410 1. Except as otherwise provided in subsection 6 and NRS 483.417, for every driver’s license, including a motorcycle driver’s license, issued and service performed, the following fees must be charged:

An original or renewal license issued to a person 65 years of age or older .....	\$13.50
An original or renewal license issued to any person less than 65 years of age .....	18.50

**Administration of the examination required by NRS 483.330 for a noncommercial driver’s license .....** **25.00**

**Each readministration to the same person of the examination required by NRS 483.330 for a noncommercial driver’s license .....** **10.00**

Reinstatement of a license after suspension, revocation or cancellation, except a revocation for a violation of NRS 484.379, 484.3795, 484.37955 or 484.379778, or pursuant to NRS 484.384 and 484.385 .....

Reinstatement of a license after revocation for a violation of NRS 484.379, 484.3795, 484.37955 or 484.379778, or pursuant to NRS 484.384 and 484.385 .....

A new photograph, change of name, change of other information, except address, or any combination .....

A duplicate license.....

2. For every motorcycle endorsement to a driver’s license, a fee of \$5 must be charged.

3. If no other change is requested or required, the Department shall not charge a fee to convert the number of a license from the licensee’s social security number, or a number that was formulated by using the licensee’s social security number as a basis for the number, to a unique number that is not based on the licensee’s social security number.

4. Except as otherwise provided in NRS 483.417, the increase in fees authorized by NRS 483.347 and the fees charged pursuant to NRS 483.415 must be paid in addition to the fees charged pursuant to subsections 1 and 2.

5. A penalty of \$10 must be paid by each person renewing his license after it has expired for a period of 30 days or more as provided in NRS 483.386 unless he is exempt pursuant to that section.

6. The Department may not charge a fee for the reinstatement of a driver's license that has been:

- (a) Voluntarily surrendered for medical reasons; or
- (b) Cancelled pursuant to NRS 483.310.

7. All fees and penalties are payable to the Administrator at the time a license or a renewal license is issued.

8. Except as otherwise provided in NRS 483.340, subsection 3 of NRS 483.3485, NRS 483.415 and 483.840, and subsection 3 of NRS 483.863, all money collected by the Department pursuant to this chapter must be deposited in the State Treasury for credit to the Motor Vehicle Fund.

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

Assemblyman Atkinson moved the adoption of the amendment.

Remarks by Assemblyman Atkinson.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

#### MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Atkinson moved that upon return from the printer Assembly Bill No. 25 be placed on the Chief Clerk's desk.

Motion carried.

#### SECOND READING AND AMENDMENT

Assembly Bill No. 47.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 212.

AN ACT relating to specialty courts; revising provisions relating to programs for the treatment of mental illness or mental retardation; revising provisions relating to programs of treatment for the abuse of alcohol or drugs; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

~~[Section 1 of this bill eliminates the requirement that before a court may assign a defendant to a program for the treatment of mental illness or mental retardation, the prosecuting attorney must stipulate to the assignment if the underlying offense or a previous offense committed by the defendant involved the use or threatened use of force or violence. (NRS 176A.260) Sections 2, 5 and 7.] Sections 1.5 and 5.5 of this bill remove the 3-year waiting period and require a court to immediately, upon completion of a program for the treatment of mental illness or mental retardation or a program for treatment for the abuse of alcohol or drugs, seal all records relating to the case. (NRS 176A.265, 453.3365)~~

Sections 2-5 and 7 of this bill ~~authorize~~ **require** a court, upon completion of a **presentence** program of treatment for the abuse of alcohol or drugs, to seal all records relating to the case. ~~Section 6 of this bill reduces the list of crimes that make a defendant ineligible to participate in a program of treatment for the abuse of alcohol or drugs and authorizes a court to assign a defendant to the program of treatment if deemed appropriate by the court and not otherwise prohibited by specific statute. (NRS 458.300)~~ **Section 7.5 of this bill provides that certain offenders who are convicted of driving under the influence and are accepted into a program of treatment for the abuse of alcohol or drugs must not have their license, permit or privilege to drive revoked. (NRS 484.37941).**

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

Section 1. ~~NRS 176A.260 is hereby amended to read as follows:~~

~~176A.260 1. [Except as otherwise provided in subsection 2, if] **If** a defendant who suffers from mental illness or is mentally retarded tenders a plea of guilty, guilty but mentally ill or nolo contendere to, or is found guilty or guilty but mentally ill of, any offense for which the suspension of sentence or the granting of probation is not prohibited by statute, the court may, without entering a judgment of conviction and with the consent of the defendant, suspend further proceedings and place the defendant on probation upon terms and conditions that must include attendance and successful completion of a program established pursuant to NRS 176A.250.~~

~~2. [If the offense committed by the defendant involved the use or threatened use of force or violence or if the defendant was previously convicted in this State or in any other jurisdiction of a felony that involved the use or threatened use of force or violence, the court may not assign the defendant to the program unless the prosecuting attorney stipulates to the assignment.~~

~~3.] **Upon violation of a term or condition:**~~

~~(a) The court may enter a judgment of conviction and proceed as provided in the section pursuant to which the defendant was charged.~~

~~(b) Notwithstanding the provisions of paragraph (c) of subsection 2 of NRS 193.130, the court may order the defendant to the custody of the Department of Corrections if the offense is punishable by imprisonment in the state prison.~~

~~[4.] **3.** Upon fulfillment of the terms and conditions, the court shall discharge the defendant and dismiss the proceedings against him. Discharge and dismissal pursuant to this section is without adjudication of guilt and is not a conviction for purposes of this section or for purposes of employment, civil rights or any statute or regulation or license or questionnaire or for any other public or private purpose, but is a conviction for the purpose of additional penalties imposed for second or subsequent convictions or the setting of bail. Discharge and dismissal restores the defendant, in the~~

~~contemplation of the law, to the status occupied before the arrest, indictment or information. The defendant may not be held thereafter under any law to be guilty of perjury or otherwise giving a false statement by reason of failure to recite or acknowledge that arrest, indictment, information or trial in response to an inquiry made of him for any purpose.] (Deleted by amendment.)~~

**Sec. 1.5. NRS 176A.265 is hereby amended to read as follows:**

176A.265 1. ~~Three years after~~ **After** a defendant is discharged from probation pursuant to NRS 176A.260, the court shall order sealed all documents, papers and exhibits in the defendant's record, minute book entries and entries on dockets, and other documents relating to the case in the custody of such other agencies and officers as are named in the court's order if the defendant fulfills the terms and conditions imposed by the court and the Division. The court shall order those records sealed without a hearing unless the Division petitions the court, for good cause shown, not to seal the records and requests a hearing thereon.

2. If the court orders sealed the record of a defendant discharged pursuant to NRS 176A.260, the court shall send a copy of the order to each agency or officer named in the order. Each such agency or officer shall notify the court in writing of its compliance with the order.

**Sec. 2. NRS 179.245 is hereby amended to read as follows:**

179.245 1. Except as otherwise provided in subsection 5 and NRS 176A.265, 179.259, ~~and~~ 453.3365 ~~;~~ **and 458.330**, a person may petition the court in which he was convicted for the sealing of all records relating to a conviction of:

(a) A category A or B felony after 15 years from the date of his release from actual custody or discharge from parole or probation, whichever occurs later;

(b) A category C or D felony after 12 years from the date of his release from actual custody or discharge from parole or probation, whichever occurs later;

(c) A category E felony after 7 years from the date of his release from actual custody or discharge from parole or probation, whichever occurs later;

(d) Any gross misdemeanor after 7 years from the date of his release from actual custody or discharge from probation, whichever occurs later;

(e) A violation of NRS 484.379 or 484.379778 other than a felony, or a battery which constitutes domestic violence pursuant to NRS 33.018 other than a felony, after 7 years from the date of his release from actual custody or from the date when he is no longer under a suspended sentence, whichever occurs later; or

(f) Any other misdemeanor after 2 years from the date of his release from actual custody or from the date when he is no longer under a suspended sentence, whichever occurs later.

2. A petition filed pursuant to subsection 1 must:

(a) Be accompanied by current, verified records of the petitioner's criminal history received from:



(1) The Central Repository for Nevada Records of Criminal History; and

(2) The local law enforcement agency of the city or county in which the conviction was entered;

(b) Include a list of any other public or private agency, company, official or other custodian of records that is reasonably known to the petitioner to have possession of records of the conviction and to whom the order to seal records, if issued, will be directed; and

(c) Include information that, to the best knowledge and belief of the petitioner, accurately and completely identifies the records to be sealed.

3. Upon receiving a petition pursuant to this section, the court shall notify the law enforcement agency that arrested the petitioner for the crime and:

(a) If the person was convicted in a district court or justice court, the prosecuting attorney for the county; or

(b) If the person was convicted in a municipal court, the prosecuting attorney for the city.

➔ The prosecuting attorney and any person having relevant evidence may testify and present evidence at the hearing on the petition.

4. If, after the hearing, the court finds that, in the period prescribed in subsection 1, the petitioner has not been charged with any offense for which the charges are pending or convicted of any offense, except for minor moving or standing traffic violations, the court may order sealed all records of the conviction which are in the custody of the court, of another court in the State of Nevada or of a public or private agency, company or official in the State of Nevada, and may also order all such criminal identification records of the petitioner returned to the file of the court where the proceeding was commenced from, including, but not limited to, the Federal Bureau of Investigation, the California Bureau of *Criminal* Identification and Information, sheriffs' offices and all other law enforcement agencies reasonably known by either the petitioner or the court to have possession of such records.

5. A person may not petition the court to seal records relating to a conviction of a crime against a child or a sexual offense.

6. If the court grants a petition for the sealing of records pursuant to this section, upon the request of the person whose records are sealed, the court may order sealed all records of the civil proceeding in which the records were sealed.

7. As used in this section:

(a) "Crime against a child" has the meaning ascribed to it in NRS 179D.0357.

(b) "Sexual offense" means:

(1) Murder of the first degree committed in the perpetration or attempted perpetration of sexual assault or of sexual abuse or sexual

molestation of a child less than 14 years of age pursuant to paragraph (b) of subsection 1 of NRS 200.030.

(2) Sexual assault pursuant to NRS 200.366.

(3) Statutory sexual seduction pursuant to NRS 200.368, if punishable as a felony.

(4) Battery with intent to commit sexual assault pursuant to NRS 200.400.

(5) An offense involving the administration of a drug to another person with the intent to enable or assist the commission of a felony pursuant to NRS 200.405, if the felony is an offense listed in this paragraph.

(6) An offense involving the administration of a controlled substance to another person with the intent to enable or assist the commission of a crime of violence pursuant to NRS 200.408, if the crime of violence is an offense listed in this paragraph.

(7) Abuse of a child pursuant to NRS 200.508, if the abuse involved sexual abuse or sexual exploitation.

(8) An offense involving pornography and a minor pursuant to NRS 200.710 to 200.730, inclusive.

(9) Incest pursuant to NRS 201.180.

(10) Solicitation of a minor to engage in acts constituting the infamous crime against nature pursuant to NRS 201.195.

(11) Open or gross lewdness pursuant to NRS 201.210, if punishable as a felony.

(12) Indecent or obscene exposure pursuant to NRS 201.220, if punishable as a felony.

(13) Lewdness with a child pursuant to NRS 201.230.

(14) Sexual penetration of a dead human body pursuant to NRS 201.450.

(15) Luring a child or a person with mental illness pursuant to NRS 201.560, if punishable as a felony.

(16) An attempt to commit an offense listed in subparagraphs (1) to (15), inclusive.

Sec. 3. NRS 179.275 is hereby amended to read as follows:

179.275 Where the court orders the sealing of a record pursuant to NRS 176A.265, 179.245, 179.255, 179.259, ~~453.3365~~ ~~453.3365~~ or **458.330**, a copy of the order must be sent to:

1. The Central Repository for Nevada Records of Criminal History; and
2. Each public or private company, agency or official named in the order, and that person shall seal the records in his custody which relate to the matters contained in the order, shall advise the court of his compliance ~~to~~ and shall then seal the order.

Sec. 4. NRS 179.285 is hereby amended to read as follows:

179.285 Except as otherwise provided in NRS 179.301:

1. If the court orders a record sealed pursuant to NRS 176A.265, 179.245, 179.255, 179.259, ~~453.3365~~ ~~453.3365~~ or **458.330**:

(a) All proceedings recounted in the record are deemed never to have occurred, and the person to whom the order pertains may properly answer accordingly to any inquiry, including, without limitation, an inquiry relating to an application for employment, concerning the arrest, conviction, dismissal or acquittal and the events and proceedings relating to the arrest, conviction, dismissal or acquittal.

(b) The person is immediately restored to the following civil rights if his civil rights previously have not been restored:

- (1) The right to vote;
- (2) The right to hold office; and
- (3) The right to serve on a jury.

2. Upon the sealing of his records, a person who is restored to his civil rights must be given an official document which demonstrates that he has been restored to the civil rights set forth in paragraph (b) of subsection 1.

3. A person who has had his records sealed in this State or any other state and whose official documentation of the restoration of his civil rights is lost, damaged or destroyed may file a written request with a court of competent jurisdiction to restore his civil rights pursuant to this section. Upon verification that the person has had his records sealed, the court shall issue an order restoring the person to the civil rights to vote, to hold office and to serve on a jury. A person must not be required to pay a fee to receive such an order.

4. A person who has had his records sealed in this State or any other state may present official documentation that he has been restored to his civil rights or a court order restoring his civil rights as proof that he has been restored to the right to vote, to hold office and to serve as a juror.

Sec. 5. NRS 179.295 is hereby amended to read as follows:

179.295 1. The person who is the subject of the records that are sealed pursuant to NRS 176A.265, 179.245, 179.255, 179.259 , ~~453.3365~~ **or 458.330** may petition the court that ordered the records sealed to permit inspection of the records by a person named in the petition, and the court may order such inspection. Except as otherwise provided in this section and NRS 179.259 and 179.301, the court may not order the inspection of the records under any other circumstances.

2. If a person has been arrested, the charges have been dismissed and the records of the arrest have been sealed, the court may order the inspection of the records by a prosecuting attorney upon a showing that as a result of newly discovered evidence, the person has been arrested for the same or *a* similar offense and that there is sufficient evidence reasonably to conclude that he will stand trial for the offense.

3. The court may, upon the application of a prosecuting attorney or an attorney representing a defendant in a criminal action, order an inspection of such records for the purpose of obtaining information relating to persons who were involved in the incident recorded.

4. This section does not prohibit a court from considering a conviction for which records have been sealed pursuant to NRS 176A.265, 179.245, 179.255, 179.259, ~~or~~ 453.3365 **or 458.330** in determining whether to grant a petition pursuant to NRS 176A.265, 179.245, 179.255, 179.259, ~~or~~ 453.3365 **or 458.330** for a conviction of another offense.

**Sec. 5.5. NRS 453.3365 is hereby amended to read as follows:**

453.3365 1. Three years after a person is convicted and sentenced pursuant to subsection 3 of NRS 453.336, the court may order sealed all documents, papers and exhibits in that person's record, minute book entries and entries on dockets, and other documents relating to the case in the custody of such other agencies and officers as are named in the court's order, if the:

(a) Person fulfills the terms and conditions imposed by the court and the parole and probation officer; and

(b) Court, after a hearing, is satisfied that the person is rehabilitated.

2. Except as limited by subsection 4, ~~3 years~~ after an accused is discharged from probation pursuant to NRS 453.3363, the court shall order sealed all documents, papers and exhibits in that person's record, minute book entries and entries on dockets, and other documents relating to the case in the custody of such other agencies and officers as are named in the court's order if the person fulfills the terms and conditions imposed by the court and the Division of Parole and Probation of the Department of Public Safety. The court shall order those records sealed without a hearing unless the Division of Parole and Probation petitions the court, for good cause shown, not to seal the records and requests a hearing thereon.

3. If the court orders sealed the record of a person discharged pursuant to NRS 453.3363, it shall ~~send~~ **cause** a copy of the order to **be sent to** each agency or officer named in the order. Each such agency or officer shall notify the court in writing of its compliance with the order.

4. A professional licensing board is entitled, for the purpose of determining suitability for a license or liability to discipline for misconduct, to inspect and to copy from a record sealed pursuant to this section.

~~Sec. 6. NRS 458.300 is hereby amended to read as follows:~~

~~458.300—[Subject]~~

~~1.—Except as otherwise provided in subsection 2, subject to the provisions of NRS 458.290 to 458.350, inclusive, an alcoholic or a drug addict who has been convicted of a crime and who is not otherwise prohibited by specific statute from being assigned to a program of treatment for the abuse of alcohol or drugs pursuant to NRS 453.580 is eligible to elect to be assigned by the court to a program of treatment for the abuse of alcohol or drugs pursuant to NRS 453.580 before he is sentenced—  
[unless:~~

~~1.—The]~~

~~2.—Unless the court first determines that it is appropriate for an alcoholic or a drug addict to be assigned to a program of treatment for the~~

~~abuse of alcohol or drugs pursuant to NRS 453.580 and that the alcoholic or drug addict is not otherwise prohibited by specific statute from being assigned to a program of treatment for the abuse of alcohol or drugs pursuant to NRS 453.580, the alcoholic or drug addict is not eligible to elect to be assigned by the court to a program of treatment for the abuse of alcohol or drugs pursuant to NRS 453.580 if the crime for which the alcoholic or drug addict has been convicted is:~~

~~(a) A crime against the person punishable as a felony or gross misdemeanor as provided in chapter 200 of NRS;~~

~~(b) A crime against a child as defined in NRS 179D.0357;~~

~~(c) A sexual offense as defined in NRS 179D.097; or~~

~~(d) [An act which constitutes domestic violence as set forth in NRS 33.018;~~

~~2. The crime is that of trafficking of a controlled substance;~~

~~3. The crime is a] A violation of NRS 484.379, 484.3795, 484.37955 or 484.379778. [;~~

~~4. The alcoholic or drug addict has a record of two or more convictions of a crime described in subsection 1 or 2, a similar crime in violation of the laws of another state, or of three or more convictions of any felony;~~

~~5. Other criminal proceedings alleging commission of a felony are pending against the alcoholic or drug addict;~~

~~6. The alcoholic or drug addict is on probation or parole and the appropriate parole or probation authority does not consent to the election; or~~

~~7. The alcoholic or drug addict elected and was admitted, pursuant to NRS 458.290 to 458.350, inclusive, to a program of treatment not more than twice within the preceding 5 years.}] **(Deleted by amendment.)**~~

Sec. 7. NRS 458.330 is hereby amended to read as follows:

458.330 1. Whenever a person is placed under the supervision of a treatment facility, his sentencing must be deferred [;] and [; except as otherwise provided in subsection 4,] his conviction must be set aside if the treatment facility certifies to the court that he has satisfactorily completed the treatment program, and the court approves the certification and determines that the conditions upon the election of treatment have been satisfied.

2. If, upon the expiration of the treatment period, the treatment facility has yet to certify that the person has completed his treatment program, the court shall sentence him. If he has satisfied the conditions to the election of treatment and the court believes that he will complete his treatment on a voluntary basis, it may, in its discretion, set the conviction aside.

3. If, before the treatment period expires, the treatment facility determines that the person is not likely to benefit from further treatment at the facility, it shall so advise the court. The court shall then:

(a) Arrange for the transfer of the person to a more suitable treatment facility, if any; or

(b) Terminate the supervision and conduct a hearing to determine whether the person should be sentenced.

↪ Whenever a person is sentenced under this section, time spent in institutional care must be deducted from any sentence imposed.

4. ~~Regardless of whether the person successfully completes treatment, the court shall not set aside the conviction of a person who has a record of two or more convictions of any felony for two or more separate incidences.]~~  
*Upon satisfactory completion of the treatment program, the court ~~may~~ shall order sealed all documents, papers and exhibits in the person's record, minute book entries and entries on dockets, and other documents related to the case in the custody of such other agencies and officers as are named in the court's order. The court ~~may~~ shall order those records sealed without a hearing unless the prosecution petitions the court, for good cause shown, not to seal the records and requests a hearing thereon. ~~##~~ When the court orders sealed the records of a person pursuant to this subsection, the court shall ~~send~~ cause a copy of the order to be sent to each agency or officer named in the order. Each such agency or officer shall notify the court in writing of its compliance with the order. The provisions of this subsection apply only to the offense for which the person has been placed into treatment pursuant to NRS 458.290 to 458.350, inclusive.*

**Sec. 7.5. NRS 484.37941 is hereby amended to read as follows:**

484.37941 1. An offender who enters a plea of guilty or nolo contendere to a violation of NRS 484.379 or 484.379778 that is punishable pursuant to paragraph (c) of subsection 1 of NRS 484.3792 may, at the time he enters his plea, apply to the court to undergo a program of treatment for alcoholism or drug abuse which is certified by the Health Division of the Department of Health and Human Services for at least 3 years if:

(a) The offender is diagnosed as an alcoholic or abuser of drugs by:

(1) An alcohol and drug abuse counselor who is licensed or certified, or a clinical alcohol and drug abuse counselor who is licensed, pursuant to chapter 641C of NRS, to make that diagnosis; or

(2) A physician who is certified to make that diagnosis by the Board of Medical Examiners; and

(b) The offender agrees to pay the costs of the treatment to the extent of his financial resources.

↪ An alcohol and drug abuse counselor, a clinical alcohol and drug abuse counselor or a physician who diagnoses an offender as an alcoholic or abuser of drugs shall make a report and recommendation to the court concerning the length and type of treatment required for the offender.

2. A prosecuting attorney may, within 10 days after receiving notice of an application for treatment pursuant to this section, request a hearing on the matter. The court shall order a hearing on the application upon the request of the prosecuting attorney or may order a hearing on its own motion.

3. At the hearing on the application for treatment, the prosecuting attorney may present the court with any relevant evidence on the matter. If a

hearing is not held, the court shall decide the matter and other information before the court.

4. If the court determines that an application for treatment should be granted, the court shall:

(a) Immediately, without entering a judgment of conviction and with the consent of the offender, suspend further proceedings and place him on probation for not more than 5 years upon the condition that the offender be accepted for treatment by a treatment facility, that he complete the treatment satisfactorily and that he comply with any other condition ordered by the court.

(b) Advise the offender that:

(1) If he is accepted for treatment by such a facility, he may be placed under the supervision of the facility for not more than 5 years and during treatment he may be confined in an institution or, at the discretion of the treatment facility, released for treatment or supervised aftercare in the community.

(2) If he is not accepted for treatment by such a treatment facility, or if he fails to complete the treatment satisfactorily, the court will enter a judgment of conviction for a violation of paragraph (c) of subsection 1 of NRS 484.3792. Any sentence of imprisonment may be reduced by a time equal to that which he served before beginning treatment.

(3) If he completes the treatment satisfactorily, the court will enter a judgment of conviction for a violation of paragraph (b) of subsection 1 of NRS 484.3792.

**(4) The provisions of NRS 483.460 requiring the revocation of his license, permit or privilege to drive do not apply.**

5. The court shall administer the program of treatment pursuant to the procedures provided in NRS 458.320 and 458.330, except that the court:

(a) Shall not defer the sentence or set aside the conviction upon the election of treatment, except as otherwise provided in this section; and

(b) May enter a judgment of conviction and proceed as provided in paragraph (c) of subsection 1 of NRS 484.3792 for a violation of a condition ordered by the court.

6. To participate in a program of treatment, the offender must:

(a) Serve not less than 6 months of residential confinement;

(b) Install, at his own expense, a device for not less than 12 months;

(c) Not drive any vehicle unless it is equipped with a device;

(d) Agree to be subject to periodic testing for the use of alcohol or controlled substances while participating in a program of treatment; and

(e) Agree to any other conditions that the court deems necessary.

7. An offender may not apply to the court to undergo a program of treatment for alcoholism or drug abuse pursuant to this section if he has previously applied to receive treatment pursuant to this section or if he has previously been convicted of:

(a) A violation of NRS 484.3795;

(b) A violation of NRS 484.37955;

(c) A homicide resulting from driving or being in actual physical control of a vehicle while under the influence of intoxicating liquor or a controlled substance or resulting from any other conduct prohibited by NRS 484.379, 484.3795 or 484.37955;

(d) A violation of paragraph (c) of subsection 1 of NRS 484.3792;

(e) A violation of subsection 2 of NRS 484.3792; or

(f) A violation of law of any other jurisdiction that prohibits the same or similar conduct as set forth in paragraph (a), (b), (c) or (d).

8. As used in this section:

(a) "Device" has the meaning ascribed to it in NRS 484.3941.

(b) "Treatment facility" has the meaning ascribed to it in NRS 484.3793.

Sec. 8. This act becomes effective upon passage and approval.

Assemblyman Anderson moved the adoption of the amendment.

Remarks by Assemblyman Anderson.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 117.

Bill read second time.

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

Amendment No. 360.

**SUMMARY—**Makes various changes relating to ~~prisoners and parole.~~ **parole hearings.** (BDR 16-630)

AN ACT relating to convicted persons; ~~providing that certain persons participating in a hearing concerning clemency or parole who speak a language other than English and do not know the English language are entitled to the services of an interpreter at public expense; revising provisions governing the mandatory parole of certain prisoners;~~ making various ~~other~~ changes relating to parole hearings; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

~~Sections 1 and 3 of this bill provide that an applicant or a witness at a clemency hearing or a prisoner, parolee or witness at a parole hearing who speaks a language other than English and does not know the English language is entitled to the services of an interpreter at public expense. (NRS 213.055, 213.128)~~

~~Section 2 of this bill revises existing law, which provides for the mandatory parole of certain prisoners 12 months before the end of their maximum terms in certain circumstances, to provide instead for mandatory consideration of parole for such prisoners. (NRS 213.1215)~~

**Section 4** of this bill authorizes the State Board of Parole Commissioners to grant parole to a prisoner without a meeting if the Board anticipates that parole will be granted. (NRS 213.130)



**Section 5** of this bill provides that a member of the Board or a case hearing representative may recommend releasing a prisoner on parole without a hearing if certain conditions are met. **Section 5** also provides that such a recommendation remains subject to final approval by a majority of the Board. (NRS 213.133)

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

Section 1. ~~NRS 213.055 is hereby amended to read as follows:~~

~~213.055 1. An applicant or a witness at a hearing upon an application for clemency who is a person with a communications disability as defined in NRS 50.050 is entitled to the services of an interpreter at public expense in accordance with the provisions of NRS 50.050 to 50.053, inclusive.~~

~~2. An applicant or a witness at a hearing upon an application for clemency who speaks a language other than English and does not know the English language is entitled to the services of an interpreter at public expense in accordance with the provisions of NRS 50.054.~~

~~3. The [interpreter must be appointed by the] Governor or a member of the Board designated by [him.] the Governor shall appoint an interpreter whose services are required pursuant to subsection 1 or 2. (Deleted by amendment.)~~

Sec. 2. ~~NRS 213.1215 is hereby amended to read as follows:~~

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

~~(a) Has not been released on parole previously for that sentence; and~~

~~(b) Is not otherwise ineligible for parole;~~

~~he must be [released] considered by the Board for release on parole 12 months before the end of his maximum term, as reduced by any credits he has earned to reduce his sentence pursuant to chapter 209 of NRS. The Board, after considering a prisoner for release on parole pursuant to this section and determining that the prisoner will be released on parole, shall prescribe any conditions necessary for the orderly conduct of the parolee upon his release.~~

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

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

~~statement of its reasons for [denying] not considering the prisoner for release on parole.~~

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

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

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

Sec. 3. ~~[NRS 213.128 is hereby amended to read as follows:~~

~~213.128 1. A prisoner, parolee or [a] witness at the hearing of a case who is a person with a communications disability as defined in NRS 50.050 is entitled to the services of an interpreter at public expense in accordance with the provisions of NRS 50.050 to 50.053, inclusive.~~

~~2. A prisoner, parolee or witness at the hearing of a case who speaks a language other than English and does not know the English language is entitled to the services of an interpreter at public expense in accordance with the provisions of NRS 50.054.~~

~~3. The [interpreter must be appointed by the] Chairman of the Board or other person who presides at the hearing [,] shall appoint an interpreter whose services are required pursuant to subsection 1 or 2.] (Deleted by amendment.)~~

Sec. 4. NRS 213.130 is hereby amended to read as follows:

213.130 1. The Department of Corrections shall:

- (a) Determine when a prisoner sentenced to imprisonment in the state prison is eligible to be considered for parole;
- (b) Notify the [State] Board [of Parole Commissioners] of the eligibility of the prisoner to be considered for parole; and
- (c) Before a meeting to consider the prisoner for parole, compile and provide to the Board data that will assist the Board in determining whether parole should be granted.

2. If a prisoner is being considered for parole from a sentence imposed for conviction of a crime which involved the use of force or violence against a victim and which resulted in bodily harm to a victim and if original or duplicate photographs that depict the injuries of the victim or the scene of the crime were admitted at the trial of the prisoner or were part of the report of the presentence investigation and are reasonably available, a representative sample of such photographs must be included with the information submitted to the Board at the meeting. A prisoner may not bring a cause of action against the State of Nevada, its political subdivisions, agencies, boards,

commissions, departments, officers or employees for any action that is taken pursuant to this subsection or for failing to take any action pursuant to this subsection, including, without limitation, failing to include photographs or including only certain photographs. As used in this subsection, "photograph" includes any video, digital or other photographic image.

3. Meetings to consider prisoners for parole may be held semiannually or more often, on such dates as may be fixed by the Board. All meetings are quasi-judicial and must be open to the public. No rights other than those conferred pursuant to this section or pursuant to specific statute concerning meetings to consider prisoners for parole are available to any person with respect to such meetings.

4. Not later than 5 days after the date on which the Board fixes the date of the meeting to consider a prisoner for parole, the Board shall notify the victim of the prisoner who is being considered for parole of the date of the meeting and of his rights pursuant to this subsection, if the victim has requested notification in writing and has provided his current address or if the victim's current address is otherwise known by the Board. The victim of a prisoner being considered for parole may submit documents to the Board and may testify at the meeting held to consider the prisoner for parole. A prisoner must not be considered for parole until the Board has notified any victim of his rights pursuant to this subsection and he is given the opportunity to exercise those rights. If a current address is not provided to or otherwise known by the Board, the Board must not be held responsible if such notification is not received by the victim.

5. The Board may deliberate in private after a public meeting held to consider a prisoner for parole.

6. The Board of State Prison Commissioners shall provide suitable and convenient rooms or space for use of the Board.

7. If a victim is notified of a meeting to consider a prisoner for parole pursuant to subsection 4, the Board shall, upon making a final decision concerning the parole of the prisoner, notify the victim of its final decision.

8. All personal information, including, but not limited to, a current or former address, which pertains to a victim and which is received by the Board pursuant to this section is confidential.

9. The Board *may grant parole without a meeting, pursuant to NRS 213.133, but the Board* must not deny parole to a prisoner unless the prisoner has been given reasonable notice of the meeting and the opportunity to be present at the meeting. If the Board fails to provide notice of the meeting to the prisoner or to provide the prisoner with an opportunity to be present and determines that it may deny parole, the Board may reschedule the meeting.

10. During a meeting to consider a prisoner for parole, the Board shall allow the prisoner:

(a) At his own expense, to have a representative present with whom he may confer; and

(b) To speak on his own behalf or to have his representative speak on his behalf.

11. Upon making a final decision concerning the parole of the prisoner, the Board shall provide written notice to the prisoner of its decision not later than 10 working days after the meeting and, if parole is denied, specific recommendations of the Board to improve the possibility of granting parole the next time the prisoner is considered for parole, if any.

12. For the purposes of this section, “victim” has the meaning ascribed to it in NRS 213.005.

Sec. 5. NRS 213.133 is hereby amended to read as follows:

213.133 1. Except as otherwise provided in subsections 6 , ~~and~~ 7 ~~;~~ **and 8**, the Board may delegate its authority to hear, consider and act upon the parole of a prisoner and on any issue before the Board to a panel consisting of:

(a) Two or more members of the Board, two of whom constitute a quorum; or

(b) One member of the Board who is assisted by a case hearing representative.

2. No action taken by any panel created pursuant to paragraph (a) of subsection 1 is valid unless concurred in by a majority vote of those sitting on the panel.

3. The decision of a panel is subject to final approval by the affirmative action of a majority of the members appointed to the Board. Such action may be taken at a meeting of the Board ~~;~~ or without a meeting by the delivery of written approval to the *Executive* Secretary of the Board.

4. The degree of complexity of issues presented must be taken into account before the Board makes any delegation of its authority and before it determines the extent of a delegation.

5. The Board shall adopt regulations which establish the basic types of delegable cases and the size of the panel required for each type of case.

6. A hearing concerning the parole of a prisoner or any decision on an issue involving a person:

(a) Who committed a capital offense;

(b) Who is serving a sentence of imprisonment for life;

(c) Who has been convicted of a sexual offense involving the use or threat of use of force or violence;

(d) Who is a habitual criminal; or

(e) Whose sentence has been commuted by the State Board of Pardons Commissioners,

↪ must be conducted by at least three members of the Board, and action may be taken only with the concurrence of at least four members.

7. If a recommendation made by a panel deviates from the standards adopted by the Board pursuant to NRS 213.10885 or the recommendation of the Division, the Chairman must concur in the recommendation.

8. *A member of the Board or a person who has been designated as a case hearing representative in accordance with NRS 213.135 may recommend to the Board that a prisoner be released on parole without a meeting if:*

*(a) The prisoner is not serving a sentence for a crime described in subsection 6;*

*(b) The parole standards created pursuant to NRS 213.10885 suggest that parole should be granted;*

*(c) There are no current requests for notification of hearings made in accordance with subsection 4 of NRS 213.130; and*

*(d) Notice to law enforcement of the eligibility for parole of the prisoner was given pursuant to subsection 5 of NRS 213.1085, and no person objected to granting parole without a meeting during the 30-day notice period.*

9. *A recommendation made in accordance with subsection 8 is subject to final approval by the affirmative action of a majority of the members appointed to the Board. The final approval by affirmative action must not take place until the expiration of the 30-day notice period to law enforcement of the eligibility for parole of the prisoner in accordance with subsection 5 of NRS 213.1085. Such action may be taken at a meeting of the Board or without a meeting of the Board by delivery of written approval to the Executive Secretary of the Board by a majority of the members.*

Sec. 6. The amendatory provisions of ~~§~~

~~1. Section 1 of this act apply to an applicant or a witness at a hearing for clemency held on or after July 1, 2009.~~

~~2. Sections 2, sections 4 and 5 of this act apply to any prisoner who is in the custody of the Department of Corrections before, on or after July 1, 2009.~~

~~3. Section 3 of this act apply to a prisoner, parolee or witness at a hearing for parole held on or after July 1, 2009.~~

Sec. 7. 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. 148.

Bill read second time.

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

Amendment No. 245.

AN ACT relating to occupational safety; requiring employees on a construction site to receive certain health and safety training; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

**Section 10** of this bill requires: (1) supervisory employees working on a construction site to ~~obtain certification that they have completed~~ **complete** a specified 30-hour health and safety course not later than ~~60~~ **15** days after ~~commencing work on the construction site;~~ **being hired**; and (2) all other ~~employees~~ **construction workers** working on the construction site to ~~obtain similar certification regarding~~ **complete** a specified 10-hour course not later than ~~60~~ **15** days after ~~commencing work on the construction site;~~ **being hired**.

**Section 8** of this bill allows the Division of Industrial Relations of the Department of Business and Industry to adopt regulations approving courses ~~for certification. Section 9 of this bill requires the Division to issue a certification to any person who completes an approved course and provides that the certification expires after 10 years.~~ **which may be used to fulfill the requirements of section 10.**

**Section 11** of this bill requires employers to terminate the employment of an employee on a construction site who fails to provide proof of obtaining the required ~~certification~~ **training** not later than ~~60~~ **15** days after ~~commencing work;~~ **being hired**. **Section 12** of this bill provides for administrative fines for employers who continue to employ ~~uncertified~~ **certain** employees on a construction site after the ~~60~~ **15**-day period ~~if~~ **if those employees have not obtained the required training.**

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

Section 1. Chapter 618 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 12, inclusive, of this act.

Sec. 2. *As used in sections 2 to 12 of this act, inclusive, unless the context otherwise requires, the words and terms defined in sections 3 to 6 of this act, inclusive, have the meanings ascribed to them in those sections.*

Sec. 3. *"Construction site" means any location at which construction work is being commenced or is in progress.*

Sec. 3.5. *"Construction worker" means a person who actually performs physical work at a construction site:*

*1. To accomplish the construction or destruction involved in the construction project; or*

*2. Who supervises any person engaged in work described in subsection 1.*

Sec. 4. *"OSHA-10" means a 10-hour course in construction industry safety and health hazard recognition and prevention developed by the Occupational Safety and Health Administration of the United States Department of Labor.*

Sec. 5. *"OSHA-30" means a 30-hour course in construction industry safety and health hazard recognition and prevention developed by the Occupational Safety and Health Administration of the United States Department of Labor.*

Sec. 6. "Supervisory employee" means any person having authority in the interest of the employer to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward or discipline other employees or responsibility to direct them, to adjust their grievances or effectively to recommend such action, if in connection with the foregoing, the exercise of such authority is not of a merely routine or clerical nature but requires the use of independent judgment. The exercise of such authority shall not be deemed to place the employee in supervisory employee status unless the exercise of such authority occupies a significant portion of the employee's workday.

Sec. 7. The Division may adopt such regulations as are necessary to carry out the provisions of sections 2 to 12, inclusive, of this act.

Sec. 8. 1. ~~Any OSHA 10 or OSHA 30 course offered by the Division is an approved course for the purposes of certification pursuant to section 9 of this act.~~

~~2. The Division may, by regulation, approve additional OSHA-10 or OSHA-30 courses for the purposes of certification pursuant to~~ fulfilling the requirements of section 10 of this act.

2. The Division shall establish a registry to track the providers of courses approved pursuant 1.

Sec. 9. ~~1. The Division shall:~~

~~(a) Issue an OSHA 10 certification to any person who submits to the Division proof that he has completed an OSHA 10 course approved by the Division; and~~

~~(b) Issue an OSHA 30 certification to any person who submits to the Division proof that he has completed an OSHA 30 course approved by the Division.~~

~~2. A certification issued pursuant to this section expires 10 years after the date it is issued.~~ (Deleted by amendment.)

Sec. 10. 1. Not later than 15 days after the date an employee a construction worker other than a supervisory employee begins work on a construction site, is hired, the employee construction worker must obtain from the Division an OSHA-10 certification completion card issued pursuant to upon completion of a course approved by the Division pursuant to section 8 of this act.

2. Not later than 15 days after the date a supervisory employee begins work on a construction site, is hired, the supervisory employee must obtain from the Division an OSHA-30 certification completion card issued pursuant to upon completion of a course approved by the Division pursuant to section 8 of this act.

3. Any completion card used to satisfy the requirements of this section expires 5 years after the date it is issued.

Sec. 11. 1. If an employee on a construction site a construction worker other than a supervisory employee fails to present his employer with a current and valid OSHA-10 certification completion card not later than

~~60~~ 15 days after ~~beginning work on a construction site,~~ being hired, his employer shall terminate his employment.

2. If a supervisory employee on a construction site fails to present his employer with a current and valid OSHA-30 ~~certification~~ completion card not later than ~~60~~ 15 days after ~~beginning work on a construction site,~~ being hired, his employer shall terminate his employment.

Sec. 12. 1. If the Division finds that an employer has failed to terminate an employee as required by section 11 of this act, it shall:

~~1~~ (a) Upon the first violation, in lieu of any other penalty under this chapter, impose upon the employer an administrative fine of not more than \$500.

~~2~~ (b) Upon the second violation, in lieu of any other penalty under this chapter, impose upon the employer an administrative fine of not more than \$1,000.

~~3~~ (c) Upon the third and each subsequent violation, impose upon the employer the penalty ~~for~~ provided in NRS 618.635 as if the employer had committed a willful violation. ~~authorized by NRS 618.635.~~

2. For the purposes of this section, any number of violations discovered in a single day constitute a single violation.

3. Before a fine or any other penalty is imposed upon an employer pursuant to this section, the Division must follow the procedures set forth in this chapter for the issuance of a citation, including, without limitation, the procedures set forth in NRS 618.475 for notice to the employer and an opportunity for the employer to contest the violation.

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. 189.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 117.

SUMMARY—Revises provisions governing the eviction of certain tenants from property. (BDR 3-655)

AN ACT relating to property; extending the period of time that ~~a tenant has~~ certain tenants have to comply with certain notices and requirements to avoid being guilty of unlawful detainer; extending the period of time that ~~a tenant has~~ certain tenants have to comply with a notice to quit under certain circumstances; ~~extending the period of time before which certain court orders become effective;~~ and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides several circumstances under which a tenant of real property or a mobile home may be guilty of unlawful detainer.



(NRS 40.2512, 40.2514, 40.2516) For example, existing law provides that a tenant of real property is guilty of unlawful detainer if he: (1) fails to pay his rent; (2) fails to comply with a written notice directing him to either pay the rent or surrender the property; and (3) remains on the property for at least 5 days after the notice is served upon him. (NRS 40.2512) **Section 1** of this bill ~~amends existing law to extend~~ **extends** the 5-day period to 10 days **for residential premises**, so that such a tenant is not guilty of unlawful detainer until 10 days after the notice is served and he has failed to comply with the notice.

~~{ Existing law also provides that a tenant of real property or a mobile home is guilty of unlawful detainer if he takes certain actions, including assigning or subletting the property in violation of the lease, and he remains in possession of the property after a 3 days' notice to quit has been served upon him. (NRS 40.2514) Section 2 of this bill amends existing law to extend the 3 days' notice to quit to a 5 days' notice to quit. Section 6 of this bill makes a similar change with respect to cases in which the property has been sold. (NRS 40.255) }~~

In addition, existing law provides that a tenant of real property is guilty of unlawful detainer if he: (1) fails to perform certain conditions of the lease; (2) fails to comply with a written notice directing him to perform the conditions or surrender the property; and (3) remains on the property for at least 5 days after the notice is served upon him. Further, existing law provides that the tenant or subtenant may save the lease from forfeiture by performing the conditions within 3 days after the notice is served. (NRS 40.2516) **Section 3** of this bill ~~amends existing law to extend,~~ **extends** from 5 days to 10 days, the period during which such a tenant or subtenant **of residential premises** may remain on the property before becoming guilty of unlawful detainer. **Section 3** also gives the tenant and subtenant **of residential premises** 7 days, rather than 3 days, to perform the condition and save the lease from forfeiture.

Existing law provides procedures for summary evictions and exclusions of certain tenants who fail to pay their rent. (NRS 40.253) Specifically, existing law authorizes a landlord to serve such a tenant with written notice directing the tenant to pay the rent or surrender the property within 5 days after service of the notice. **Section 4** of this bill extends that 5-day period to 10 days after service. ~~{~~ **for residential premises**. Existing law also provides that, under certain circumstances, the landlord may obtain an order from the court directing the sheriff to remove the tenant within 24 hours after receiving the order. **Section 4** revises existing law to provide that **for residential premises**, the sheriff may not remove the tenant earlier than 5 days after the sheriff receives the order, unless the rent is reserved by the week or less, in which case the sheriff may not remove the tenant earlier than 2 days after receipt of the order. Finally, **section 4** provides that ~~{if} the court issues an order for summary removal of the tenant, the order will not take effect for a certain period of time during which if the tenant pays the rent and submits~~

~~proof of the payment to the court, the order will not take effect at all.] is not required to hold a hearing concerning an alleged unlawful detainer until certain conditions are met, including that the time provided in this section for a tenant to pay rent or surrender the premises has expired.~~  
(NRS 40.253)

~~f Section 5 of this bill amends existing law to extend the period during which a tenant may file an affidavit contesting an unlawful detainer under certain circumstances. (NRS 40.254)]~~

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

Section 1. NRS 40.2512 is hereby amended to read as follows:

40.2512 A tenant of real property or a mobile home for a term less than life is guilty of an unlawful detainer when he continues in possession, in person or by subtenant, after default in the payment of any rent and after a notice in writing, requiring in the alternative the payment of the rent or the surrender of the detained premises, remains uncomplied with for a period of 5 days, or in the case of [a mobile home lot,] residential premises, 10 days after service thereof. The notice may be served at any time after the rent becomes due.

Sec. 2. ~~NRS 40.2514 is hereby amended to read as follows:~~

~~40.2514 A tenant of real property or a mobile home for a term less than life is guilty of an unlawful detainer when he:~~

~~1. Assigns or sublets the leased premises contrary to the covenants of the lease;~~

~~2. Commits or permits waste thereon;~~

~~3. Sets up or carries on therein or thereon any unlawful business;~~

~~4. Suffers, permits or maintains on or about the premises any nuisance that consists of conduct or an ongoing condition which constitutes an unreasonable obstruction to the free use of property and causes injury and damage to other tenants or occupants of that property or adjacent buildings or structures; or~~

~~5. Violates any of the provisions of NRS 453.011 to 453.552, inclusive, except NRS 453.336, therein or thereon;~~

~~and remains in possession after service upon him of [3] 5 days' notice to quit.) (Deleted by amendment.)~~

Sec. 3. NRS 40.2516 is hereby amended to read as follows:

40.2516 A tenant of real property or a mobile home for a term less than life is guilty of an unlawful detainer when he continues in possession, in person or by subtenant, after a neglect or failure to perform any condition or covenant of the lease or agreement under which the property or mobile home is held, other than those mentioned in NRS 40.250 to 40.252, inclusive, and NRS 40.254, and after notice in writing, requiring in the alternative the performance of the condition or covenant or the surrender of the property, served upon him, and, if there is a subtenant in actual occupation of the

premises, also upon the subtenant, remains uncomplied with for 5 days or, in the case of residential premises, 10 days after the service thereof. Within 3 days or, in the case of residential premises, 7 days after the service, the tenant, or any subtenant in actual occupation of the premises, or any mortgagee of the term, or other person, interested in its continuance, may perform the condition or covenant and thereby save the lease from forfeiture, ~~but~~ but if the covenants and conditions of the lease, violated by the lessee, cannot afterwards be performed, then no notice need be given.

Sec. 4. NRS 40.253 is hereby amended to read as follows:

40.253 1. Except as otherwise provided in subsection 10, in addition to the remedy provided in NRS 40.2512 and 40.290 to 40.420, inclusive, when the tenant of any dwelling, apartment, mobile home, recreational vehicle or commercial premises with periodic rent reserved by the month or any shorter period is in default in payment of the rent, the landlord or his agent, unless otherwise agreed in writing, may serve or have served a notice in writing, requiring in the alternative the payment of the rent or the surrender of the premises:

(a) At or before noon of the fifth full day or, in the case of residential premises, 10th full day following the day of service; or

(b) If the landlord chooses not to proceed in the manner set forth in paragraph (a) and the rent is reserved by a period of 1 week or less and the tenancy has not continued for more than 45 days, at or before noon of the fourth full day following the day of service.

↪ As used in this subsection, “day of service” means the day the landlord or his agent personally delivers the notice to the tenant. If personal service was not so delivered, the “day of service” means the day the notice is delivered, after posting and mailing pursuant to subsection 2, to the sheriff or constable for service if the request for service is made before noon. If the request for service by the sheriff or constable is made after noon, the “day of service” shall be deemed to be the day next following the day that the request is made for service by the sheriff or constable.

2. A landlord or his agent who serves a notice to a tenant pursuant to paragraph (b) of subsection 1 shall attempt to deliver the notice in person in the manner set forth in paragraph (a) of subsection 1 of NRS 40.280. If the notice cannot be delivered in person, the landlord or his agent:

(a) Shall post a copy of the notice in a conspicuous place on the premises and mail the notice by overnight mail; and

(b) After the notice has been posted and mailed, may deliver the notice to the sheriff or constable for service in the manner set forth in subsection 1 of NRS 40.280. The sheriff or constable shall not accept the notice for service unless it is accompanied by written evidence, signed by the tenant when he took possession of the premises, that the landlord or his agent informed the tenant of the provisions of this section which set forth the lawful procedures for eviction from a short-term tenancy. Upon acceptance, the sheriff or

constable shall serve the notice within 48 hours after the request for service was made by the landlord or his agent.

3. A notice served pursuant to subsection 1 or 2 must:

(a) Identify the court that has jurisdiction over the matter; and  
(b) Advise the tenant of his right to contest the matter by filing, within the time specified in subsection 1 for the payment of the rent or surrender of the premises, an affidavit with the court that has jurisdiction over the matter stating that he has tendered payment or is not in default in the payment of the rent.

4. If the tenant files such an affidavit at or before the time stated in the notice, the landlord or his agent, after receipt of a file-stamped copy of the affidavit which was filed, shall not provide for the nonadmittance of the tenant to the premises by locking or otherwise.

5. Upon noncompliance with the notice:

(a) The landlord or his agent may apply by affidavit of complaint for eviction to the justice court of the township in which the dwelling, apartment, mobile home or commercial premises are located or to the district court of the county in which the dwelling, apartment, mobile home or commercial premises are located, whichever has jurisdiction over the matter. ~~[The]~~ **If the tenant is in possession of commercial premises, the court may thereupon issue an order directing the sheriff or constable of the county to remove the tenant within 24 hours [not earlier than 5 days] after receipt of the order. If the tenant is in possession of residential premises, the court may thereupon issue an order directing the sheriff or constable of the county to remove a tenant not earlier than 5 days after receipt of the order or, if the rent is reserved by a period of 1 week or less, not earlier than 2 days after receipt of the order.** The affidavit must state or contain:

- (1) The date the tenancy commenced.
- (2) The amount of periodic rent reserved.
- (3) The amounts of any cleaning, security or rent deposits paid in advance, in excess of the first month's rent, by the tenant.
- (4) The date the rental payments became delinquent.
- (5) The length of time the tenant has remained in possession without paying rent.
- (6) The amount of rent claimed due and delinquent.
- (7) A statement that the written notice was served on the tenant in accordance with NRS 40.280.
- (8) A copy of the written notice served on the tenant.
- (9) A copy of the signed written rental agreement, if any.

(b) Except when the tenant has timely filed the affidavit described in subsection 3 and a file-stamped copy of it has been received by the landlord or his agent, and except when the landlord is prohibited pursuant to NRS 118A.480, the landlord or his agent may, in a peaceable manner, provide for the nonadmittance of the tenant to the premises by locking or otherwise.

6. Upon the filing by the tenant of the affidavit permitted in subsection 3, regardless of the information contained in the affidavit, ~~and~~ the filing by the landlord of the affidavit permitted by subsection 5 ~~and~~ **and the expiration of the time specified in subsection 1 for the payment of rent or surrender of the premises,** the justice court or the district court shall hold a hearing, after service of notice of the hearing upon the parties, to determine the truthfulness and sufficiency of any affidavit or notice provided for in this section. If the court determines that ~~there~~:

(a) **There** is no legal defense as to the alleged unlawful detainer and the tenant is guilty of an unlawful detainer, the court may issue a summary order for removal of the tenant or an order providing for the nonadmittance of the tenant. ~~[If the court determines that there] [Except as otherwise provided in this paragraph, the order becomes effective at noon on the date set forth in the notice served pursuant to subsection 1 or 2 or at noon on the fifth day after the order is issued, whichever is later. The order will not become effective if the tenant tenders payment of the rent and submits proof of the payment to the court before the order is to become effective pursuant to this paragraph.]~~

(b) **There** is a legal defense as to the alleged unlawful detainer, the court shall refuse to grant either party any relief ~~and~~ and, except as otherwise provided in this subsection, shall require that any further proceedings be conducted pursuant to NRS 40.290 to 40.420, inclusive.

↪ The issuance of a summary order for removal of the tenant does not preclude an action by the tenant for any damages or other relief to which he may be entitled. If the alleged unlawful detainer was based upon subsection 5 of NRS 40.2514, the refusal by the court to grant relief does not preclude the landlord thereafter from pursuing an action for unlawful detainer in accordance with NRS 40.251.

7. The tenant may, upon payment of the appropriate fees relating to the filing and service of a motion, file a motion with the court, on a form provided by the clerk of the court, to dispute the amount of the costs, if any, claimed by the landlord pursuant to NRS 118A.460 for the inventory, moving and storage of personal property left on the premises. The motion must be filed within 20 days after the summary order for removal of the tenant or the abandonment of the premises by the tenant, or within 20 days after:

(a) The tenant has vacated or been removed from the premises; and

(b) A copy of those charges has been requested by or provided to the tenant,

↪ whichever is later.

8. Upon the filing of a motion pursuant to subsection 7, the court shall schedule a hearing on the motion. The hearing must be held within 10 days after the filing of the motion. The court shall affix the date of the hearing to the motion and order a copy served upon the landlord by the sheriff, constable or other process server. At the hearing, the court may:

(a) Determine the costs, if any, claimed by the landlord pursuant to NRS 118A.460, and any accumulating daily costs; and

(b) Order the release of the tenant's property upon the payment of the charges determined to be due or if no charges are determined to be due.

9. A landlord shall not refuse to accept rent from a tenant that is submitted after the landlord or his agent has served or had served a notice pursuant to subsection 1 if the refusal is based on the fact that the tenant has not paid collection fees, attorney's fees or other costs other than rent, a reasonable charge for late payments of rent or dishonored checks, or a security. As used in this subsection, "security" has the meaning ascribed to it in NRS 118A.240.

10. This section does not apply to the tenant of a mobile home lot in a mobile home park or to the tenant of a recreational vehicle lot in an area of a mobile home park in this State other than an area designated as a recreational vehicle lot pursuant to the provisions of subsection 6 of NRS 40.215.

Sec. 5. ~~NRS 40.254 is hereby amended to read as follows:~~

~~40.254 Except as otherwise provided by specific statute, in addition to the remedy provided in NRS 40.251 and in NRS 40.290 to 40.420, inclusive, when the tenant of a dwelling unit which is subject to the provisions of chapter 118A of NRS, part of a low-rent housing program operated by a public housing authority, a mobile home or a recreational vehicle is guilty of an unlawful detainer, the landlord is entitled to the summary procedures provided in NRS 40.253 except that:~~

~~1. Written notice to surrender the premises must:~~

~~(a) Be given to the tenant in accordance with the provisions of NRS 40.280;~~

~~(b) Advise the tenant of the court that has jurisdiction over the matter; and~~

~~(c) Advise the tenant of his right to contest the notice by filing within [5] 10 days an affidavit with the court that has jurisdiction over the matter that he is not guilty of an unlawful detainer.~~

~~2. The affidavit of the landlord or his agent submitted to the justice court or the district court must contain:~~

~~(a) The date when the tenancy commenced, the term of the tenancy [,] and, if any, a copy of the rental agreement.~~

~~(b) The date when the tenancy or rental agreement allegedly terminated.~~

~~(c) The date when the tenant became subject to the provisions of NRS 40.251 to 40.2516, inclusive, together with any supporting facts.~~

~~(d) The date when the written notice was given, a copy of the notice and a statement that notice was served in accordance with NRS 40.280.~~

~~(e) A statement that the claim for relief was authorized by law.~~

~~3. If the tenant is found guilty of unlawful detainer as a result of his violation of any of the provisions of NRS 453.011 to 453.552, inclusive, except NRS 453.336, the landlord is entitled to be awarded any reasonable attorney's fees incurred by the landlord or his agent as a result of a hearing, if~~

~~any, held pursuant to subsection 6 of NRS 40.253 wherein the tenant contested the eviction.] (Deleted by amendment.)~~

Sec. 6. ~~[NRS 40.255 is hereby amended to read as follows:~~

~~40.255 1. Except as *otherwise* provided in subsection 2, in any of the following cases, a person who holds over and continues in possession of real property or a mobile home after a [3 day] *5 day* written notice to quit has been served upon him, and also upon any subtenant in actual occupation of the premises, pursuant to NRS 40.280, may be removed as prescribed in NRS 40.290 to 40.420, inclusive:~~

~~(a) Where the property or mobile home has been sold under an execution against him or a person under whom he claims, and the title under the sale has been perfected;~~

~~(b) Where the property or mobile home has been sold upon the foreclosure of a mortgage, or under an express power of sale contained therein, executed by him or a person under whom he claims, and the title under the sale has been perfected;~~

~~(c) Where the property or mobile home has been sold under a power of sale granted by NRS 107.080 to the trustee of a deed of trust executed by such person or a person under whom he claims, and the title under such sale has been perfected; or~~

~~(d) Where the property or mobile home has been sold by him or a person under whom he claims, and the title under the sale has been perfected.~~

~~2. This section does not apply to the tenant of a mobile home lot in a mobile home park.] (Deleted by amendment.)~~

Sec. 7. This act becomes effective upon passage and approval.

Assemblyman Segerblom moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

#### MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Anderson moved that upon return from the printer Assembly Bill No. 189 be placed on the Chief Clerk's desk.

Motion carried.

#### SECOND READING AND AMENDMENT

Assembly Bill No. 209.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 398.

AN ACT relating to driving under the influence; ~~removing the discretion of a court to choose not to order]~~ **requiring** an offender convicted of certain offenses relating to driving under the influence to attend a **live** meeting of a panel of victims in person; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

This bill ~~removes the discretion of a court to choose not to order~~ **requires** an offender who is convicted of an offense relating to driving under the influence to attend a **live** meeting of a panel of victims ~~regardless of the distance of the meeting from an offender's residence.~~ **in person, unless such a meeting is not available within 60 miles of the offender's residence. (NRS 484.3797)**

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

Section 1. NRS 484.3797 is hereby amended to read as follows:

484.3797 1. The judge or judges in each judicial district shall cause the preparation and maintenance of a list of the panels of persons who:

(a) Have been injured or had members of their families or close friends injured or killed by a person who was driving or in actual physical control of a vehicle while under the influence of intoxicating liquor or a controlled substance or who was engaging in any other conduct prohibited by NRS 484.379, 484.3795, 484.37955 or 484.379778 or a law of any other jurisdiction that prohibits the same or similar conduct; and

(b) Have, by contacting the judge or judges in the district, expressed their willingness to discuss collectively the personal effect of those crimes.

↪ The list must include the name and telephone number of the person to be contacted regarding each such panel and a schedule of times and locations of the meetings of each such panel. The judge or judges shall establish, in cooperation with representatives of the members of the panels, a fee, if any, to be paid by defendants who are ordered to attend a meeting of the panel. The amount of the fee, if any, must be reasonable. The panel may not be operated for profit.

2. Except as otherwise provided in this subsection, if ~~##~~ a defendant pleads guilty or guilty but mentally ill to, or is found guilty or guilty but mentally ill of, any violation of NRS 484.379, 484.3795, 484.37955 or 484.379778, the court shall, in addition to imposing any other penalties provided by law, order the defendant to:

(a) Attend ~~in~~ **in person**, at the defendant's expense, a **live** meeting of a panel of persons who have been injured or had members of their families or close friends injured or killed by a person who was driving or in actual physical control of a vehicle while under the influence of intoxicating liquor or a controlled substance or who was engaging in any other conduct prohibited by NRS 484.379, 484.3795, 484.37955 or 484.379778 or a law of any other jurisdiction that prohibits the same or similar conduct, in order to have the defendant understand the effect such a crime has on other persons; and

(b) Pay the fee, if any, established by the court pursuant to subsection 1.

↪ The court may, but is not required to, order the defendant to attend such a meeting if one is not available within 60 miles of the defendant's residence.



3. A person ordered to attend a meeting pursuant to subsection 2 shall, after attending the meeting, present evidence or other documentation satisfactory to the court that he attended the meeting and remained for its entirety.

Assemblyman Segerblom moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 238.

Bill read second time.

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

Amendment No. 361.

SUMMARY—~~Provides that persons who are convicted of certain offenses involving pandering or prostitution of a child are subject to lifetime supervision.~~ **Increases the penalty for soliciting a child for prostitution.** (BDR ~~[14-177]~~ **15-177**)

AN ACT relating to crimes; ~~providing that persons who are convicted of certain offenses involving pandering or prostitution of a child are subject to lifetime supervision;~~ **increasing the penalty for soliciting a child for prostitution;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

~~Existing law provides that a person is subject to lifetime supervision, following probation, imprisonment or parole, if the person is convicted of certain sexual offenses. (NRS 176.0931) This bill revises the list of such sexual offenses for which a person is subject to lifetime supervision to include the following offenses relating to pandering and prostitution, if the victim of the offense is less than 18 years of age when the offense is committed: (1) pandering, by inducing a person to become a prostitute through threats or other actions; (2) pandering, by placing a spouse in a house of prostitution through force, fraud, intimidation or threats; (3) living from the earnings of a prostitute; (4) pandering, by detaining a person in a house of prostitution because of any debt; and (5) pandering, by furnishing transportation to induce a person to become a prostitute or engage in prostitution. (NRS 201.300-201.340).~~ **Existing law provides that any person who engages in solicitation for prostitution is guilty of a misdemeanor. (NRS 201.354) This bill provides that a person who solicits a child for prostitution is guilty of a category E felony.**

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 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 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.~~

~~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.0257;~~

~~(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], **201.300 to 201.340, inclusive, if the victim of the offense is less than 18 years of age when the offense is committed,** NRS 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. (Deleted by amendment.)~~

**Sec. 1.5. NRS 201.354 is hereby amended to read as follows:**

201.354 1. It is unlawful for any person to engage in prostitution or solicitation therefor, except in a licensed house of prostitution.

2. ~~Any~~ **Except as otherwise provided in subsection 3, a** person who violates subsection 1 is guilty of a misdemeanor.

**3. A person who violates subsection 1 by soliciting a child for prostitution is guilty of a category E felony and shall be punished as provided in NRS 193.130.**

~~Sec. 2. [The amendatory provisions of this act apply to offenses committed on or after October 1, 2009.] (Deleted by amendment.)~~

Assemblyman Horne moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 239.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 61.

~~SUMMARY—Revises provisions relating to habitual criminals; ~~and~~ ~~revises~~ ~~provisions~~ ~~relating~~ ~~to~~ ~~habitual~~ ~~felons~~ ~~and~~ ~~habitually~~ ~~fraudulent~~ ~~felons.~~ (BDR 15-9)~~

~~AN ACT relating to crimes; revising provisions relating to habitual criminals; ~~and~~ ~~revising~~ ~~provisions~~ ~~relating~~ ~~to~~ ~~habitual~~ ~~criminals~~; ~~and~~ ~~providing~~ ~~other~~ ~~matters~~ ~~properly~~ ~~relating~~ ~~thereto.~~~~

Legislative Counsel's Digest:

Existing law generally authorizes a prosecuting attorney to prosecute a person as a habitual criminal, punishable as a category B felony, if the person: (1) is convicted of petit larceny, a crime which involves fraud or the intent to defraud, or any felony; and (2) has previously been convicted two times of a felony or three times of petit larceny or certain other crimes involving fraud or the intent to defraud. ~~[Section 1 of this bill provides that a~~

~~person may be prosecuted as a habitual criminal, punishable as a category B felony, if he is convicted of a felony and has previously been convicted three times, rather than two times, of a felony. Section 1 also] **This bill** removes the provisions concerning convictions and prior convictions for petit larceny or certain crimes involving fraud or the intent to defraud. **Thus, a person may be prosecuted as a habitual criminal, punishable as a category B felony, if he is convicted of a felony and has previously been convicted two times of a felony.** (NRS 207.010)~~

Existing law provides that a person may be prosecuted as a habitual criminal, punishable as a category A felony, if the person: (1) is convicted of a felony; and (2) has previously been convicted three times of a felony or five times of petit larceny or certain other crimes which involve fraud or the intent to defraud. ~~[(NRS 207.010) Section 1 of this bill provides that such a person may be prosecuted as a habitual criminal, punishable as a category A felony, if he has previously been convicted five times, rather than three times, of a felony. Section 1 also] **This bill** removes the provisions concerning prior convictions for petit larceny or certain crimes involving fraud or the intent to defraud. **Thus, a person may be prosecuted as a habitual criminal, punishable as a category A felony, if he is convicted of a felony and has previously been convicted three times of a felony.** (NRS 207.010) ~~[Further, section 1 eliminates life without the possibility of parole as an option for sentencing for a conviction as a habitual criminal punishable as a category A felony. Finally, section 1 prohibits a trial judge from adjudicating a person as a habitual criminal, whether punishable as a category A or B felony, unless the person has served at least one prison term in a state or federal penal institution. (NRS 207.010)]~~~~

~~Existing law provides that a person is a habitual felon if the person: (1) has been convicted of one of certain enumerated felonies; and (2) before the commission of that felony, the person was convicted two times of a felony included in those enumerated felonies. (NRS 207.012) Section 2 of this bill makes it discretionary rather than mandatory for a prosecuting attorney to prosecute a person as a habitual felon. Section 2 also makes it discretionary rather than prohibited for a trial judge to dismiss a habitual felon count in an indictment or information. (NRS 207.012)]~~

~~Existing law provides that a person is a habitually fraudulent felon if: (1) the person has been convicted of a felony which involves fraud or the intent to defraud an older person, a person with a mental disability or a vulnerable person; and (2) before the commission of that felony, the person was convicted two times of a felony which involves fraud or the intent to defraud an older person, a person with a mental disability or a vulnerable person. (NRS 207.014) Section 3 of this bill amends the law in a manner similar to section 2 of this bill with regard to habitually fraudulent felons, making it discretionary rather than mandatory for a prosecuting attorney to prosecute a person as such a felon and making it discretionary rather than prohibited for a~~

~~trial judge to dismiss a habitually fraudulent felon count in an indictment or information. (NRS 207.014)]~~

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

Section 1. NRS 207.010 is hereby amended to read as follows:

207.010 1. Unless the person is prosecuted pursuant to NRS 207.012 or 207.014, a person convicted in this State of:

(a) Any ~~[crime of which fraud or intent to defraud is an element, or of petit larceny, or of any]~~ felony, who has previously been two ~~three~~ times convicted, whether in this State or elsewhere, of any crime which under the laws of the situs of the crime or of this State would amount to a felony ~~[- or who has previously been three times convicted, whether in this State or elsewhere, of petit larceny, or of any misdemeanor or gross misdemeanor of which fraud or intent to defraud is an element,]~~ is a habitual criminal and shall be punished for a category B felony by imprisonment in the state prison for a minimum term of not less than 5 years and a maximum term of not more than 20 years.

(b) Any felony, who has previously been three ~~five~~ times convicted, whether in this State or elsewhere, of any crime which under the laws of the situs of the crime or of this State would amount to a felony ~~[- or who has previously been five times convicted, whether in this State or elsewhere, of petit larceny, or of any misdemeanor or gross misdemeanor of which fraud or the intent to defraud is an element,]~~ is a habitual criminal and shall be punished for a category A felony by imprisonment in the state prison:

(1) For life without the possibility of parole;

(2) For life with the possibility of parole, with eligibility for parole beginning when a minimum of 10 years has been served; or

(3) ~~(2)~~ For a definite term of 25 years, with eligibility for parole beginning when a minimum of 10 years has been served.

2. It is within the discretion of the prosecuting attorney whether to include a count under this section in any information or file a notice of habitual criminality if an indictment is found. The trial judge may, at his discretion, dismiss a count under this section which is included in any indictment or information.

~~f 3. A trial judge shall not adjudicate a person as a habitual criminal unless the person has served a prior prison term in any state or federal penal institution.]~~

Sec. 2. ~~[NRS 207.012 is hereby amended to read as follows:~~

~~207.012 1. A person who:~~

~~(a) Has been convicted in this State of a felony listed in subsection 2; and~~

~~(b) Before the commission of that felony, was twice convicted of any crime which under the laws of the situs of the crime or of this State would be a felony listed in subsection 2, whether the prior convictions occurred in this State or elsewhere;~~

~~is a habitual felon and shall be punished for a category A felony by imprisonment in the state prison:~~

- ~~(1) For life without the possibility of parole;~~
- ~~(2) For life with the possibility of parole, with eligibility for parole beginning when a minimum of 10 years has been served; or~~
- ~~(3) For a definite term of 25 years, with eligibility for parole beginning when a minimum of 10 years has been served.~~

~~2. The district attorney shall *It is within the discretion of the prosecuting attorney whether to* include a count under this section in any information or [shall] file a notice of habitual felon if an indictment is found, if each prior conviction and the alleged offense committed by the accused constitutes a violation of subparagraph (1) of paragraph (a) of subsection 1 of NRS 193.330, NRS 199.160, 199.500, 200.030, 200.310, 200.340, 200.366, 200.380, 200.390, subsection 3 or 4 of NRS 200.400, NRS 200.410, subsection 3 of NRS 200.450, subsection 5 of NRS 200.460, NRS 200.463, 200.464, 200.465, 200.467, 200.468, subsection 1, paragraph (a) of subsection 2 or subparagraph (2) of paragraph (b) of subsection 2 of NRS 200.508, NRS 200.710, 200.720, 201.230, 201.450, 202.170, 202.270, subsection 2 of NRS 202.780, paragraph (b) of subsection 2 of NRS 202.820, subsection 2 of NRS 202.830, NRS 205.010, subsection 4 of NRS 205.060, subsection 4 of NRS 205.067, NRS 205.075, 207.400, paragraph (a) of subsection 1 of NRS 212.090, NRS 453.3325, 453.333, 484.219, 484.3795 or 484.37955.~~

~~3. The trial judge may [not], *at his discretion*, dismiss a count under this section that is included in an indictment or information.] (Deleted by amendment.)~~

Sec. 3. ~~[NRS 207.014 is hereby amended to read as follows:~~

~~207.014—1. A person who:~~

- ~~(a) Has been convicted in this State of any felony committed on or after July 1, 1995, of which fraud or intent to defraud is an element; and~~
- ~~(b) Has previously been two times convicted, whether in this State or elsewhere, of any felony of which fraud or intent to defraud is an element before the commission of the felony under paragraph (a);~~

~~is a habitually fraudulent felon and shall be punished for a category B felony by imprisonment in the state prison for a minimum term of not less than 5 years and a maximum term of not more than 20 years, if the victim of each offense was an older person, a person with a mental disability or a vulnerable person:~~

~~2. [The] *It is within the discretion of the* prosecuting attorney [shall] *whether to* include a count under this section in any information or [shall] file a notice of habitually fraudulent felon if an indictment is found, if the prior convictions and the alleged offense committed by the accused are felonies of which fraud or intent to defraud is an element and the victim of each offense was:~~

- ~~(a) An older person;~~

~~(b) A person with a mental disability; or~~

~~(c) A vulnerable person.~~

~~3. The trial judge may [not], *at his discretion*, dismiss a count under this section that is included in an indictment or information.~~

~~4. As used in this section:~~

~~(a) "Older person" means a person who is:~~

~~(1) Sixty five years of age or older if the crime was committed before October 1, 2003.~~

~~(2) Sixty years of age or older if the crime was committed on or after October 1, 2003.~~

~~(b) "Person with a mental disability" means a person who has a mental impairment which is medically documented and substantially limits one or more of the person's major life activities. The term includes, but is not limited to, a person who:~~

~~(1) Suffers from mental retardation;~~

~~(2) Suffers from a severe mental or emotional illness;~~

~~(3) Has a severe learning disability; or~~

~~(4) Is experiencing a serious emotional crisis in his life as a result of the fact that he or a member of his immediate family has a catastrophic illness.~~

~~(c) "Vulnerable person" has the meaning ascribed to it in subsection 7 of NRS 200.5092.1. (Deleted by amendment.)~~

Assemblyman Segerblom moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 259.

Bill read second time.

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

Amendment No. 253.

AN ACT relating to criminal offenders; revising provisions relating to the residential confinement of certain offenders; authorizing a court to provide for the forfeiture of credits for good behavior of a ~~parolee or a~~ probationer under certain circumstances; revising provisions concerning certain credits to be applied to a period of probation or parole; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides that an offender who has been convicted of a category B felony is not eligible for residential confinement. **Section 1** of this bill requires the standards adopted by the Director of the Department of Corrections concerning eligibility for residential confinement to provide that an offender who has been convicted of a category B felony is eligible for residential confinement if: (1) the offender is not otherwise ineligible for residential confinement; and (2) the Director makes a written finding that

assigning the offender to residential confinement is not likely to pose a threat to the safety of the public. (NRS 209.392)

Existing law authorizes the State Board of Parole Commissioners to provide for the forfeiture of credits for good behavior of a parolee who violates a condition of his parole and, as appropriate, for the restoration of such credits. ~~[Section 2 of this bill authorizes a court to also provide for the forfeiture and restoration of such credits. (NRS 213.1518)]~~ **Section 4** of this bill ~~[similarly]~~ authorizes a court to provide for the forfeiture of credits for good behavior of a probationer who violates a condition of his probation and, as appropriate, for the restoration of such credits.

Existing law provides that an offender who is sentenced to serve a period of probation for a felony and who demonstrates certain good behavior must be allowed certain deductions from his period of probation. **Section 5** of this bill amends existing law to provide generally that a person who is sentenced to a period of probation for a felony or a gross misdemeanor must be allowed a deduction from his period of probation of: (1) ten days for each month he serves and is current on any fee to defray the cost of his supervision and on any fines, fees and restitution ordered by the court; and (2) an additional 10 days for each month he serves and is actively involved in employment or enrolled in certain programs. (NRS 176A.500)

Existing law authorizes a court to order a probationer who violates a condition of his probation to a term of residential confinement and to direct the person to be confined, for not more than 6 months, to a community correctional center, conservation camp, facility of minimum security or other place of confinement operated by the Department of Corrections for the custody, care or training of offenders, other than a prison designed to house 125 or more offenders within a secure perimeter. **Section 6** of this bill authorizes a court to direct such a person who was placed on probation for a felony conviction to be confined to any of those facilities and institutions, including a prison designed to house 125 or more offenders within a secure perimeter. Further, **section 6** of this bill authorizes the Department of Corrections to select the facility or institution in which to place the person. (NRS 176A.660)

**Section 3** of this bill amends chapter 213 of NRS, which governs parolees in a manner similar to **section 6** of this bill. **Section 3** provides that a parolee who is returned to confinement in a facility or institution of the Department of Corrections is authorized to earn credits to reduce his sentence pursuant to chapter 209 of NRS, with the exception of certain credits which are earned by an offender who is released on parole. (NRS 213.152)

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

Section 1. NRS 209.392 is hereby amended to read as follows:

209.392 1. Except as otherwise provided in NRS 209.3925 and 209.429, the Director may, at the request of an offender who is eligible for



residential confinement pursuant to the standards adopted by the Director pursuant to subsection 3 and who has:

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

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

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

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

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

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

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

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

(c) Has been convicted of:

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

(2) A sexual offense that is punishable as a felony; or

(3) ~~[A]~~ **Except as otherwise provided in subsection 4, a** category A or B felony;

(d) Has more than one prior conviction for any felony in this State or any offense in another state that would be a felony if committed in this State, not including a violation of NRS 484.379, 484.3795, 484.37955 or 484.379778; or

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

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

4. *The standards adopted by the Director pursuant to subsection 3 must provide that an offender who has been convicted of a category B felony is eligible for assignment to the custody of the Division of Parole and Probation to serve a term of residential confinement pursuant to this section if:*

(a) *The offender is not otherwise ineligible pursuant to subsection 3 for an assignment to serve a term of residential confinement; and*

(b) *The Director makes a written finding that such an assignment of the offender is not likely to pose a threat to the safety of the public.*

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

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

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

~~{5.}~~ 6. The assignment of an offender to the custody of the Division of Parole and Probation pursuant to this section shall be deemed:

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

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

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

~~{6.}~~ 7. An offender does not have a right to be assigned to the custody of the Division of Parole and Probation pursuant to this section, or to remain in that custody after such an assignment, and it is not intended that the provisions of this section or of NRS 213.371 to 213.410, inclusive, create any right or interest in liberty or property or establish a basis for any cause of action against the State, its political subdivisions, agencies, boards, commissions, departments, officers or employees.

Sec. 2. ~~[NRS 213.1518 is hereby amended to read as follows:~~

~~213.1518 1. If a parolee violates a condition of his parole, he forfeits all or part of the credits for good behavior earned by him pursuant to chapter 209 of NRS after his release on parole, in the discretion of the Board [.] or a court of competent jurisdiction before which the parolee is brought.~~

~~2. A forfeiture may be made only by the Board or a court described in subsection 1 after proof of the violation and notice to the parolee.~~

~~3. The Board or a court described in subsection 1 may restore credits forfeited for such reasons as it considers proper.~~

~~4. If a court described in subsection 1 provides for the forfeiture or restoration of credits for good behavior of a parolee pursuant to this section, the clerk of the court shall notify the Chief of the forfeiture or restoration of credits.~~

~~5. The Chief shall report to the Director of the Department of Corrections any forfeiture or restoration of credits pursuant to this section. (Deleted by amendment.)~~

Sec. 3. NRS 213.152 is hereby amended to read as follows:

213.152 1. Except as otherwise provided in subsection ~~{6,}~~ 7, if a parolee violates a condition of his parole, the Board may order him to a term of residential confinement in lieu of suspending his parole and returning him to confinement. In making this determination, the Board shall consider the criminal record of the parolee and the seriousness of the crime committed.

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

(a) Require:

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

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

(b) Require the parolee to be confined to a facility *or institution* of the Department of Corrections ~~{approved by the Board}~~ for a period not to exceed 6 months. *The Department may select the facility or institution in which to place the parolee.*

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

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

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

↪ must not be used.

4. *A parolee who is confined to a facility or institution of the Department of Corrections pursuant to paragraph (b) of subsection 2:*

*(a) May earn credits to reduce his sentence pursuant to chapter 209 of NRS; and*

*(b) Shall not be deemed to be released on parole for purposes of NRS 209.447 or 209.4475 during the period of that confinement.*

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

~~{5-}~~ 6. A term of residential confinement may not be longer than the unexpired maximum term of the original sentence of the parolee.

~~{6-}~~ 7. The Board shall not order a parolee who is serving a sentence for committing a battery which constitutes domestic violence pursuant to NRS 33.018 to a term of residential confinement unless the Board makes a finding that the parolee is not likely to pose a threat to the victim of the battery.

~~{7-}~~ 8. As used in this section ~~[,“facility”]~~:

*(a) “Facility” has the meaning ascribed to it in NRS 209.065.*

*(b) “Institution” has the meaning ascribed to it in NRS 209.071.*

Sec. 4. Chapter 176A of NRS is hereby amended by adding thereto a new section to read as follows:

*1. If a court before which a probationer is brought pursuant to NRS 176A.630 determines that the probationer has violated a condition of his probation, the probationer forfeits all or part of the credits for good behavior earned by him pursuant to NRS 176A.500 during his probation, in the discretion of the court.*

*2. A forfeiture may be made only by the court after proof of the violation and notice to the probationer.*

*3. The court may restore credits forfeited for such reasons as it considers proper.*

*4. If the court provides for the forfeiture or restoration of credits for good behavior of a probationer pursuant to this section, the clerk of the court shall notify the Chief Parole and Probation Officer of the forfeiture or restoration of credits.*

Sec. 5. NRS 176A.500 is hereby amended to read as follows:

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

(a) Three years for a:

(1) Gross misdemeanor; or

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

(b) Five years for a felony.

2. At any time during probation or suspension of sentence, the court may issue a warrant for violating any of the conditions of probation or suspension of sentence and cause the defendant to be arrested. Except for the purpose of giving a dishonorable discharge from probation, and except as otherwise provided in this subsection, the time during which a warrant for violating any

of the conditions of probation is in effect is not part of the period of probation. If the warrant is cancelled or probation is reinstated, the court may include any amount of that time as part of the period of probation.

3. Any parole and probation officer or any peace officer with power to arrest may arrest a probationer without a warrant, or may deputize any other officer with power to arrest to do so by giving him a written statement setting forth that the probationer has, in the judgment of the parole and probation officer, violated the conditions of probation. Except as otherwise provided in subsection 4, the parole and probation officer, or the peace officer, after making an arrest shall present to the detaining authorities, if any, a statement of the charges against the probationer. The parole and probation officer shall at once notify the court which granted probation of the arrest and detention or residential confinement of the probationer and shall submit a report in writing showing in what manner the probationer has violated the conditions of probation.

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

5. ~~["An offender"]~~ **A person** who is sentenced to serve a period of probation for a felony ~~[who has no serious infraction of the regulations of the Division, the terms and conditions of his probation or the laws of the State recorded against him, and who performs in a faithful, orderly and peaceable manner the duties assigned to him,]~~ **or a gross misdemeanor** must be allowed for the period of his probation a deduction ~~[of 20]~~ **as set forth in subsection 6 if the offender is:**

*(a) Current with any fee to defray the cost of his supervision charged pursuant to NRS 213.1076 and with any fines, fees and restitution ordered by the court, including, without limitation, any payment of restitution required pursuant to NRS 176A.430; and*

*(b) Actively involved in employment or enrolled in a program of education, rehabilitation or any other program approved by the Division.*

6. *A person described in subsection 5 must be allowed for the period of his probation a deduction of:*

*(a) Ten days from that period for each month he serves ~~[ ]~~ and is current on any fees to defray the cost of his supervision owed and on any fines, fees and restitution ordered by the court; and*

*(b) Except as otherwise provided in subsection 7, an additional 10 days from that period for each month he serves and is actively involved in employment or enrolled in a program of education, rehabilitation or any other program approved by the Division.*

7. *A person who is sentenced to serve a period of probation for a felony or a gross misdemeanor and who is a participant in a specialty court program must ~~not~~ be allowed a deduction from the period of probation*

*for being actively involved in employment or enrolled in a program of education, rehabilitation or any other program approved by the Division ~~if~~ only if the person successfully completes the specialty court program. Such a deduction must not exceed the length of time remaining on the person's period of probation.*

8. *As used in this section, "specialty court program" means a program established by a court to facilitate testing, treatment and oversight of certain persons over whom the court has jurisdiction and who the court has determined suffer from mental illnesses or abuse alcohol or drugs. Such a program includes, without limitation, a program established pursuant to NRS 176A.250 or 453.580.*

Sec. 6. NRS 176A.660 is hereby amended to read as follows:

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

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

(a) Direct that he be placed under the supervision of the Division and require:

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

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

(b) ~~Direct~~ *If the person was placed on probation for a felony conviction, direct* that he be placed under the supervision of the Department of Corrections and require the person to be confined to a facility *or institution* of the Department ~~[approved by the Division and the court]~~ for a period not to exceed 6 months. *The Department may select the facility or institution in which to place the person.*

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

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

(b) Information concerning the person's activities while inside his residence,

↪ must not be used.

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

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

6. As used in this section ~~[-“facility”]~~ :

(a) **”Facility”** has the meaning ascribed to it in NRS 209.065.

(b) **”Institution” has the meaning ascribed to it in NRS 209.071.**

Sec. 7. 1. The amendatory provisions of this act apply to offenses committed before, on or after July 1, 2009.

2. For the purpose of calculating credits earned by a person pursuant to NRS 213.152, the amendatory provisions of section 3 of this act must be applied to credits earned by the person before, on or after July 1, 2009.

3. For the purpose of calculating credits earned by a person pursuant to NRS 176A.500, the amendatory provisions of section 5 of this act must be applied only to credits earned by the person on or after July 1, 2009.

Sec. 8. This act becomes effective on July 1, 2009.

Assemblyman Horne moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 265.

Bill read second time.

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

Amendment No. 365.

AN ACT relating to juvenile justice; authorizing a juvenile court to impose certain penalties on ~~[-a child]~~ **certtain children** who ~~[-disobey]~~ **disobey** the terms of certain orders of disposition made by the juvenile court; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law provides that if a person, other than a child, violates the terms of any order of disposition made by a juvenile court under title 5 of NRS, that person is guilty of a misdemeanor and may be punished for contempt, which punishment may include a fine, imprisonment not to exceed 25 days or both. (NRS 62E.040) **Section 2** of this bill provides that such imprisonment is imprisonment in a county jail. **Section 1** of this bill provides that if a child, **other than a child in need of supervision**, violates the terms of any order of disposition made by a juvenile court under title 5 of NRS, the juvenile court may order the child to ~~[-:]~~ **(1) pay a fine** ~~[-for to]~~ **;** ~~[-:]~~ **(2) be placed, for not more than 10 days, in a detention facility or the county jail, as appropriate based on his age ; [-] or [-both-]** **(3) pay a fine and be placed in a detention facility or county jail, as appropriate.**

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

Section 1. Chapter 62E of NRS is hereby amended by adding thereto a new section to read as follows:

~~###~~ **1. Except as otherwise provided in subsection 2, if a child commits an offense described in subsection 1 of NRS 62E.040, a juvenile court may order the child to:**

~~###~~ **(a) Pay a fine, not to exceed \$500; or**

~~###~~ **(b) If the child:**

~~###~~ **(1) Is less than 18 years of age, be placed in a facility for the detention of children for not more than 10 days; or**

~~###~~ **(2) Is at least 18 years of age but less than 21 years of age, be placed in the county jail for not more than 10 days,**

**↪ or both.**

**2. The provisions of this section do not apply to a child who is adjudicated as a child in need of supervision.**

Sec. 2. NRS 62E.040 is hereby amended to read as follows:

62E.040 1. Any person, except a child, who willfully violates, neglects or refuses to obey the terms of any order of disposition made by the juvenile court under the provisions of this title is guilty of a misdemeanor and may be punished for contempt.

2. Except as otherwise provided in this section, if the juvenile court determines that a person is guilty of contempt, the person may be punished by:

(a) A fine, not to exceed \$500; or

(b) Imprisonment ~~[-]~~ **in the county jail**, not to exceed 25 days,

↪ or both.

3. The juvenile court may punish a person who is guilty of contempt by imprisonment **in the county jail** for more than 25 days if:

(a) The person is guilty of contempt for refusing to perform an act and the person has the power to perform the act; and

(b) The juvenile court specifies the act the person must perform in the warrant of commitment.

4. A person punished pursuant to subsection 3 may be imprisoned **in the county jail** until the person performs the act specified in the warrant of commitment.

Sec. 3. NRS 62E.100 is hereby amended to read as follows:

62E.100 Except as otherwise provided in NRS 62E.100 to 62E.300, inclusive ~~[-]~~, **and section 1 of this act:**

1. The provisions of NRS 62E.100 to 62E.300, inclusive, **and section 1 of this act** apply to the disposition of a case involving any child who is found to be within the purview of this title.

2. In addition to any other orders or actions authorized or required by the provisions of this title, if a child is found to be within the purview of this title:



(a) The juvenile court may issue any orders or take any actions set forth in NRS 62E.100 to 62E.300, inclusive, *and section 1 of this act* that the juvenile court deems proper for the disposition of the case; and

(b) If required by a specific statute, the juvenile court shall issue the appropriate orders or take the appropriate actions set forth in the statute.

Assemblyman Horne moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 283.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 399.

AN ACT relating to victims of crime; ~~removing~~ **increasing** the ~~limitation on the~~ amount of compensation that may be awarded to certain victims of crime, the dependents of those victims and certain members of the victim's household; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law establishes the Fund for the Compensation of Victims of Crime. (NRS 217.260) The victims of certain crimes, the dependents of those victims and certain members of the victim's household may apply to the State Board of Examiners for compensation from the Fund for certain expenses and losses, not to exceed \$50,000 per award. (NRS 217.100, 217.160, 217.200) This bill ~~removes~~ **increases** the ~~limit on the total~~ amount of compensation that may be awarded. **It to \$100,000 and further authorizes an additional award of up to \$50,000 in certain circumstances.**

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

Section 1. NRS 217.200 is hereby amended to read as follows:

217.200 1. The compensation officer may order the payment of compensation and the award of a Governor's certificate for meritorious citizen's service to a victim for:

(a) Medical expenses, expenses for psychological counseling and nonmedical remedial care and treatment rendered in accordance with a religious method of healing ~~it~~ that are actually and reasonably incurred as a result of the personal injury or death of the victim;

(b) Loss of earnings or support that is reasonably incurred as a result of the total or partial incapacity of the victim for not longer than 52 weeks;

(c) Pecuniary loss to the dependents of a deceased victim;

(d) Funeral expenses that are actually and reasonably incurred as a result of the death of the victim; and

(e) Another loss which results from the personal injury or death of the victim and which the compensation officer determines to be reasonable.

2. The compensation officer may order the payment of compensation for a person who pays the funeral expenses of a victim.

3. ~~[An]~~ Except as otherwise provided in subsection 4, an award must not be made for more than ~~[\$50,000.] \$100,000.~~

4. Upon approval of the Board, an additional award of not more than \$50,000 may be made to a victim. Before approving such an additional award, the Board must consider the amount of money remaining in the Fund for the Compensation of Victims of Crime created pursuant to NRS 217.260 and the particular circumstances of the victim.

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

Assemblyman Segerblom moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 319.

Bill read second time.

The following amendment was proposed by the Committee on Education:

Amendment No. 333.

AN ACT relating to education; prescribing certain rights for school employees; ~~requiring full compensation for all missed days of work for an unlicensed employee if sufficient grounds for his dismissal do not exist;~~ revising provisions relating to certain licensed employees who are reinstated after dismissal from employment; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

~~[Section]~~ Sections 7 and 8 of this bill ~~[provides]~~ provide specified rights for a school employee in a meeting with an administrator or representative of a school district which ~~[involves the conduct, performance, employment status, discipline or transfer of]~~ may result in disciplinary action against the school employee, or which involves a complaint made by the school employee concerning his working conditions or the manner in which he is treated. ~~[Section 8 of this bill authorizes a school employee to submit a list of persons who are believed to have knowledge of the facts relevant to an allegation of improper conduct or performance by the employee and requires the school district to interview each person identified on the list. Section 9 of this bill requires an unlicensed employee who is dismissed from employment to be reinstated with full compensation, plus interest, for all missed days of work if sufficient grounds for dismissal do not exist.]~~ Section ~~[10]~~ 11 of this bill requires the board of trustees of each school district to adopt a written policy prohibiting acts or statements that are intended to convince school employees to waive the rights provided by sections 2-~~[10]~~ 11 of this bill.

Section ~~[11]~~ 12 of this bill imposes restrictions on the involuntary transfer ~~[for reassignment]~~ of a licensed employee.

Under existing law, a licensed employee of a school district who is dismissed from employment must be reinstated with full compensation, plus

interest, if sufficient grounds for dismissal do not exist. (NRS 391.314) **Section ~~14~~ 15** of this bill requires full compensation for all missed days of work and provides that the employee is not required to mitigate damages.

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

Section 1. Chapter 391 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to ~~11~~ **12**, inclusive, of this act.

Sec. 2. *As used in sections 2 to ~~10~~ 11, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 3, 4 and 5 of this act have the meanings ascribed to them in those sections.*

Sec. 3. *"Administrator" has the meaning ascribed to it in NRS 391.311.*

Sec. 4. *"Representative of a school district" means any person employed, appointed or retained by the board of trustees of a school district to investigate or otherwise act on behalf of the school district in any matter ~~involving the conduct, performance, employment status, discipline or transfer of a~~ that may result in disciplinary action against a school employee, or any complaint made by a school employee concerning his working conditions or the manner in which he is treated at work.*

Sec. 5. *"School employee" means any licensed or unlicensed person employed by the board of trustees of a school district.*

Sec. 6. 1. *The provisions of sections 2 to ~~10~~ 11, inclusive, of this act do not apply to any school employee who is governed by a collective bargaining agreement negotiated pursuant to chapter 288 of NRS, to the extent of any conflict between the provisions of the agreement and the provisions of sections 2 to ~~10~~ 11, inclusive, of this act.*

2. *The provisions of sections 2 to ~~10~~ 11, inclusive, of this act apply to an administrator if the matter ~~involves the conduct, performance, employment status, discipline or transfer of the~~ may result in disciplinary action against the administrator or if the administrator makes a complaint concerning his working conditions or the manner in which he is treated at work.*

Sec. 7. 1. *Except as otherwise provided in subsection 1 of section 6 of this act or other specific statute, any meeting between a school employee and an administrator or representative of a school district ~~which involves the conduct, performance, employment status, discipline or transfer of the school employee, or which involves a complaint made by the school employee concerning his working conditions or the manner in which he is treated~~ that may result in disciplinary action against the school employee is subject to the provisions of this section.*

2. *If a meeting is governed by this section, the administrator or representative of the school district shall, not less than 48 hours before the meeting, provide written notice of the meeting to the school employee and, if the employee is governed by a collective bargaining agreement negotiated*

pursuant to chapter 288 of NRS, to the recognized bargaining agent of the employee.

3. The notice required by subsection 2 must include, without limitation:

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

(b) The purpose of the meeting; and

(c) The name and title of each representative of the school district that will be present at the meeting on behalf of the school district.

4. If a meeting governed by this section is convened to consider an allegation of improper conduct or performance by an employee, the notice required by subsection 2 must ~~be accompanied by a detailed description of the allegation of improper conduct or performance, including, without limitation:~~

~~(a) The name of each accuser;~~

~~(b) The date, time and place of the alleged improper conduct or performance; and~~

~~(c) A detailed explanation concerning the alleged improper conduct or performance.~~

~~→ If a notice is required to include the provisions of this subsection and the notice provided to the employee and his bargaining agent, if applicable, does not include these provisions, the school employee may refuse to answer questions about the alleged conduct or performance and must not be subject to discipline for such refusal.] provide the employee with notice of the specific concern to be discussed.~~

5. If a meeting that is not otherwise subject to the provisions of this section is held between a school employee and an administrator or representative of a school district and, during the meeting, the administrator or representative raises an issue which subjects the meeting to the provisions of this section, the school employee must, upon request, be granted an immediate continuance of the meeting for not less than 48 hours. If a continuance is requested, the administrator or representative shall comply with the requirements of this section before reconvening the meeting.

~~† 6. A teacher who wishes to request a meeting which is subject to the provisions of this section concerning a complaint about his working conditions or the manner in which he is treated shall, in writing, notify the school district of the complaint and request such a meeting.]~~

Sec. 8. 1. A school employee who wishes to request a meeting concerning his working conditions or the manner in which he is treated at work may, in writing, notify the administrator or representative of the school district of the complaint and request such a meeting.

2. If a meeting is requested pursuant to subsection 1, the administrator or representative of the school district shall, not less than 48 hours before the meeting, provide written notice of the meeting to the school employee and, if the employee is governed by a collective bargaining agreement

negotiated pursuant to chapter 288 of NRS, to the recognized bargaining agent of the employee.

3. The notice required pursuant to subsection 2 must include, without limitation:

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

(b) The purpose of the meeting; and

(c) The name and title of each representative of the school district that will be present at the meeting on behalf of the school district.

~~{Sec. 8.} Sec. 9. [A school employee against whom an allegation of improper conduct or performance is made may submit to the school district a list of persons who are believed to have knowledge of facts relevant to the allegation. Except as otherwise provided in NRS 391.314, if the school employee submits such a list, the board of trustees of the school district shall ensure that each person identified on the list is interviewed in full before the school employee may be suspended without pay or otherwise disciplined with respect to the allegation.] (Deleted by amendment.)~~

~~{Sec. 9.} Sec. 10. [If sufficient grounds for dismissal of an unlicensed employee do not exist, the unlicensed employee must be reinstated with, and is entitled to, full compensation, plus interest at the rate established pursuant to NRS 99.040, for all missed days of work. The unlicensed employee is not required to mitigate his damages. Any decision of a hearing officer that is inconsistent with this section is invalid to the extent of the inconsistency.] (Deleted by amendment.)~~

~~{Sec. 10.} Sec. 11. 1. The board of trustees of each school district shall adopt and enforce a written policy prohibiting administrators or agents of the school district from committing an act or making a statement which is intended to convince school employees to waive their rights pursuant to sections 2 to ~~{10.} 11~~, inclusive, of this act.~~

~~2. The policy must include penalties for violation of the policy.~~

~~3. The school district shall ensure that a copy of the policy is provided to each employee who is employed by the school district. The principal of each school within the school district shall ensure that the policy is reviewed during a staff meeting at the school at least annually.~~

~~{Sec. 11.} Sec. 12. 1. [Except as otherwise provided in subsection 2, ~~and~~ An involuntary transfer ~~for reassignment~~] of a licensed employee must be based upon licensure and seniority and may not be made as a form of discipline.~~

~~2. [A licensed employee may be reassigned for less than 30 days in response to temporary requirements for work.~~

~~3. If a licensed employee believes an involuntary transfer ~~for reassignment~~ was made as a form of discipline, he is entitled to a hearing on that issue pursuant to the provisions of this section and NRS 391.311 to 391.3197, inclusive.~~

~~{Sec. 12.} Sec. 13. NRS 391.311 is hereby amended to read as follows:~~

391.311 As used in NRS 391.311 to 391.3197, inclusive, *and section ~~111~~ 12 of this act*, unless the context otherwise requires:

1. "Administrator" means any employee who holds a license as an administrator and who is employed in that capacity by a school district.
2. "Board" means the board of trustees of the school district in which a licensed employee affected by NRS 391.311 to 391.3197, inclusive, *and section ~~111~~ 12 of this act* is employed.
3. "Demotion" means demotion of an administrator to a position of lesser rank, responsibility or pay and does not include transfer or reassignment for purposes of an administrative reorganization.
4. "Immorality" means:
  - (a) An act forbidden by NRS 200.366, 200.368, 200.400, 200.508, 201.180, 201.190, 201.210, 201.220, 201.230, 201.265, 201.540, 201.560, 207.260, 453.316 to 453.336, inclusive, 453.337, 453.338, 453.3385 to 453.3405, inclusive, 453.560 or 453.562; or
  - (b) An act forbidden by NRS 201.540 or any other sexual conduct or attempted sexual conduct with a pupil enrolled in an elementary or secondary school. As used in this paragraph, "sexual conduct" has the meaning ascribed to it in NRS 201.520.
5. "Postprobationary employee" means an administrator or a teacher who has completed the probationary period as provided in NRS 391.3197 and has been given notice of reemployment.
6. "Probationary employee" means an administrator or a teacher who is employed for the period set forth in NRS 391.3197.
7. "Superintendent" means the superintendent of a school district or a person designated by the board or superintendent to act as superintendent during the absence of the superintendent.
8. "Teacher" means a licensed employee the majority of whose working time is devoted to the rendering of direct educational service to pupils of a school district.

~~[Sec. 13.]~~ **Sec. 14.** NRS 391.3115 is hereby amended to read as follows:

391.3115 1. The demotion, suspension, dismissal and nonreemployment provisions of NRS 391.311 to 391.3197, inclusive, *and section ~~111~~ 12 of this act* do not apply to:

- (a) Substitute teachers; or
- (b) Adult education teachers.

2. The provisions of NRS 391.311 to 391.3194, inclusive, *and section ~~111~~ 12 of this act* do not apply to a teacher whose employment is suspended or terminated pursuant to subsection 3 of NRS 391.120 or NRS 391.3015 for failure to maintain a license in force.

3. A licensed employee who is employed in a position fully funded by a federal or private categorical grant or to replace another licensed employee during that employee's leave of absence is employed only for the duration of the grant or leave. Such a licensed employee and licensed employees who are

employed on temporary contracts for 90 school days or less, or its equivalent in a school district operating under an alternative schedule authorized pursuant to NRS 388.090, to replace licensed employees whose employment has terminated after the beginning of the school year are entitled to credit for that time in fulfilling any period of probation and during that time the provisions of NRS 391.311 to 391.3197, inclusive, **and section ~~111~~ 12 of this act** for demotion, suspension or dismissal apply to them.

~~Sec. 14.~~ **Sec. 15.** NRS 391.314 is hereby amended to read as follows:

391.314 1. If a superintendent has reason to believe that cause exists for the dismissal of a licensed employee and he is of the opinion that the immediate suspension of the employee is necessary in the best interests of the pupils in the district, the superintendent may suspend the employee without notice and without a hearing. Notwithstanding the provisions of NRS 391.312, a superintendent may suspend a licensed employee who has been officially charged but not yet convicted of a felony or a crime involving moral turpitude or immorality. If the charge is dismissed or if the employee is found not guilty, he must be reinstated with back pay, plus interest, and normal seniority. The superintendent shall notify the employee in writing of the suspension.

2. Within 5 days after a suspension becomes effective, the superintendent shall begin proceedings pursuant to the provisions of NRS 391.312 to 391.3196, inclusive, to effect the employee's dismissal. The employee is entitled to continue to receive his salary and other benefits after the suspension becomes effective until the date on which the dismissal proceedings are commenced. The superintendent may recommend that an employee who has been charged with a felony or a crime involving immorality be dismissed for another ground set forth in NRS 391.312.

3. If sufficient grounds for dismissal do not exist, the employee must be reinstated with , **and is entitled to**, full compensation, plus interest ~~[-] at the rate established pursuant to NRS 99.040, for all missed days of work.~~ ~~The employee is not required to mitigate his damages. Any decision of a hearing officer that is inconsistent with this subsection is invalid to the extent of the inconsistency.~~

4. A licensed employee who furnishes to the school district a bond or other security which is acceptable to the board as a guarantee that he will repay any amounts paid to him pursuant to this subsection as salary during a period of suspension is entitled to continue to receive his salary from the date on which the dismissal proceedings are commenced until the decision of the board or the report of the hearing officer, if the report is final and binding. The board shall not unreasonably refuse to accept security other than a bond. An employee who receives salary pursuant to this subsection shall repay it if he is dismissed or not reemployed as a result of a decision of the board or a report of a hearing officer.

5. A licensed employee who is convicted of a crime which requires registration pursuant to NRS 179D.010 to 179D.550, inclusive, or is convicted of an act forbidden by NRS 200.508, 201.190, 201.265, 201.540, 201.560 or 207.260 forfeits all rights of employment from the date of his arrest.

6. A licensed employee who is convicted of any crime and who is sentenced to and serves any sentence of imprisonment forfeits all rights of employment from the date of his arrest or the date on which his employment terminated, whichever is later.

7. A licensed employee who is charged with a felony or a crime involving immorality or moral turpitude and who waives his right to a speedy trial while suspended may receive ~~no~~ **not** more than 12 months of back pay and seniority upon reinstatement if he is found not guilty or the charges are dismissed, unless proceedings have been begun to dismiss the employee upon one of the other grounds set forth in NRS 391.312.

8. A superintendent may discipline a licensed employee by suspending the employee with loss of pay at any time after a hearing has been held which affords the due process provided for in this chapter. The grounds for suspension are the same as the grounds contained in NRS 391.312. An employee may be suspended more than once during the employee's contract year, but the total number of days of suspension may not exceed 20 in 1 contract year. Unless circumstances require otherwise, the suspensions must be progressively longer.

~~Sec. 15.~~ **Sec. 16.** 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. 353.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 209.

AN ACT relating to property; revising the abatement procedures and penalties for a violation of certain state laws that prohibit public nuisances; ~~providing that those same procedures and penalties apply to a violation of a city or county ordinance that prohibits public nuisances;~~ expanding the applicability of certain abatement procedures available to a board of county commissioners; ~~to include specifically the abatement of a public nuisance;~~ authorizing the solid waste management authority in ~~certain~~ **all** counties to establish a program for the control of unlawful dumping; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires a court or magistrate to order an abatement of a public nuisance. **Section 1** of this bill additionally requires the court or



magistrate to impose a civil penalty on a person convicted of a public nuisance and provides additional procedures for the abatement of the nuisance, including, without limitation: (1) time limitations on the period during which the person must complete the abatement; and (2) procedures for an agency to abate the nuisance, at the discretion of the agency, if the person does not abate the nuisance. **Section 1** also requires that civil penalties collected under this section be deposited in an account used only for abatement. ~~[and requires the court to prioritize proceedings brought under this section on the court's calendar.]~~ (NRS 202.480)

~~[ Section 2 of this bill: (1) specifically authorizes a board of county commissioners to adopt an ordinance prohibiting a public nuisance as defined in NRS 202.450; (2) provides that a person who violates the ordinance is guilty of a misdemeanor; and (3) requires a court or magistrate to impose the same civil penalties and follow the same procedures for abatement set forth in NRS 202.480, as amended by section 1 of this bill. Section 4 of this bill makes the same changes with respect to city ordinances that prohibit a public nuisance.]~~

**Existing law authorizes a board of county commissioners to adopt an ordinance to secure a dangerous structure or condition. Section 2.5 of this bill amends existing law to authorize a board of county commissioners to adopt an ordinance to summarily abate certain dangerous structures or conditions and provides a process for providing the owner with notice of the summary abatement and for judicial review of the summary abatement. (NRS 244.3601)**

Existing law authorizes a board of county commissioners to adopt an ordinance to administratively and on its own accord require an owner of a property to abate a dangerous structure, rubbish or noxious weeds. **Section 3** of this bill expands those provisions to apply to the abatement of ~~[a public]~~ **any other public** nuisance as defined in ~~[NRS 202.450 or an]~~ the ordinance **adopted by the board** which prohibits a ~~[public]~~ nuisance. (NRS 244.3605)

Existing law authorizes the solid waste management authority in each county with a population of 400,000 (currently Clark County) to establish a program for the control of unlawful dumping. **Section 5** of this bill ~~lowers]~~ **removes** the population threshold to authorize the solid waste management authority in each county ~~[with a population of 100,000 or more (currently Clark and Washoe Counties)]~~ to establish such a program. (NRS 444.629)

Existing law provides that if a person is convicted of unlawfully disposing certain waste or sewage, a court clerk who receives any civil penalties from the person for the violation must remit the money to the district health department if the health authority initiated the action. **Section 6** of this bill requires the court clerk to remit the money to the district health department also if a person, other than the health authority, who is authorized to enforce the provisions of NRS 444.630 initiated the action for a violation of NRS 444.630. (NRS 444.635)

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

Section 1. NRS 202.480 is hereby amended to read as follows:

202.480 **1.** Any court or magistrate before whom there may be pending any proceeding for a violation of NRS 202.470 shall, in addition to any fine or other punishment which it may impose for such a violation, order ~~such nuisance abated, and all property unlawfully used in the maintenance thereof destroyed by the sheriff at the cost of the defendant.~~ :

*(a) The defendant to abate the nuisance. The abatement must begin within 3 days after the court or magistrate enters the order to abate and must be completed within the time period specified by the court or magistrate. The responsible agency shall supervise the abatement and report to the court or magistrate regarding whether the abatement was successfully completed within the time period specified by the court or magistrate.*

*(b) The defendant to pay a civil penalty of not less than \$500 but not more than \$5,000. If ordered by the court or magistrate, the penalty may be paid in installments. The responsible agency may attempt to collect a civil penalty or installment that is in default in any manner provided by law for the enforcement of a judgment.*

~~† (c) The~~

2. If a defendant is ordered to abate a nuisance pursuant to subsection 1 and fails to abate the nuisance within the time period specified by the court or magistrate, the responsible agency ~~†~~ may assume responsibility and abate the nuisance, at the expense of the defendant. ~~†, if the defendant does not abate the nuisance within the time period specified by the court or magistrate. The~~ If the responsible agency ~~†~~ abates the nuisance, the responsible party shall report to the court or magistrate upon the successful completion of the abatement.

~~†~~ 3. Any civil penalty collected pursuant to subsection 1 must be deposited with the treasurer of the responsible agency in an account used solely to pay costs associated with any abatement ordered by a court or magistrate.

~~† 3.—A court shall give priority to proceedings brought under NRS 202.470 on the court's calendar.~~

**4.** As used in this section, “responsible agency” means an agency, officer, bureau, board, commission, department, division or any other unit of government of the State or a local government that is designated by a court or magistrate as the party responsible for carrying out ~~the actions ordered by the court or magistrate~~ any action pursuant to this section.

Sec. 2. ~~Chapter 244 of NRS is hereby amended by adding thereto a new section to read as follows:~~

~~1. The board of county commissioners of a county may adopt an ordinance prohibiting a public nuisance within the county.~~

~~2. If a defendant pleads or is found guilty or guilty but mentally ill of violating a county ordinance that prohibits a public nuisance:~~

~~(a) The defendant is guilty of a misdemeanor; and~~

~~(b) The court or magistrate shall, in addition to any other fine or punishment it may impose for the violation, order:~~

~~(1) The abatement of the nuisance following the procedures set forth in NRS 202.480; and~~

~~(2) The defendant to pay a civil penalty as provided in NRS 202.480.~~

~~3. As used in this section, the term "public nuisance" means a public nuisance as defined in NRS 202.450. (Deleted by amendment.)~~

Sec. 2.5. NRS 244.3601 is hereby amended to read as follows:

244.3601 1. Notwithstanding the abatement procedures set forth in NRS 244.360 ~~1~~ or 244.3605, a board of county commissioners may, by ordinance, provide for a reasonable means to secure or summarily abate a dangerous structure or condition that at least three persons who enforce building codes, housing codes, zoning ordinances or local health regulations, or who are members of a local law enforcement agency or fire department, determine in a signed, written statement to be an imminent danger ~~to the surrounding neighborhood. The~~

2. Except as otherwise provided in subsection 3, the owner of the property on which the structure or condition is located must be given reasonable written notice that is:

(a) If practicable, hand-delivered or sent prepaid by United States mail to the owner of the property; or

(b) Posted on the property,

↪ before the structure or condition is so secured. The notice must state clearly that the owner of the property may challenge the action to secure or summarily abate the structure or condition and must provide a telephone number and address at which the owner may obtain additional information.

~~3.~~ 3. If it is determined in the signed, written statement provided pursuant to subsection 1 that the structure or condition is an imminent danger and the result of the imminent danger is likely to occur before the notice and an opportunity to challenge the action can be provided pursuant to subsection 2, then the structure or condition which poses such an imminent danger that presents an immediate hazard may be summarily abated. A structure or condition summarily abated pursuant to this section may only be abated to the extent necessary to remove the imminent danger that presents an immediate hazard. The owner of the structure or condition which is summarily abated must be given written notice of the abatement after its completion. The notice must state clearly that the owner of the property may seek judicial review of the summary abatement and must provide an address and telephone number at which the owner may obtain additional information concerning the summary abatement.

4. The costs of securing or summarily abating the structure or condition may be made a special assessment against the real property on which the

structure or condition is located and may be collected pursuant to the provisions set forth in subsection 4 of NRS 244.360.

~~5.~~ 5. As used in this section ~~“imminent”;~~

*(a) “Dangerous structure or condition” has the meaning ascribed to it in subsection 5 of NRS 244.3605.*

*(b) “Imminent danger” means the existence of any structure or condition that could reasonably be expected to cause injury or endanger the life, safety ~~or~~ health or property of:*

~~(1)~~ (1) The occupants, if any, of the real property on which the structure or condition is located; or

~~(2)~~ (2) The general public.

Sec. 3. NRS 244.3605 is hereby amended to read as follows:

244.3605 1. Notwithstanding the provisions of NRS 244.360 and 244.3601, the board of county commissioners of a county may , to abate public nuisances, adopt by ordinance procedures pursuant to which the board or its designee may order an owner of property within the county to:

(a) Repair, safeguard or eliminate a dangerous structure or condition;

(b) Clear debris, rubbish and refuse which is not subject to the provisions of chapter 459 of NRS; ~~or~~

(c) Clear weeds and noxious plant growth ~~or~~; *or*

*(d) Repair, clear, correct, rectify, safeguard or eliminate ~~the public~~ any other public nuisance ~~as defined in the ordinance adopted pursuant to this section,~~*

*to protect the public health, safety and welfare of the residents of the county.*

2. An ordinance adopted pursuant to subsection 1 must:

(a) Contain procedures pursuant to which the owner of the property is:

(1) Sent notice, by certified mail, return receipt requested, of the existence on his property of a ~~condition~~ public nuisance set forth in subsection 1 and the date by which he must abate the ~~condition~~ public nuisance; and

(2) Afforded an opportunity for a hearing before the designee of the board and an appeal of that decision either to the board, ~~The ordinance must specify whether all such appeals which involve a public nuisance are to be made to the board of county commissioners,~~ or to a court of competent jurisdiction, ~~or~~, as determined by the ordinance adopted pursuant to subsection 1.

(b) Provide that the date specified in the notice by which the owner must abate the ~~condition~~ public nuisance is tolled for the period during which the owner requests a hearing and receives a decision.

(c) Provide the manner in which the county will recover money expended to abate the ~~condition~~ public nuisance on the property if the owner fails to abate the ~~condition~~ public nuisance.

(d) Provide for civil penalties for each day that the owner did not abate the ~~condition~~ **public nuisance** after the date specified in the notice by which the owner was required to abate the ~~condition~~.

~~(e) If the condition constitutes a public nuisance, provide for an expedited process, to include summary abatement, in those situations where the public nuisance involves a serious risk of immediate harm to public health, safety or welfare.~~ **public nuisance.**

3. The ~~board or its designee may direct the~~ county ~~to~~ **may** abate the ~~condition~~ **public nuisance** on the property and may recover the amount expended by the county for labor and materials used to abate the ~~condition~~ **public nuisance** if:

(a) The owner has not requested a hearing within the time prescribed in the ordinance adopted pursuant to subsection 1 and has failed to abate the ~~condition~~ **public nuisance** on his property within the period specified in the notice;

(b) After a hearing in which the owner did not prevail, the owner has not filed an appeal within the time prescribed in the ordinance adopted pursuant to subsection 1 and has failed to abate the ~~condition~~ **public nuisance** within the period specified in the order; or

(c) The board ~~or, if the appeal involves a public nuisance,~~ **a court of competent jurisdiction** has denied the appeal of the owner and the owner has failed to abate the ~~condition~~ **public nuisance** within the period specified in the order.

4. In addition to any other reasonable means of recovering money expended by the county to abate the ~~condition, the board may make~~ **public nuisance**, the expense **is** a special assessment against the property upon which the ~~condition~~ **public nuisance** is located ~~the~~, **and this** special assessment may be collected pursuant to the provisions set forth in subsection 4 of NRS 244.360.

5. As used in this section, ~~“dangerous~~ **“dangerous**

~~(a) “Dangerous”~~ structure or condition” means a structure or condition that **is a public nuisance which** may cause injury to or endanger the health, life, property or safety of the general public or the occupants, if any, of the real property on which the structure or condition is located. The term includes, without limitation, a structure or condition that:

~~(a) #1#~~ Does not meet the requirements of a code or regulation adopted pursuant to NRS 244.3675 with respect to minimum levels of health or safety; or

~~(b) #2#~~ Violates an ordinance, rule or regulation regulating health and safety enacted, adopted or passed by the board of county commissioners of a county, the violation of which is designated **by the board** as a **public nuisance** in the ordinance, rule or regulation.

~~(b) “Public nuisance” means a public nuisance as defined in NRS 202.450 or an ordinance adopted pursuant to section 2 of this act.~~

Sec. 4. ~~[Chapter 268 of NRS is hereby amended by adding thereto a new section to read as follows:~~

~~1.—The city council of a city may adopt an ordinance prohibiting a public nuisance within the city.~~

~~2.—If a defendant pleads or is found guilty or guilty but mentally ill for violating a city ordinance that prohibits a public nuisance:~~

~~(a) The defendant is guilty of a misdemeanor; and~~

~~(b) The court or magistrate shall, in addition to any other fine or punishment it may impose for the violation, order:~~

~~(1) The abatement of the nuisance following the procedures set forth in NRS 202.480; and~~

~~(2) The defendant to pay a civil penalty as provided in NRS 202.480.~~

~~3.—As used in this section, the term “public nuisance” means a public nuisance as defined in NRS 202.450. (Deleted by amendment.)~~

Sec. 5. NRS 444.629 is hereby amended to read as follows:

444.629 1. The solid waste management authority in each county ~~[whose population is] [400,000] [100,000 or more]~~ may establish a program for the control of unlawful dumping and administer the program within its jurisdiction unless superseded.

2. The program established pursuant to subsection 1 must:

(a) Include standards and procedures for the control of unlawful dumping which are equivalent to or stricter than those established by statute or state regulation; and

(b) Provide for adequate administration and enforcement.

3. ~~[In a county whose population is] [400,000] [100,000 or more, the]~~ **The** solid waste management authority may delegate to an independent hearing officer or hearing board the authority to determine violations and levy administrative penalties for violations of the provisions of NRS 444.440 to 444.645, inclusive, or any regulation adopted pursuant to those sections.

**Sec. 6.** NRS 444.635 is hereby amended to read as follows:

444.635 1. Except as otherwise provided in NRS 445C.010 to 445C.120, inclusive, a person convicted of violating NRS 444.555 and, in addition to the penalty imposed pursuant to NRS 444.583 or 444.630, any person convicted of violating NRS 444.583 or 444.630 is liable for a civil penalty upon each such conviction.

2. Except as otherwise provided in NRS 445C.010 to 445C.120, inclusive, a court before whom a defendant is convicted of a violation of the provisions of NRS 444.555, 444.583 or 444.630, shall order the defendant:

(a) For a first offense, to pay a civil penalty which is at least \$500 but not more than \$5,000.

(b) For a second offense, to pay a civil penalty which is at least \$1,000 but not more than \$5,500.

(c) For a third offense, to pay a civil penalty which is at least \$1,500 but not more than \$6,000.

(d) For any subsequent offense, to pay a civil penalty which is at least \$500 more than the most recent previous civil penalty that the defendant was ordered to pay pursuant to this subsection.

3. If so provided by the court, a penalty imposed pursuant to this section may be paid in installments.

4. The solid waste management authority may attempt to collect all such penalties and installments which are in default in any manner provided by law for the enforcement of a judgment.

5. ~~Each~~ **Except as otherwise provided in this subsection, each** court which receives money pursuant to the provisions of this section shall forthwith remit the money to the Division of Environmental Protection of the State Department of Conservation and Natural Resources ~~or, if~~, **which shall deposit the money with the State Treasurer for credit in a separate account in the State General Fund. If** the health authority initiated the action ~~or, if any other person authorized to enforce NRS 444.630 initiated the action and the money collected was for a violation of NRS 444.630, the court shall remit the money to~~ the district health department which shall deposit the money ~~with the State Treasurer for credit in a separate account in the State General Fund or~~ with the county treasurer for deposit in an account for the district health department. ~~As the case may be,~~ Money ~~so~~ deposited **pursuant to this subsection** must be:

(a) Used only to pay:

- (1) Rewards pursuant to NRS 444.640;
- (2) For education regarding the unlawful disposal of solid waste;
- (3) For the cleaning up of dump sites; and
- (4) For the management of solid waste; and

(b) Paid as other claims against the state or local governments are paid.

Assemblyman Segerblom moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 384.

Bill read second time.

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

Amendment No. 252.

AN ACT relating to crimes; revising provisions making it a crime for prisoners to commit certain acts involving human excrement or bodily fluid; requiring certain law enforcement agencies to pay for certain examinations and testing requested by certain officers and employees who are victims of such a crime; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law makes it a crime for a prisoner who is in lawful custody or confinement, other than residential confinement, to commit certain acts involving human excrement or bodily fluid. (NRS 212.189) This bill expands

the applicability of that crime to include a prisoner who is under lawful arrest. In *Dumaine v. State* (103 Nev. 121 (1987)), the Nevada Supreme Court interpreted the phrase “under lawful arrest” as used in the definition of “prisoner” set forth in existing law (NRS 193.022 and 208.085) to mean that there is an actual restraint of the liberty of the person. The Court stated that one cannot be a prisoner until “one either submits to the control of the arresting officer or is captured, *i.e.*, taken and held in control.” (*Dumaine*, 103 Nev. 121, 124) Thus, this bill provides that such a crime applies to a person being arrested if there has been an actual restraint of the liberty of that person because either the person has submitted to the control of the arresting law enforcement officer or the person has been captured.

Existing law also provides that if the victim of such a crime is an officer or employee of a prison, the person or governmental entity operating the prison in which the act occurred is required to pay for certain examinations or tests requested by the officer or employee to determine whether a communicable disease was transmitted to him as a result of the crime. (NRS 212.189) This bill expands that provision by providing that if the victim of such a crime is an officer or employee of a law enforcement agency, the law enforcement agency that employs the officer or employee is required to pay for such examinations and testing requested by the officer or employee.

Existing law prohibits a prosecuting attorney from dismissing charges for such a crime, under certain circumstances, if the victim or intended victim is an officer or employee of a prison. (NRS 212.189) This bill amends existing law to apply similarly in cases in which the victim or intended victim is an officer or employee of a law enforcement agency.

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

Section 1. NRS 212.189 is hereby amended to read as follows:

212.189 1. Except as otherwise provided in subsection ~~9~~ 10, a prisoner ~~other than a prisoner who is in residential confinement,~~ who is **under lawful arrest**, in lawful custody or **in lawful** confinement ~~or other than residential confinement,~~ shall not knowingly:

- (a) Store or stockpile any human excrement or bodily fluid;
- (b) Sell, supply or provide any human excrement or bodily fluid to any other person;
- (c) Buy, receive or acquire any human excrement or bodily fluid from any other person; or
- (d) Use, propel, discharge, spread or conceal, or cause to be used, propelled, discharged, spread or concealed, any human excrement or bodily fluid:

(1) With the intent to have the excrement or bodily fluid come into physical contact with any portion of the body of **another person, including, without limitation**, an officer or employee of a prison or ~~any other person,~~



*law enforcement agency*, whether or not such physical contact actually occurs; or

(2) Under circumstances in which the excrement or bodily fluid is reasonably likely to come into physical contact with any portion of the body of ***another person, including, without limitation***, an officer or employee of a prison or ~~any other person,~~ ***law enforcement agency***, whether or not such physical contact actually occurs.

2. Except as otherwise provided in subsection ~~3~~ **4**, if a prisoner ***who is under lawful arrest or in lawful custody*** violates any provision of subsection 1, the prisoner is guilty of :

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

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

**3.** ***Except as otherwise provided in subsection 4, if a prisoner who is in lawful confinement, other than residential confinement, violates any provision of subsection 1, the prisoner is guilty of*** a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 10 years, and may be further punished by a fine of not more than \$10,000.

~~3~~ **4.** If a prisoner ***who is under lawful arrest, in lawful custody or in lawful confinement*** violates any provision of paragraph (d) of subsection 1 and, at the time of the offense, the prisoner knew that any portion of the excrement or bodily fluid involved in the offense contained a communicable disease that causes or is reasonably likely to cause substantial bodily harm, whether or not the communicable disease was transmitted to a victim as a result of the offense, the prisoner is guilty of a category A felony and shall be punished by imprisonment in the state prison:

(a) For life with the possibility of parole, with eligibility for parole beginning when a minimum of 10 years has been served; or

(b) For a definite term of 25 years, with eligibility for parole beginning when a minimum of 10 years has been served,

↪ and may be further punished by a fine of not more than \$50,000.

~~4~~ **5.** A sentence imposed upon a prisoner pursuant to subsection 2 ~~for~~ ~~3~~ **3 or 4:**

(a) Is not subject to suspension or the granting of probation; and

(b) Must run consecutively after the prisoner has served any sentences imposed upon him for the offense or offenses for which the prisoner was ***under lawful arrest***, in lawful custody or ***in lawful*** confinement when he violated the provisions of subsection 1.

~~5~~ **6.** In addition to any other penalty, the court shall order a prisoner who violates any provision of paragraph (d) of subsection 1 to reimburse the appropriate person or governmental body for the cost of any examinations or testing:

(a) Conducted pursuant to paragraphs (a) and (b) of subsection ~~7~~ **8**; or

(b) Paid for pursuant to subparagraph (2) of paragraph (c) of subsection ~~7-1~~ 8.

~~6-1~~ 7. The warden, sheriff, administrator or other person responsible for administering a prison shall immediately and fully investigate any act described in subsection 1 that is reported or suspected to have been committed in the prison.

~~7-1~~ 8. If there is probable cause to believe that an act described in paragraph (d) of subsection 1 has been committed in a prison:

(a) Each prisoner believed to have committed the act or to have been the bodily source of any portion of the excrement or bodily fluid involved in the act ~~must~~ *shall* submit to any appropriate examinations and testing to determine whether each such prisoner has any communicable disease.

(b) If possible, a sample of the excrement or bodily fluid involved in the act must be recovered and tested to determine whether any communicable disease is present in the excrement or bodily fluid.

(c) If the excrement or bodily fluid involved in the act came into physical contact with any portion of the body of an officer or employee of a prison or ~~any other person;~~ *law enforcement agency:*

(1) The results of any examinations or testing conducted pursuant to paragraphs (a) and (b) must be provided to each such officer, employee or other person; and

(2) For each such officer or employee ~~;~~ :

*(I) Of a prison,* the person or governmental body operating the prison where the act was committed shall pay for any appropriate examinations and testing requested by the officer or employee to determine whether a communicable disease was transmitted to him as a result of the act ~~;~~ ; *and*

*(II) Of any law enforcement agency, the law enforcement agency that employs the officer or employee shall pay for any appropriate examinations and testing requested by the officer or employee to determine whether a communicable disease was transmitted to him as a result of the act.*

(d) The results of the investigation conducted pursuant to subsection ~~6-1~~ 7 and the results of any examinations or testing conducted pursuant to paragraphs (a) and (b) must be submitted to the district attorney of the county in which the act was committed or to the Office of the Attorney General for possible prosecution of each prisoner who committed the act.

~~8-1~~ 9. If a prisoner is charged with committing an act described in paragraph (d) of subsection 1 and a victim or an intended victim of the act was an officer or employee of a prison ~~;~~ *or law enforcement agency,* the prosecuting attorney shall not dismiss the charge in exchange for a plea of guilty, guilty but mentally ill or nolo contendere to a lesser charge or for any other reason unless the prosecuting attorney knows or it is obvious that the charge is not supported by probable cause or cannot be proved at the time of trial.

~~9-10.~~ 10. The provisions of this section do not apply to a prisoner *who is in residential confinement or to a prisoner* who commits an act described in subsection 1 if the act:

(a) Is otherwise lawful and is authorized by the warden, sheriff, administrator or other person responsible for administering the prison, or his designee, and the prisoner performs the act in accordance with the directions or instructions given to him by that person;

(b) Involves the discharge of human excrement or bodily fluid directly from the body of the prisoner and the discharge is the direct result of a temporary or permanent injury, disease or medical condition afflicting the prisoner that prevents the prisoner from having physical control over the discharge of his own excrement or bodily fluid; or

(c) Constitutes voluntary sexual conduct with another person in violation of the provisions of NRS 212.187.

Assemblyman Horne moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 385.

Bill read second time.

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

Amendment No. 362.

SUMMARY—Makes various changes concerning the ~~maximum caseload of~~ supervision of convicted persons by correctional officers and parole and probation officers, ~~[who supervise convicted persons.]~~ (BDR 16-523)

AN ACT relating to supervision of convicted persons; requiring the Board of State Prison Commissioners to establish guidelines setting forth the maximum number of prisoners who may be supervised by a correctional officer; making various changes concerning the maximum caseload of each parole and probation officer who supervises convicted persons; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires the Board of State Prison Commissioners to regulate the number of officers and employees of the Department of Corrections. (NRS 209.111) Section 1 of this bill requires the Board to adopt a policy, in consultation with the Director of the Department and the State of Nevada Employees' Association, establishing guidelines for the maximum number of prisoners who may be supervised by a correctional officer at each facility and institution of the Department.

Under existing law, the Chief Parole and Probation Officer is appointed by the Director of the Department of Public Safety and is responsible, among other things, for supervising the fiscal affairs and responsibilities of the Division of Parole and Probation of the Department, for appointing personnel, assistants and employees for the Division, for formulating

methods of investigation, supervision, recordkeeping and reporting, and for developing policies of parole and probation. (NRS 213.1092, 213.1095) ~~This~~ **Section 2 of this** bill requires the Chief Parole and Probation Officer to adopt a policy establishing guidelines for the maximum caseload for each parole and probation officer. ~~This bill~~ **Section 2** further requires the Governor to establish the budget for the Division of Parole and Probation each biennium at an amount which anticipates staffing the Division to comply with those guidelines. The Chief Parole and Probation Officer is then required to report to the Interim Finance Committee at the end of each fiscal year ~~in which~~ **setting forth the maximum caseloads that were established for parole and probation officers and, if** the maximum caseload per officer ~~is~~ **was** not achieved **during the last fiscal year**, setting forth the amount of money needed to comply with that requirement.

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

**Section 1. NRS 209.111 is hereby amended to read as follows:**

209.111 **1.** The Board has full control of all grounds, buildings, labor, and property of the Department, and shall:

~~1.~~ **(a)** Purchase, or cause to be purchased, all commissary supplies, materials and tools necessary for any lawful purpose carried on at any institution or facility of the Department.

~~2.~~ **(b)** Regulate the number of officers and employees of the Department.

~~3.~~ **(c)** Prescribe regulations for carrying on the business of the Board and the Department.

**2. The Board shall adopt a policy which establishes guidelines for the maximum number of prisoners who may be supervised by a correctional officer at each facility and institution of the Department. The Board shall establish the guidelines in consultation with the Director and the State of Nevada Employees' Association, or its successor organization. The Director, the State of Nevada Employees' Association or any other interested person may request the Board to review and revise the guidelines established pursuant to this subsection. The decision whether to revise the guidelines pursuant to such a request is in the sole discretion of the Board.**

~~Section 1.~~ **Sec. 2.** Chapter 213 of NRS is hereby amended by adding thereto a new section to read as follows:

**1. The Chief shall adopt a policy which establishes guidelines for a maximum caseload for each parole and probation officer of:**

**(a) Not more than 30 offenders who are subject to intensive supervision ~~or~~ or residential confinement or who are otherwise deemed high risk to reoffend;**

**(b) Not more than 45 offenders who are required to register as sex offenders if they are not subject to paragraph (a); or**

(c) *Not more than ~~75~~ 70 offenders who are not subject to paragraph (a) or (b).*

*2. The budget submitted to the Legislature by the Governor for the Division for each biennium must be set at an amount reasonably anticipated to allow the Division to achieve the maximum caseloads for parole and probation officers set forth in subsection 1.*

*3. ~~If the Chief is unable to comply with the maximum caseloads for parole and probation officers set forth in subsection 1, he~~ The Chief shall submit a report to the Interim Finance Committee at the end of each fiscal year ~~in which~~ setting forth the maximum caseloads that were established for parole and probation officers pursuant to subsection 1 and, if the maximum caseloads set forth in that subsection were not achieved for that fiscal year, setting forth the amount of money needed in order to comply with the provisions of subsection 1.*

~~Sec. 2.]~~ *Sec. 3.* NRS 213.107 is hereby amended to read as follows:

213.107 As used in NRS 213.107 to 213.157, inclusive, *and section ~~11~~ 2 of this act*, unless the context otherwise requires:

1. "Board" means the State Board of Parole Commissioners.
2. "Chief" means the Chief Parole and Probation Officer.
3. "Division" means the Division of Parole and Probation of the Department of Public Safety.
4. "Residential confinement" means the confinement of a person convicted of a crime to his place of residence under the terms and conditions established by the Board.
5. "Sex offender" means any person who has been or is convicted of a sexual offense.
6. "Sexual offense" means:
  - (a) 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;
  - (b) An attempt to commit any offense listed in paragraph (a); or
  - (c) 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.
7. "Standards" means the objective standards for granting or revoking parole or probation which are adopted by the Board or the Chief.

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

Assemblyman Horne moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 399.

Bill read second time.

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

Amendment No. 249.

SUMMARY — ~~Establishes provisions for the primacy of health care plans.~~ **Requires certain entities to provide certain information concerning health care coverage to determine the eligibility of persons for Medicaid.** (BDR ~~[57-964]~~ **38-964**)

AN ACT relating to insurance; requiring ~~[the Commissioner of Insurance to establish and maintain a centralized database for the electronic interchange of certain information; requiring persons administering a publicly sponsored health plan to establish primacy before paying any claim for benefits; requiring the Division of Health Care Financing and Policy of the Department of Health and Human Services to respond to certain inquiries from the Commissioner of Insurance; providing civil penalties;]~~ **certain entities to provide certain information relating to health care coverage to determine the eligibility of persons for Medicaid;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

~~[ Section 2 of this bill requires the Commissioner of Insurance to establish a centralized database for the electronic interchange of data relating to coverage under a health care plan to determine the primacy of a publicly sponsored health plan. Section 3 of this bill requires the person administering a publicly sponsored health plan to not pay any claim for benefits under that plan until a determination regarding the primacy of the publicly sponsored health plan has been determined in relation to any other health plan under which a person submitting a claim for benefits may also be covered. Section 4 of this bill requires the Commissioner to impose a penalty of not more than \$1,000 for each occurrence of an insurer's failure or refusal to respond to an inquiry made by a publicly sponsored health plan regarding the enrollment status of any person. Section 4 also requires the Commissioner to permanently revoke an insurer's certificate of authority to transact business in this State for a second violation. Section 4 further requires the Attorney General to commence civil actions under both state and federal law for an insurer's failure or refusal to comply with requirements concerning the electronic interchange of information using the centralized database. Section 7 of this bill requires the Division of Health Care Financing and Policy of the Department of Health and Human Services to respond to inquiries from the Commissioner relating to a person's employment or income for purposes of determining the primacy of coverage under the State Plan for Medicaid in relation to the person's coverage under any other health plan.]~~

**This bill requires certain entities that provide or administer health care coverage to provide on a monthly basis to the Division of Health Care Financing and Policy of the Department of Health and Human**

Services or to its business associate records which identify persons who receive such health care coverage to allow the Division or its business associate to determine which persons are eligible to receive Medicaid.

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

Section 1. ~~[Chapter 680A of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 4, inclusive, of this act.] (Deleted by amendment.)~~

Sec. 2. ~~[1. The Commissioner shall establish and maintain a centralized database to allow:~~

~~(a) Persons responsible for the administration of any publicly sponsored health plan, including, without limitation, the State Plan for Medicaid, the Public Employees' Benefits Program, the Children's Health Insurance Program or any governmental health plan of a political subdivision, to submit electronic inquiries to every insurer issued a certificate of authority in this State regarding the enrollment record of any person with respect to particular coverage of that person; and~~

~~(b) Every insurer receiving inquiries made pursuant to paragraph (a) to respond to such inquiries or, in the alternative, to transmit to the database responsive information concerning coverage and benefits for viewing by the person making the inquiry.~~

~~2. The centralized database described in subsection 1 must:~~

~~(a) Allow for the secure submission of personal identifying information of a person for purposes of checking coverage, including name, gender and date of birth; and~~

~~(b) Function in such a manner as to meet the minimum standards of quality for the interchange of electronic data as approved by the American National Standards Institute.~~

~~3. The Commissioner shall adopt regulations as are necessary to carry out the provisions of this section, including, without limitation, procedures to register into the database every insurer issued a certificate of authority in this State, requirements for access to the database and the transmittal of electronic data and procedures to provide assistance to persons for compliance with this section.~~

~~4. Any information concerning eligibility or coverage that is interchanged pursuant to this section is deemed an element of data and is exempt from the privacy and confidentiality provisions of 42 U.S.C. §§ 1320d to 1320d-9, inclusive, and any applicable state law, except that no person shall use such information for any purpose other than as described in this section.] (Deleted by amendment.)~~

Sec. 3. ~~[1. A person administering a publicly sponsored health plan described in section 2 of this act:~~

~~(a) Shall presume that persons eligible for benefits under its plan may also be currently covered by another health plan provided by an insurer;~~

~~(b) Shall submit inquiries to the centralized database for transmittal to each insurer issued a certificate of authority regarding coverage of any person who submits a claim for benefits; and~~

~~(c) Shall not pay any claim made by a person or otherwise expend any public money relating to such a claim until it has received a response to an inquiry from each insurer to determine the primacy of its coverage in relation to the coverage of the person who submitted a claim for benefits, if any, under any other health plan.~~

~~2.—An insurer shall respond to any inquiry made pursuant to subsection 1 within 24 hours. (Deleted by amendment.)~~

Sec. 4. ~~1.—The Commissioner shall impose a penalty of not more than \$1,000 for each failure or refusal to comply with subsection 2 of section 3 of this act, to be recovered by the Commissioner in a civil action in a court of competent jurisdiction. For purposes of this subsection, an attempt by an insurer to impose data elements or other burdens not expressly authorized by 42 U.S.C. §§ 1320d to 1320d-9, inclusive, and the Commissioner or related regulations shall be deemed a refusal to comply with subsection 2 of section 3 of this act.~~

~~2.—Upon a showing by the Commissioner that a violation has occurred, the Attorney General shall:~~

~~(a) Subpoena the enrollment record for coverage from the insurer;~~

~~(b) Commence an action under 42 U.S.C. §§ 1320d to 1320d-9, inclusive, for administrative sanctions pursuant to the federal Health Insurance Portability and Accountability Act;~~

~~(c) Commence an action under 18 U.S.C. § 1035; and~~

~~(d) Commence an action in a court of competent jurisdiction to enjoin an insurer from noncompliance.~~

~~3.—Upon a showing that a second violation has occurred, the Commissioner shall permanently revoke the certificate of authority issued to the noncompliant insurer. For purposes of this subsection, the Commissioner may consider, if he has such knowledge, an insurer's noncompliance with similar requirements imposed by another jurisdiction in determining whether a violation of section 3 of this act shall be deemed a first or second violation. (Deleted by amendment.)~~

Sec. 5. ~~NRS 680A.190 is hereby amended to read as follows:~~

~~680A.190 1.—The Commissioner shall refuse to continue or shall suspend or revoke an insurer's certificate of authority:~~

~~(a) If such action is required by any provision of this Code;~~

~~(b) If it is a foreign insurer and it no longer meets the requirements for a certificate of authority, on account of deficiency of capital or surplus or otherwise;~~

~~(c) If it is a domestic insurer and it has failed to cure an impairment of capital or surplus within the time allowed therefor by the Commissioner under this Code or is otherwise no longer qualified for the certificate of authority;~~



~~(d) If the insurer's certificate of authority to transact insurance therein is suspended or revoked by its state of domicile, or state of entry into the United States of America if an alien insurer;~~

~~(e) For failure of the insurer to pay taxes on its premiums if required by this Code; [or]~~

~~(f) For failure of the insurer to furnish information to the Commissioner relating to medical malpractice insurance issued by the insurer in this State or any other state [.] ; or~~

~~(g) For a second violation pursuant to subsection 3 of section 4 of this act.~~

~~2. Except in case of insolvency, impairment of required capital or surplus, or suspension or revocation by another state, the Commissioner shall give the insurer at least 20 days' notice in advance of any such refusal, suspension or revocation under this section, and of the particulars of the reasons therefor. If the insurer requests a hearing thereon within those 20 days, the Commissioner's proposed action is automatically stayed until his order is made after the hearing. (Deleted by amendment.)~~

Sec. 6. ~~[NRS 680A.200 is hereby amended to read as follows:~~

~~680A.200—1. Except as otherwise provided in NRS 616B.472, the Commissioner may refuse to continue or may suspend, limit or revoke an insurer's certificate of authority if he finds after a hearing thereon, or upon waiver of hearing by the insurer, that the insurer has:~~

~~(a) Violated or failed to comply with any lawful order of the Commissioner;~~

~~(b) Conducted his business in an unsuitable manner;~~

~~(c) Willfully violated or willfully failed to comply with any lawful regulation of the Commissioner; or~~

~~(d) Violated any provision of this Code other than one for violation of which suspension or revocation is mandatory.~~

~~↳ [In] Except as otherwise provided in subsection 3 of section 4 of this act, in lieu of such a suspension or revocation, the Commissioner may levy upon the insurer, and the insurer shall pay forthwith, an administrative fine of not more than \$2,000 for each act or violation.~~

~~2. Except as otherwise provided in chapter 696B of NRS, the Commissioner shall suspend or revoke an insurer's certificate of authority on any of the following grounds if he finds after a hearing thereon that the insurer:~~

~~(a) Is in unsound condition, is being fraudulently conducted, or is in such a condition or is using such methods and practices in the conduct of its business as to render its further transaction of insurance in this State currently or prospectively hazardous or injurious to policyholders or to the public.~~

~~(b) With such frequency as to indicate its general business practice in this State:~~

~~(1) Has without just cause failed to pay, or delayed payment of, claims arising under its policies, whether the claims are in favor of an insured or in~~

favor of a third person with respect to the liability of an insured to the third person; or

~~(2) Without just cause compels insureds or claimants to accept less than the amount due them or to employ attorneys or to bring suit against the insurer or such an insured to secure full payment or settlement of such claims.~~

~~(c) Refuses to be examined, or its directors, officers, employees or representatives refuse to submit to examination relative to its affairs, or to produce its books, papers, records, contracts, correspondence or other documents for examination by the Commissioner when required, or refuse to perform any legal obligation relative to the examination.~~

~~(d) Except as otherwise provided in NRS 681A.110, has reinsured all its risks in their entirety in another insurer.~~

~~(e) Has failed to pay any final judgment rendered against it in this State upon any policy, bond, recognizance or undertaking as issued or guaranteed by it, within 30 days after the judgment became final or within 30 days after dismissal of an appeal before final determination, whichever date is the later.~~

~~3. The Commissioner may, without advance notice or a hearing thereon, immediately suspend the certificate of authority of any insurer as to which proceedings for receivership, conservatorship, rehabilitation or other delinquency proceedings have been commenced in any state by the public officer who supervises insurance for that state.~~

~~4. No proceeding to suspend, limit or revoke a certificate of authority pursuant to this section may be maintained unless it is commenced by the giving of notice to the insurer within 5 years after the occurrence of the charged act or omission. This limitation does not apply if the Commissioner finds fraudulent or willful evasion of taxes. (Deleted by amendment.)~~

Sec. 7. Chapter 422 of NRS is hereby amended by adding thereto a new section to read as follows:

~~§ The Division shall, within a reasonable time, respond to any inquiries submitted by the Commissioner of Insurance regarding information relating to the employment and income of any person for the purposes of determining the primacy of coverage under the State Plan for Medicaid in relation to the person's coverage under any other health plan.~~

1. A third party shall provide on a monthly basis to the Division or its business associate, if authorized by the Division, records identifying all persons to whom health care coverage is provided or administered by the third party to allow the Division or its business associate to determine which persons are eligible to receive Medicaid. The records must include, without limitation:

(a) With respect to the person with primary coverage:

(1) The person's first name, middle initial and last name;

(2) The person's date of birth;

(3) The person's gender;

(4) The person's social security number or policy number;

(5) The person's policy and group number;

(6) The name of the person's group or employer; and

(7) The beginning and ending dates of the person's coverage;

(b) With respect to each dependent of the person with primary coverage:

(1) The dependent's first name, middle initial and last name;

(2) The dependent's date of birth;

(3) The dependent's gender; and

(4) The dependent's social security number;

(c) The types of coverage provided to each person with primary coverage and each of his dependents; and

(d) Information regarding the pharmacy benefits of each person with primary coverage and each of his dependents.

2. A third party shall provide, upon request of the Division or its business associate, any additional information necessary to confirm a person's eligibility to receive Medicaid. The Division shall prescribe such additional information that its business associate may request pursuant to this subsection.

3. As used in this section:

(a) "Business associate" has the meaning ascribed to it in 45 C.F.R. § 160.103.

(b) "Third party" means a health insurer, group health plan as defined in section 607(1) of the Employee Retirement Income Security Act of 1974, 29 U.S.C. § 1167(1), service benefit plan, self-insured plan, health maintenance organization, pharmacy benefits manager or other party that is, by statute, contract or agreement, legally responsible for the payment of a claim for a health care item or service, including, without limitation, a third-party administrator.

~~Sec. 8. [Every person administering a publicly sponsored health plan shall:~~

~~1. On or before November 1, 2009, commence an audit of the primacy of its payments on claims for benefits by checking the identities of every person enrolled for coverage against the enrollment of such persons under any other health plan; and~~

~~2. On or before July 1, 2010, prepare and submit to the Interim Finance Committee a report of the audit required pursuant to subsection 1.] (Deleted by amendment.)~~

~~Sec. 9. [1. This section and sections 1, 2, 7 and 8 of this act become effective on July 1, 2009:~~

~~2. Sections 3 to 6, inclusive, of this act become effective on July 1, 2010.] (Deleted by amendment.)~~

Assemblyman Conklin moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 481.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:  
Amendment No. 406.

AN ACT relating to crimes; revising provisions relating to certain crimes involving firearms, ammunition or explosives; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law makes it a crime for a person who is a fugitive from justice to own a firearm or to have a firearm in his possession or under his custody or control. (NRS 202.360) In *Gallegos v. Nevada*, 123 Adv. Op. 31, 163 P.3d 456 (2007), the Nevada Supreme Court held that provision to be unconstitutionally vague in violation of the Due Process Clause of the Fourteenth Amendment of the United States Constitution because it failed to define the term "fugitive from justice." This bill defines the term "fugitive from justice" for purposes of that crime, as well as for purposes of: (1) NRS 202.357, which prohibits the possession of electronic stun devices by, or the sale or giving of such devices to, a fugitive from justice; (2) NRS 202.362, which prohibits the sale or disposal of firearms or ammunition to a fugitive from justice; and (3) NRS 202.760, which prohibits the shipment or receipt of explosives by a fugitive from justice. The new definition of "fugitive from justice" is based in part on the manner in which the term is defined in federal law and in part on the manner in which the term is defined under existing case law in Nevada. (18 U.S.C. § 921(15); *Ex parte Lorraine*, 16 Nev. 63, 63 (1881); *Castriotta v. State*, 111 Nev. 67, 69 n.2, 888 P.2d 927, 929 n.2 (1995))

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

Section 1. Chapter 202 of NRS is hereby amended by adding thereto a new section to read as follows:

*As used in this chapter, unless the context otherwise requires, the term "fugitive from justice" means a person who has been found in this State after:*

- 1. Being charged in another state with the commission of a ~~crime~~ felony and fleeing from that state to avoid prosecution for the ~~crime~~ felony; or*
- 2. Fleeing from another state to avoid giving testimony in any criminal proceeding.*

Assemblyman Segerblom moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 499.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:  
Amendment No. 269.

AN ACT relating to criminal procedure; requiring a prosecutor to provide ~~[a defendant]~~ **certain defendants** with certain discovery when the defendant is brought before a magistrate after an arrest ~~[,]~~ **or at another time not less than 5 days before a preliminary examination;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, a prosecutor is required to provide ~~[to]~~ **any** defendant with copies of certain discovery, including, without limitation, documents, reports, tests, tangible objects and recorded statements, not less than 2 days before a preliminary examination is held. (NRS 171.1965) This bill requires a prosecutor to provide a defendant **charged with a felony or a gross misdemeanor** with copies of such discovery at ~~[or before]~~ the time when the defendant is brought before a magistrate after an arrest pursuant to NRS 171.178 ~~[,]~~ **or as soon as practicable thereafter, but in no event less than 5 days before a preliminary examination.**

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

Section 1. NRS 171.1965 is hereby amended to read as follows:

171.1965 1. ~~[Not]~~ **At the time a person is brought before a magistrate pursuant to NRS 171.178, or as soon as practicable thereafter, but not less than [2] 5 judicial days before a preliminary examination, [At or before the time a person is brought before a magistrate pursuant to NRS 171.178,]** the prosecuting attorney shall provide ~~[the]~~ **a** defendant **charged with a felony or a gross misdemeanor** with copies of any:

(a) Written or recorded statements or confessions made by the defendant, or any written or recorded statements made by a witness or witnesses, or any reports of statements or confessions, or copies thereof, within the possession or custody of the prosecuting attorney;

(b) Results or reports of physical or mental examinations, scientific tests or scientific experiments made in connection with the particular case, or copies thereof, within the possession or custody of the prosecuting attorney; and

(c) Books, papers, documents or tangible objects that the prosecuting attorney intends to introduce in evidence during the case in chief of the State, or copies thereof, within the possession or custody of the prosecuting attorney.

2. The defendant is not entitled, pursuant to the provisions of this section, to the discovery or inspection of:

(a) An internal report, document or memorandum that is prepared by or on behalf of the prosecuting attorney in connection with the investigation or prosecution of the case.

(b) A statement, report, book, paper, document, tangible object or any other type of item or information that is privileged or protected from disclosure or inspection pursuant to the Constitution or laws of this State or the Constitution of the United States.

3. The provisions of this section are not intended to affect any obligation placed upon the prosecuting attorney by the Constitution of this State or the Constitution of the United States to disclose exculpatory evidence to the defendant.

4. The magistrate shall not postpone a preliminary examination at the request of a party based solely on the failure of the prosecuting attorney to permit the defendant to inspect, copy or photograph material as required in this section, unless the court finds that the defendant has been prejudiced by such failure.

Assemblyman Segerblom moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 503.

Bill read second time.

The following amendment was proposed by the Committee on Transportation:

Amendment No. 381.

AN ACT relating to transportation; creating an advisory committee to develop recommendations relating to the funding of the construction and maintenance of highways in this State; providing for the membership, compensation and duties of the advisory committee; authorizing the advisory committee to place advisory questions regarding its recommendations on the ballot for the general election to be held in 2010; **requiring the Secretary of State to appoint committees to prepare arguments for and against approval of the recommendation proposed in any such advisory question placed on the ballot;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

This bill creates an advisory committee to develop recommendations for increasing funding for highways in this State. The committee consists of six members, three appointed by the Majority Leader of the Senate and three appointed by the Speaker of the Assembly. Not more than one member of the committee may be a member of the Senate, and not more than one member may be a member of the Assembly. The advisory committee: (1) is charged with developing recommendations relating to the funding of the construction and maintenance of highways in this State; and (2) is authorized to ask the voters of the State for their advice on those recommendations by placing advisory questions on the ballot for the general election to be held in 2010. **If the advisory committee places an advisory question on the ballot, the Secretary of State must appoint committees to prepare arguments for**

**and against approval of the recommendation proposed in the advisory question.**

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

Section 1. As used in this act, "advisory committee" means the advisory committee created by subsection 1 of section 2 of this act.

Sec. 2. 1. There is hereby created an advisory committee to develop recommendations for increasing the funding of highways in this State.

2. The advisory committee consists of six members appointed as follows:

(a) Three members appointed by the Majority Leader of the Senate; and

(b) Three members appointed by the Speaker of the Assembly.

3. Not more than one member of the advisory committee may be a member of the Senate, and not more than one member of the advisory committee may be a member of the Assembly.

4. The term of each member of the advisory committee commences on July 1, 2009, and expires on June 30, 2011.

5. Members of the advisory committee serve without compensation, except that while engaged in the business of the advisory committee, each member is entitled to the per diem allowance and travel expenses provided for state officers and employees generally, to be paid from the Legislative Fund.

6. The advisory committee shall meet at least once every 3 months.

7. At its first meeting, the advisory committee shall elect a Chairman and a Vice Chairman from among its members.

8. A vacancy in the membership of the advisory committee must be filled in the same manner as the original appointment.

Sec. 3. **1.** The advisory committee shall develop recommendations relating to increasing the funding of the construction and maintenance of highways in this State.

**2.** **When developing recommendations pursuant to the provisions of subsection 1, the advisory committee shall consider, without limitation, the most recent, if any, transportation project lists developed by the Department of Transportation and the regional transportation commission of any county whose population is 100,000 or more.**

Sec. 4. 1. The advisory committee may, at the general election held in 2010, ask the advice of the registered voters of the State on any question regarding the recommendations developed by the committee pursuant to section 3 of this act.

2. To place an advisory question on the ballot at the general election held in 2010, the advisory committee shall, not less than 120 days before the general election, submit to the Secretary of State a resolution that:

(a) Sets forth:

(1) Each question, in language indicating clearly that the question is advisory only;

- (2) An explanation of the question; **and**
- (3) ~~Arguments for and against the question; and~~
- ~~(4)~~ A description of the anticipated financial effect on the State; and

(b) Provides that the result of the voting on the question does not impose any legal requirement on the Legislature, any member of the Legislature or any other officer of the State.

3. If the advisory committee places an advisory question on the ballot pursuant to this section, on the sample ballot for the election, the advisory question must appear:

(a) With a title in substantially the following form: “Advisory Ballot Question No. . .”; and

(b) With its explanation, arguments and description of the anticipated financial effect.

**Sec. 5. 1. For each advisory question to be placed on the ballot pursuant to the provisions of section 4 of this act, the Secretary of State shall, pursuant to subsection 4, appoint two committees. Except as otherwise provided in subsection 2, one committee must be composed of three persons who favor approval by the voters of the recommendation proposed in the advisory question and the other committee must be composed of three persons who oppose approval by the voters of the recommendation proposed in the advisory question.**

**2. If the Secretary of State is unable to appoint three persons who are willing to serve on a committee, he may appoint fewer than three persons to that committee, but he must appoint at least one person to each committee appointed pursuant to this section.**

**3. With respect to a committee appointed pursuant to this section:**

**(a) A person may not serve simultaneously on the committee that favors approval by the voters of the recommendation proposed in the advisory question and the committee that opposes approval by the voters of the recommendation proposed in the advisory question.**

**(b) Members of the committee serve without compensation.**

**(c) The term of office for each member commences upon appointment and expires upon the publication of the sample ballot containing the advisory question.**

**4. The Secretary of State shall consider appointing to a committee pursuant to this section:**

**(a) Any person who has expressed an interest in serving on the committee; and**

**(b) A person who is a member of an organization that has expressed an interest in having a member of the organization serve on the committee.**

**5. A committee appointed pursuant to this section:**

**(a) Shall elect a chairman for the committee;**

**(b) Shall meet and conduct its affairs as necessary to fulfill the requirements of this section;**



(c) May seek and consider comments from the general public;

(d) Shall, based on whether the members were appointed to advocate or oppose approval by the voters of the recommendation proposed in the advisory question, prepare an argument either advocating or opposing approval by the voters of the recommendation proposed in the advisory question;

(e) Shall prepare a rebuttal to the argument prepared by the other committee appointed pursuant to this section;

(f) Shall address in the argument and rebuttal prepared pursuant to paragraphs (d) and (e):

(1) The fiscal impact of the recommendation proposed in the advisory question;

(2) The environmental impact of the recommendation proposed in the advisory question; and

(3) The impact of the recommendation proposed in the advisory question on the public health, safety and welfare; and

(g) Shall submit the argument and rebuttal prepared pursuant to paragraphs (d), (e) and (f) to the Secretary of State not later than the date prescribed by the Secretary of State pursuant to subsection 6.

6. The Secretary of State shall provide, by rule or regulation:

(a) The maximum permissible length of an argument and rebuttal prepared pursuant to this section; and

(b) The date by which an argument and rebuttal prepared pursuant to this section must be submitted by a committee to the Secretary of State.

7. Upon receipt of an argument or rebuttal prepared pursuant to this section, the Secretary of State:

(a) May consult with persons who are generally recognized by a national or statewide organization as having expertise regarding transportation and transportation-related issues; and

(b) Shall reject each statement in the argument or rebuttal that he believes is libelous or factually inaccurate.

↪ The decision of the Secretary of State to reject a statement pursuant to this subsection is a final decision for the purposes of judicial review. Not later than 5 days after the Secretary of State rejects a statement pursuant to this subsection, the committee that prepared the statement may appeal that rejection by filing a complaint in the First Judicial District Court. The Court shall set the matter for hearing not later than 3 working days after the complaint is filed and shall give priority to such a complaint over all other matters pending before the court, except for criminal proceedings.

8. The Secretary of State may revise the language submitted by a committee pursuant to this section so that it is clear, concise and suitable for incorporation in the sample ballot, but shall not alter the meaning or effect of the language without the consent of the committee.

~~{Sec. 5.}~~ *Sec. 6.* This act becomes effective upon passage and approval.

Assemblyman Atkinson moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 521.

Bill read second time.

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

Amendment No. 282.

AN ACT relating to occupational diseases; revising provisions governing coverage for cancer as an occupational disease of certain firefighters; expanding the list of substances which are deemed to be known carcinogens that are reasonably associated with specific disabling cancers; ~~removing the provision~~ **providing** that coverage for cancer as an occupational disease applies ~~only~~ to a firefighter who has been employed for ~~5~~ **2** years or more ~~under certain circumstances~~; **requiring** certain annual physical examinations of firefighters who qualify for coverage for cancer as an occupational disease; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, cancer which results in temporary disability, permanent disability or death is an occupational disease and compensable as such under the provisions of chapter 617 of NRS if the cancer develops or manifests itself out of and in the course of employment of a person who, for 5 years or more, has been employed as a full-time firefighter or has been acting as a volunteer firefighter and who, during the course of the employment, was exposed to a known carcinogen that is reasonably associated with the disabling cancer. Existing law also sets forth a list of substances that shall be deemed to be known carcinogens that are reasonably associated with specific disabling cancers. (NRS 617.453) This bill ~~removes the provision~~ **provides** that coverage for cancer as an occupational disease applies ~~only~~ if a firefighter has been employed for ~~5~~ **2** years or more. This bill also expands the list of substances which are deemed to be known carcinogens that are reasonably associated with specific disabling cancers. In addition, this bill requires each firefighter who qualifies for coverage for cancer as an occupational disease to submit to an annual physical examination ~~[which includes a thyroid ultrasound scan and a prostate specific antigen test.]~~ and requires the employer of the firefighter to pay for the physical examination.

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

Section 1. NRS 617.453 is hereby amended to read as follows:

617.453 1. Notwithstanding any other provision of this chapter, cancer, resulting in either temporary or permanent disability, or death, is an occupational disease and compensable as such under the provisions of this chapter if:

(a) The cancer develops or manifests itself out of and in the course of the employment of a person who for ~~5~~ 2 years or more, has been:

(1) Employed in this State in a full-time salaried occupation of fire fighting for the benefit or safety of the public; or

(2) Acting as a volunteer firefighter in this State and is entitled to the benefits of chapters 616A to 616D, inclusive, of NRS pursuant to the provisions of NRS 616A.145; and

(b) It is demonstrated that:

(1) He was exposed, while in the course of the employment, to a known carcinogen as defined by the International Agency for Research on Cancer or the National Toxicology Program; and

(2) The carcinogen is reasonably associated with the disabling cancer.

2. With respect to a person who for ~~5~~ 2 years or more, has been employed in this State in a full-time salaried occupation of fire fighting for the benefit or safety of the public, the following substances shall be deemed, for the purposes of paragraph (b) of subsection 1, to be known carcinogens that are reasonably associated with the following disabling cancers:

(a) Diesel exhaust, formaldehyde and polycyclic aromatic hydrocarbon shall be deemed to be known carcinogens that are reasonably associated with bladder cancer.

(b) Acrylonitrile, formaldehyde and vinyl chloride shall be deemed to be known carcinogens that are reasonably associated with brain cancer.

(c) Diesel exhaust and formaldehyde shall be deemed to be known carcinogens that are reasonably associated with colon cancer.

(d) Formaldehyde shall be deemed to be a known carcinogen that is reasonably associated with Hodgkin's lymphoma.

(e) Formaldehyde and polycyclic aromatic hydrocarbon shall be deemed to be known carcinogens that are reasonably associated with kidney cancer.

(f) Chloroform, soot and vinyl chloride shall be deemed to be known carcinogens that are reasonably associated with liver cancer.

(g) Acrylonitrile, benzene, formaldehyde, polycyclic aromatic hydrocarbon, soot and vinyl chloride shall be deemed to be known carcinogens that are reasonably associated with lymphatic or haemopoietic cancer.

***(h) Diesel exhaust, soot, aldehydes and polycyclic aromatic hydrocarbon shall be deemed to be known carcinogens that are reasonably associated with basal cell carcinoma, squamous cell carcinoma and malignant melanoma.***

***(i) Acrylonitrile, benzene and formaldehyde shall be deemed to be known carcinogens that are reasonably associated with prostate cancer.***

*(j) Diesel exhaust, soot and polychlorinated biphenyls shall be deemed to be known carcinogens that are reasonably associated with testicular cancer.*

*(k) Diesel exhaust, benzene and X-ray radiation shall be deemed to be known carcinogens that are reasonably associated with thyroid cancer.*

3. The provisions of subsection 2 do not create an exclusive list and do not preclude any person from demonstrating, on a case-by-case basis for the purposes of paragraph (b) of subsection 1, that a substance is a known carcinogen that is reasonably associated with a disabling cancer.

4. *Each employee who is to be covered for cancer pursuant to the provisions of this section shall submit to a physical examination, including*

*⋮*  
*(a) Upon employment, a chest X ray, a thyroid ultrasound scan, a blood panel, a urine occult blood test and:*

*(1) For men, a prostate-specific antigen test; and*

*(2) For women, a baseline mammogram; and*

*(b) On an annual basis while employed, a thyroid ultrasound scan and, for men, a prostate-specific antigen test.* ~~*upon employment and thereafter on an annual basis during his employment.*~~

5. *All physical examinations required pursuant to subsection 4 must be paid for by the employer.*

6. Compensation awarded to the employee or his dependents for disabling cancer pursuant to this section must include:

(a) Full reimbursement for related expenses incurred for medical treatments, surgery and hospitalization in accordance with the schedule of fees and charges established pursuant to NRS 616C.260 or, if the insurer has contracted with an organization for managed care or with providers of health care pursuant to NRS 616B.527, the amount that is allowed for the treatment or other services under that contract; and

(b) The compensation provided in chapters 616A to 616D, inclusive, of NRS for the disability or death.

~~{5}~~ 7. Disabling cancer is presumed to have developed or manifested itself out of and in the course of the employment of any firefighter described in this section. This rebuttable presumption applies to disabling cancer diagnosed after the termination of the person's employment if the diagnosis occurs within a period, not to exceed 60 months, which begins with the last date the employee actually worked in the qualifying capacity and extends for a period calculated by multiplying 3 months by the number of full years of his employment. This rebuttable presumption must control the awarding of benefits pursuant to this section unless evidence to rebut the presumption is presented.

~~{6}~~ 8. The provisions of this section do not create a conclusive presumption.

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

Assemblyman Conklin moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

#### MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Conklin moved that upon return from the printer, Assembly Bill No. 521 be placed on the Chief Clerk's desk.

Motion carried.

Assemblyman Ocegüera moved that Assembly Joint Resolutions Nos. 7 and 10 be taken from their position on the General File and placed at the top of the General File.

Motion carried.

Assemblyman Conklin moved that Assembly Bills Nos. 331, 480, and 493 be taken from the General File and placed on the Chief Clerk's desk.

Motion carried.

Madam Speaker appointed Assemblywoman Kirkpatrick and Assemblyman Hardy as a committee to invite the Senate to meet in Joint Session with the Assembly to hear an address by United States Representative Dina Titus.

The President of the Senate and members of the Senate appeared before the Bar of the Assembly.

Madam Speaker invited the President of the Senate to the Speaker's rostrum.

Madam Speaker invited the members of the Senate to chairs in the Assembly.

#### IN JOINT SESSION

At 12:04 p.m.

President of the Senate presiding.

The Secretary of the Senate called the Senate roll.

All present.

The Chief Clerk of the Assembly called the Assembly roll.

All present.

The President of the Senate appointed a Committee on Escort consisting of Senator Carlton and Assemblyman Claborn to wait upon Representative Titus and escort her to the Assembly Chamber.

The Committee on Escort in company with the Honorable Dina Titus, United States Representative from Nevada, appeared before the Bar of the Assembly.

The Committee on Escort escorted the Representative to the rostrum.

Madam Speaker welcomed Representative Titus and invited her to deliver her message.

Dina Titus, United States Representative, delivered her message as follows:

MESSAGE TO THE LEGISLATURE OF NEVADA  
SEVENTY-FIFTH SESSION, 2009

Madam Speaker, Majority Leader, Lieutenant Governor, Senator Raggio, Ms. Gansert, friends, colleagues, all of you, I am delighted to be back in Nevada. Thank you so much for welcoming me here. It is also very nice to see my colleagues from across the way and the Executive Branch. Thank you, too, for coming.

You know, I spent a lot of sessions here, right in this building, working with many of you on lots of different issues. It feels good to be back. It was really something yesterday to get inducted into the Hall of Fame along with Senator Joe Neal. It is nice to see him back, too. It was great. It was such an honor. I heard Senator Horsford very graciously acknowledge me as his mentor, and then Senator Raggio said, "Yes, and she was my tormentor." I figure that I must have been doing my job. I like that. And I loved every single minute of it, so thank you all for that good time. During my time here, I also sat through a lot of these addresses from members of Congress who came back to tell us what was going on in Washington, D.C. I very much appreciate your courtesy and your attention and your allowing me to do this. I do not want to take advantage of it, and I know how you feel so I will be short. I hope that gets me off on the right track.

This is a great tradition, though, and I am glad to be back to tell you what's going on in Washington, D.C. and some of the things I have been working on.

It is troubling times that we are in, and I know I don't have to tell you that. The challenges are great, but the optimism is high. I believe that people really want us to take action, as a government, and to get things done. They do not want us to just say, "No" and "Isn't it awful?" but rather to participate in trying to make a difference and take us in a direction of change. That's why this 111th Congress got off to a really good start. We hit the ground running just as you did here in the Legislature. I think we have done a lot of things to help address this economic situation that is crippling the state and the country.

Just in the first 100 days, we passed a SCHIP (State Children's Health Insurance Program) bill, the Lilly Ledbetter workplace nondiscrimination bill, the Serve America Act, the Omnibus Spending Bill from last year, and the American Recovery and Reinvestment Act, also known as the stimulus package. We didn't get into this hole overnight, and it is going to take a while for us to get out of it. But with some time and hard work and that kind of energy at the onset, I believe we can reverse this economic slide and start to turn things in a new direction so we can rebuild confidence, security, and growth.

As the President said yesterday, even though there are some small signs of the recovery—with us maybe starting to turn a little or at least having hit bottom and maybe moving in the other direction—the stark reality is that we are going to continue to face difficult times. It is going to take some patience and hard work before we see the recovery in Nevada begin to take effect.

Now, I know you have already heard from Senator Reid and Congresswoman Berkley about a lot of the details that are in the stimulus package, but there are a couple of things that I just want to share with you and highlight because I think they are important and they are impacting the state.

As you struggle to balance the budget in this Legislature without devastating those essential programs that people need and the services they rely on, I want you to remember that \$1.5 billion is slated for the state as a result of that stimulus bill. And so I beseech you not to leave any of that money on the table because if you do, that money will just go to other states. Nevadans drastically need it. This isn't a liberal or conservative issue. This isn't a partisan

issue. This is a Nevada issue, and those dollars need to come to the state for those needed programs and so I ask you to take advantage of it. In addition to those dollars that are coming, other parts of the stimulus package that I believe will help the state include the fact that on April 1, 2009, nearly one million hardworking Nevadans began to see more money in their pockets from their paychecks as a result of the Making Work Pay tax credit that took effect. Workers will receive up to \$400 per individual and \$800 per couple. Also, next month recipients of social security and SSI (Supplemental Security Income), as well as veterans, will receive a \$250 check in the mail. Stimulus dollars will also help with the state's growing Medicaid burden and will allow for the extension of unemployment benefits which are needed at a time when unemployment in the state is at a 25-year high.

During these tough economic times, I believe that these kinds of programs have put more money into people's pockets here in Nevada and can have a great impact on families who are struggling just to make ends meet and small businesses that are struggling to keep their doors open.

In addition to the stimulus package, Nevada will soon see the impact of \$270 million that is coming to the state for what we have heard a thousand times—shovel-ready transportation and infrastructure projects. There is another \$72 million to promote weatherization and energy efficiency programs. This money will create jobs, and they are jobs that cannot be outsourced. It will put Nevadans back to work. The weatherization money will also save Nevadans money of their own by making their energy bills lower. This is tied to the green jobs emphasis. Green jobs must be a significant part of our efforts to move Nevada towards a new economy, a new direction that diversifies the economy that we have and help to create additional jobs. I know this has been a focus of this legislative session, and I applaud the Senate Majority Leader for his bill that recognizes the importance that green jobs can have on Nevada and the need for training in this area.

One of the most serious crises and challenges that I am working on in Washington, D.C. has to do with housing. Again, I do not need to tell you this, but the housing crisis in Nevada is one of the worst in the country. I am encouraged by the first steps that have been taken by the Obama Administration to help homeowners in trouble. The President has created two new programs that I would encourage Nevadans who are struggling to make their payments to look into. We are having a big housing forum this Saturday to get this information out. I know the state is doing likewise. Nonprofits are doing the same thing. This loan modification and loan refinancing program can dramatically help many Nevadans.

If you combine this with the state program that I know the Speaker is working on, to require mediation between homeowners and mortgage lenders, I think together we can start to make a difference with this foreclosure problem. However, the programs will not be effective if people do not know about them. A lot of Americans do not understand what is available, what they qualify for, and how to go about receiving assistance. I am currently working on legislation that will notify homeowners, require the mortgage companies to notify the homeowners about the different programs that are available and which ones they might qualify for. When this passes, not only will it clearly explain the steps for receiving this assistance, but it will also help protect people from the scam artists that we know are preying on those who are the most desperate for help.

The foreclosure crisis in Nevada, though, is one of the most drastic in the country. It is going to take drastic action to fix. Some of these programs that help the problem generally will not help Nevadans because about 48 percent of the people are underwater on their mortgages, and many of them are at more than 105 percent. There was a study done recently that looked at the top 20 zip codes in the country where the foreclosure problems are the worst. Eleven of the top 20, nationally, are in Congressional District 3—the suburbs where growth occurred so drastically. This is a critical problem for me. I will continue to work with Washington, D.C. so that they know one size does not fit all. States like Nevada have special needs and will need special attention.

Another area of importance to the state is transportation. Our economy depends on bringing goods and people from outside, from other parts of the country and other parts of the world, here to Nevada. We want those tourists to come. We do not especially care if they do not leave, but we have to get them here, so transportation will be very important. As many of you know, I was

able to get a seat on the highly sought Transportation and Infrastructure Committee. It was the one that was the most requested because this is the session when we will be taking some very drastic action in that committee. We are going to begin next week, when Congress goes back into session, constructing and crafting the new surface transportation authorization bill. This will replace the SAFETEA (Safe, Accountable, Flexible, Efficient Transportation Equity Act) bill which expires in September. This is something that everyone wants to be involved in because this will involve the allocation of so many dollars for highway projects to the state. We have a real opportunity in Nevada to make our transportation system safer, less congested, and more energy efficient. At the same time we do this, we can have a major impact on economic development because, again, these are the projects that will create jobs. I would urge you, as a legislature, to play a very active role in where these dollars go and what projects should have priority. Do not leave this to a handful of bureaucrats, but rather be involved in that process.

As the committee moves forward in crafting this legislation, I would ask you please do not be shy about calling my office and telling me what Nevada needs because this authorization does not come along very often. We have to take advantage of it. I promise that I will be an advocate for the whole state as we move forward with this important bill.

Another committee that I'm honored to serve on is the House Education and Labor Committee. That seemed a natural with my background. I have several goals as a member of that committee. I hope, basically, that we can provide opportunities for growth over a lifetime—K-12, college, and then job training. The first challenge—and I know, again, that you are working on this as well—is reforming No Child Left Behind. We all know the problems. No Child Left Behind has kind of become an empty promise, and we have left too many children behind, especially in fast growing states like Nevada. We have heard it from teachers, administrators, parents, and even the students themselves tell us that it is little more than a slogan, as opposed to the fulfillment of a real promise. I think the goals are worthy. We need accountability. Everyone deserves a quality education, but I do not think we are doing it the right way, and I look forward to working with all of you as we reform that act.

I have spent the last 30 years—I get reminded of it, with 30 years sounding like a long time—teaching at UNLV and working with students. This is a great concern of mine, especially in this economy. I see too many students burdened down with debt. As they lose their jobs or their hours are cut back, it is even harder to pay for college. The cost of college is also increasing. In Congress, I was pleased to support the measure that will help with the cost of college by giving a \$2,500 tax credit for college expenses and also increasing Pell Grants. I am asking you, please don't cut higher education to the point that students won't have anywhere to go or won't be able to learn or experience much when they get there. And let me be very clear on this point because there has been some confusion about it. My support for a waiver that would help Nevada during these tough economic times—in case you can't meet the federal requirements for getting the education stabilization funds—by no means is an indication that I think we should not fund and support education. Because I would never want you to shortchange education, so don't think my support of the waiver is an indication of that. It is not, because I believe education is the key to our future.

We have to be interested in job training and this economy in Nevada. Many of people in the jobs that were prospering are now finding themselves on the streets. People who were in tourism or who were in construction now need to look for new skills so that they can find new jobs in the new economy, and that is another emphasis that we need to focus on.

My third committee is Homeland Security. I am excited to sit on this committee because there is never a discussion anywhere on television or elsewhere when they talk about targets that Nevada isn't mentioned in that conversation. For that reason, I think I bring a unique voice to the discussion. Las Vegas is unlike any other city on the planet. In just one block of the district, you have the Eiffel Tower, the Pyramid, and the Statue of Liberty. All the world is condensed right there on one street. We have thousands of guests from around the world in just a few square miles. I am proud to tell my colleagues in Washington, D.C. about what wonderful amenities our hotels and convention centers offer. We want them to come, not just to Las Vegas, but throughout the state. Everyone has heard about the good times we have here and the wonderful shows and the food and the 24-hour entertainment. In just the last year, as we learned from the attack in India, a tourist center can also be a target for our enemies.



Since January, this committee has held hearings about preventing another Mumbai-style attack and securing our nation's skies. The new issue is keeping cyberspace safe. In addition, we are conducting some field studies along the border to look at the intensity of violence and the problems there with Mexico.

Nevada offers a lot to the Homeland Security Committee. I hope to bring them out for a field hearing so the members can see just what is going on in the state, and we can share with them what we do here. Of course, at the Nevada Test Site, for example, they have already trained 60,000 first responders from around the world on how to respond to an incident involving a weapon of mass destruction or some other chemical kind of incident. The individuals trained at the test site would be pivotal in the event of an emergency situation and could respond to a potential crisis anywhere in the world. As a matter of fact, our test site is the only place in the world where they have the opportunity to train in such a realistic environment. I look forward to working to enhance that aspect of that special facility we have in this state.

Also, when the committee comes out, I want to go "back of the house" in some casinos because our casinos also provide a vantage point into the future of security technology. These establishments use cutting-edge technology, state of the art equipment for surveillance and for security and they have some of the best trained personnel anywhere. They are very well equipped to keep thousands of guests safe, day or night, in many different kinds of circumstances. Our hotels and conference centers are also great models for preparedness. I believe that the government could learn from our private sector about some of the ways to help keep our nation safe.

It is those three committees that I am working on. I got a waiver for the third, but I believe all three will be closely related to things that you are doing in the Legislature and things that can work to the benefit of Nevada.

As a member of this Legislature for 20 years, I understand the challenges and constraints you are facing. These are extraordinary times. I know that the tasks ahead are going to require bold and creative action, both here in Carson City and in Washington, D.C. So let us not forget that although we are thousands of miles apart on most days, we are partners in this effort to create a strong Nevada on every day.

I am very proud to be representing Nevada in Congress at this historic and exciting moment. I assure you that I am working very hard for the people in this state. It is not a 9 a.m. to 5 p.m. job. I have learned that it is exactly a quarter of a mile from my office to the place where I vote on the floor. That is a lot further than it was when Senator Raggio bumped me up to the second floor here in the Legislative Building. I am there because I want to work hard and make a difference. I also want to assure you that although, technically, I represent the third district, I will always be an advocate for the entire state. I hope you will remember that and call on me, regardless of which county you might be from, because I know that only by working together can we have a strong state and federal partnership for the good of the people in Nevada.

I want to thank you for all the hard work that you are doing here on behalf of the people. I want to thank you, also, for welcoming me back so warmly and making me feel like I am a little missed, at least. I hope now that you will come back to see me in Washington, D.C. and let me return the hospitality. The latch string is always out. Thank you.

Senator Mathews moved that the Senate and Assembly in Joint Session extend a vote of thanks to Representative Titus for her timely, able, and constructive message.

Seconded by Assemblyman Aizley.

Motion carried unanimously.

The Committee on Escort escorted Representative Titus to the Bar of the Assembly.

Senator Townsend moved that the Joint Session be dissolved.  
Seconded by Assemblyman Goedhart.  
Motion carried.

Joint Session dissolved at 12:31 p.m.

#### ASSEMBLY IN SESSION

At 12:33 p.m.  
Madam Speaker presiding.  
Quorum present.

Assemblyman Ocegüera moved that the Assembly recess until 1 p.m.  
Motion carried.

Assembly in recess at 12:33 p.m.

#### ASSEMBLY IN SESSION

At 1:41 p.m.  
Madam Speaker presiding.  
Quorum present.

#### GENERAL FILE AND THIRD READING

Assembly Joint Resolution No. 7.

Resolution read third time.

Remarks by Assemblymen Aizley, Gansert, Smith, Cobb, Pierce, McClain,  
and Mortenson.

Assemblyman Ocegüera requested that the following remarks be entered in  
the Journal.

##### ASSEMBLYMAN AIZLEY:

Thank you, Madam Speaker. Assembly Joint Resolution 7 proposes to amend the Nevada Constitution by repealing Section 24 of Article 4 which prohibits the state or any political subdivision thereof from conducting a lottery. If approved in identical form during the 2011 Session of the Legislature, the proposal would be submitted to the voters for approval or disapproval at the 2012 General Election.

In looking up information about the lottery, I find that every argument I've seen for has a counter argument against the lottery. No matter what statement I hear people making, there is always a counter statement that contradicts those statements. For example, when I introduced the bill in committee, I introduced it as the bill that never dies. I heard someone in the back of the room say, "No, it's the bill that never lives." I think it is time to have the people of Nevada decide whether or not they want a lottery. The only statistics I will present to you are that there are 43 states that have lotteries now— Arkansas being the last to join. There are 34 states with casinos, and there are 30 states that have both lotteries and casinos. For a little bit of history, I found the first lottery was 100 B.C. introduced by the Han Dynasty in China, and the proceeds went to build the Great Wall. I request your support.

##### ASSEMBLYWOMAN GANSERT:

I appreciate the comments from the Assemblyman from Clark County because I know there is for and against. I have been here when we have voted on this three different times. If there is ever a time for a lottery, I would say that this is not the time. Our gaming companies in this state are hemorrhaging; they are having such a difficult time. They are the major industry, they are

the major employer. My fear would be that we would cannibalize what they bring to our state as far as revenue. They also have put such great investment in our state as far as infrastructure and their buildings and so forth. There is such a large industry in our state, and I would hate at this time to cannibalize them. I know that many of us supported IP 1 to try to get more money to education, and I was one of those people. So I think right now is not the time to ask for anything else.

ASSEMBLYWOMAN SMITH:

Thank you, Madam Speaker. I rise in support of AJR 7. This gives the people the right to decide, and then the people have the right to decide whether they want to participate in the lottery. I am so frustrated because I hear day after day after day about our inability to adequately fund our education system. I think this is a very reasonable avenue to do that. First of all, let's let the people decide if that is a choice that they want to make. I hear from my constituents on a regular basis that this is a reasonable idea. I happen to believe that there are very different people who will participate in buying lottery tickets than may participate in regular gaming. I know that as my colleague, the sponsor of the bill, said, you can hear arguments on either side. We need to find additional revenue sources for our education system. We know today that we are hundreds of millions of dollars short of even being able to fund an inadequate budget today. I want to give the voters in my district and this state the opportunity to have this choice, to say that yes, this is a reasonable idea for us to have a new source of funding for our woefully funded education system.

ASSEMBLYMAN COBB:

Thank you, Madam Speaker. I rise in opposition to AJR 7. In testimony, one of things that really caught my attention was the fact that a lot of the small tavern owners and those types of operations are really hurting right now in this current economy with some of the consequences of the smoking ban as well as the natural consequence of our economic downturn—with unemployment over 10 percent. We heard testimony that in California, they are moving more towards the electronic-type games to try to get more people to join in on the lotteries because they are waning in terms of their popularity. That is the same market of individuals that go into these small taverns, and small operators help employ people as waitresses, greeters, busboys, you name it. I think that we have to realize that if we are going to be supporting a gaming-type operation through the state, we are going to be hurting those that actually employ our fellow Nevadans. I would agree with my colleague from District 25; this would not be the time to be doing that and taking away from those who would actually help employ more people in our economy.

ASSEMBLYWOMAN PIERCE:

Thank you, Madam Speaker. We've heard over and over in this discussion that the most lucrative places that California sells their lottery tickets is on the Nevada border. Nevadans do support lotteries, and I happen to be a Nevadan who has a California lottery ticket in my pocket. I support this, and wish me luck tonight.

ASSEMBLYWOMAN MCCLAIN:

Thank you, Madam Speaker. I was one of those lonely little freshmen that brought that bill back in 1999—I got slam dunked pretty good. Ever since then, it has come back in one form or another. If you look at the polls taken every session when the lottery comes up, the public support is 70 percent and above. I think they recognize that this is not casino gaming, it is not going to hurt the casinos. In fact, if the casinos would embrace it, they would actually make more money from it because any establishment that sells lottery tickets actually gets a cut of the sales, and then if somebody in that establishment actually wins, they get a big cut of the winnings. I have always said it is just so silly that we don't have a lottery, but when you think about when the Constitution was written, a lottery in those days is not what we think of as a lottery today. The lottery in those days was simply a sham or a shell game of some sort. When we copied California's Constitution, we copied that part of it. I would urge my support, and I appreciate my colleague to the west of me for bring the AJR 7 forward.

ASSEMBLYMAN MORTENSON:

Thank you, Madam Speaker. I just want to remind you, we can argue whether this is good or bad for the people all day long, but we are not going to make that decision. We are deciding here whether to give this to the people to make a decision, and I am always for that. I think most legislators should feel that their constituents have the right to make a decision of this nature.

Roll call on Assembly Joint Resolution No. 7:

YEAS—31.

NAYS—Christensen, Cobb, Denis, Gansert, Gustavson, Hambrick, Hardy, McArthur, Settlemeyer, Stewart, Woodbury—11.

Assembly Joint Resolution No. 7 having received a constitutional majority, Madam Speaker declared it passed.

Resolution ordered transmitted to the Senate.

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

Assembly in recess at 1:51 p.m.

#### ASSEMBLY IN SESSION

At 1:52 p.m.

Mr. Speaker pro Tempore presiding.

Quorum present.

Assembly Joint Resolution No. 10.

Resolution read third time.

Remarks by Assemblymen Buckley, Goedhart, and Carpenter.

Assemblyman Ocegüera requested that the following remarks be entered in the Journal.

ASSEMBLYWOMAN BUCKLEY:

Assembly Joint Resolution 10 urges Congress to deed BLM land to the State of Nevada for the development of renewable energy projects. Nevada is in a unique position with regard to renewable energy. We have the wind, the sun, geothermal, and biomass. You name it; we have an abundance of natural resources that has us uniquely poised to be a leader in the new green energy economy. What will help us jump-start this spot that we have is if we are able to secure land to promote these projects. Sixty-seven percent of the land in Nevada is owned by the BLM. Why not get some of this land to do some pilot projects throughout the state? We could secure a number of goals. We could jump-start renewable energy projects, creating jobs that could help our economy. We could reclaim some of our land, taking it away from the federal government and deeding it to the state.

Several years ago I worked on a project with Senator Reid where Senator Reid secured two parcels of BLM land. They were given to the City of Las Vegas, and we built the first nonprofit, affordable assisted-living project called Silver Sky in Las Vegas. We did a request for proposal, we worked with nonprofit developers, and now we have a beautiful facility setting the template of how this could be done. If you are able to reduce the land costs, you're able to jump-start projects that would have not been able to go due to lack of financing, especially in these times.

If you ask renewable energy developers what is their biggest holdup in getting projects off the ground, it's land. Congress is devoted to trying to streamline that process, but in the meantime if we could secure a few pieces of land, and we do a request for proposal, we could get these projects off the ground much quicker.

I toured the state talking about innovative ways to do business to help our economy and to create jobs. As soon as we create more jobs, we are going to have less fiscal problems as a state.

This idea really resonated with people. So I bring this resolution forward as a way to further our place in establishing us as a leader in renewable energy and as a way for us to create jobs and deprive the federal government of a little bit of our land. I urge your support.

ASSEMBLYMAN GOEDHART:

I rise in support of AJR 10. In rural Nevada it is even worse that 67 percent. In Nye County, 98.1 percent of the land is federally controlled. In Lincoln County, it's 96 percent, and in Esmeralda County it is 98.6 percent. One of the biggest impediments to realizing the potential Nevada has in terms of renewable energy is exactly that: access to land. I know about it from first-hand experience, when we were trying to buy about 400 acres from the BLM. After seven years I finally succeeded in getting the BLM to sell us a 400-acre piece of land that we owned property on three sides of. My brother said to me, "Ed why did that take so long?" I said, "If you look back at Amargosa Valley, that was the first piece of land that we were able to privatize in over a third of a century, outside of an act of Congress supported by our Senator, Harry Reid." So I think that this takes us a step in the right direction. It will allow us to capitalize on the assets that Nevada has, and I urge your support.

ASSEMBLYMAN CARPENTER:

I stand in support of AJR 10. Anytime we can get some land from the federal government, we better do it. The only thing is that this resolution doesn't go far enough. We ought to ask for 100 percent. That would be a better kind of deal. I agree with everything that the Speaker said, and hopefully someday, although I won't be here, there will be a resolution coming through this house that will say we finally got some land back from the feds. Thank you.

Roll call on Assembly Joint Resolution No. 10:

YEAS—42.

NAYS—None.

Assembly Joint Resolution No. 10 having received a constitutional majority, Mr. Speaker pro Tempore declared it passed.

Resolution ordered transmitted to the Senate.

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

Assembly in recess at 1:59 p.m.

#### ASSEMBLY IN SESSION

At 2 p.m.

Madam Speaker presiding.

Quorum present.

Assembly Bill No. 20.

Bill read third time.

#### MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Arberry moved that Assembly Bill No. 20 be taken from the General File and rereferred to the Committee on Ways and Means.

Motion carried.

#### GENERAL FILE AND THIRD READING

Assembly Bill No. 56.

Bill read third time.

Remarks by Assemblywoman Mastroluca.

Roll call on Assembly Bill No. 56:

YEAS—42.

NAYS—None.

Assembly Bill No. 56 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Arberry moved that Assembly Bills Nos. 99, 123, 155, and 213 be taken from the General File and rereferred to the Committee on Ways and Means.

Motion carried.

Assemblyman Arberry moved that Assembly Bills Nos. 178, 331, 359, 522, and 523 be taken from the Chief Clerk's desk and rereferred to the Committee on Ways and Means.

Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 59.

Bill read third time.

Remarks by Assemblyman Ohrenschall.

Roll call on Assembly Bill No. 59:

YEAS—42.

NAYS—None.

Assembly Bill No. 59 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Anderson moved that Assembly Bill No. 63 be taken from the General File and placed on the Chief Clerk's desk.

Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 71.

Bill read third time.

Roll call on Assembly Bill No. 71:

YEAS—42.

NAYS—None.

Assembly Bill No. 71 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 89.

Bill read third time.

Remarks by Assemblyman Denis.

Roll call on Assembly Bill No. 89:

YEAS—42.

NAYS—None.

Assembly Bill No. 89 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 97.

Bill read third time.

Remarks by Assemblywoman Mastroluca.

Roll call on Assembly Bill No. 97:

YEAS—41.

NAYS—Carpenter.

Assembly Bill No. 97 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 105.

Bill read third time.

Remarks by Assemblywoman Gansert.

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

Roll call on Assembly Bill No. 105:

YEAS—42.

NAYS—None.

Assembly Bill No. 105 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 116.

Bill read third time.

Remarks by Assemblyman Carpenter.

Roll call on Assembly Bill No. 116:

YEAS—42.

NAYS—None.

Assembly Bill No. 116 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 190.

Bill read third time.

Remarks by Assemblymen Anderson, Cobb, and Segerblom.

Assemblyman Ocegüera requested that the following remarks be entered in the Journal.

ASSEMBLYMAN ANDERSON:

Thank you, Madam Speaker. Assembly Bill 190 requires the Audit Division of the Legislative Counsel Bureau to conduct a staff study of the fiscal costs of the death penalty in

Nevada. The study must examine the cost of adjudicating capital cases as opposed to noncapital cases and must include the cost to the state and to the local governments at each stage of capital murder case proceedings. The Legislative Auditor shall submit a written report of the findings to the Director of the Legislative Counsel Bureau on or before January 31, 2011, for consideration by this body.

ASSEMBLYMAN COBB:

Thank you, Madam Speaker. I rise in opposition to A.B. 190. This bill has been greatly amended. I still have a concern about this bill in terms of studying the cost of the death penalty. Although it was vetted in committee and the intent was put on the record that not only the cost of the death penalty, but also the potential cost savings of having the death penalty on the books should be part of the overall study, it has already been stipulated by law enforcement that it does cost more to try a death penalty case versus a nondeath penalty case. It is just a fact of life. To repeat the studies that have already been done in other jurisdictions to reach the same result, in my opinion, is a waste of money, and so we stipulate to the fact that it does cost more to prosecute a death penalty case versus a noncapital case. We believe, however, that there is cost savings involved with having the death penalty on the books when you look at pleading people out instead of taking them all the way through any type of trial. We already know what the result is going to be. I don't believe that this is necessary.

ASSEMBLYMAN SEGERBLOM:

Thank you, Madam Speaker. To address the comment from the gentleman from northern Nevada, this bill will allow just that and fully weigh the cost of people not going to trial, which the death penalty may encourage or discourage, along with the costs saved by trying to prosecute people using the death penalty. Testimony was very strong that the death penalty is costing a fortune, and to study the cost is the minimum we can do. I urge support of the bill.

Roll call on Assembly Bill No. 190:

YEAS—30.

NAYS—Christensen, Cobb, Gansert, Goicoechea, Grady, Gustavson, Hambrick, Hardy, McArthur, Settlemeyer, Stewart, Woodbury—12.

Assembly Bill No. 190 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 204.

Bill read third time.

Remarks by Assemblywoman Spiegel.

Roll call on Assembly Bill No. 204:

YEAS—33.

NAYS—Cobb, Gansert, Goedhart, Goicoechea, Gustavson, Hardy, Settlemeyer, Stewart, Woodbury—9.

Assembly Bill No. 204 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 226.

Bill read third time.

Remarks by Assemblymen Goicoechea, Grady, and Madam Speaker.

Assemblyman Ocegüera requested that the following remarks be entered in the Journal.



ASSEMBLYMAN GOICOECHEA:

Thank you, Madam Speaker. Assembly Bill 226 increases the maximum allowable debt for an irrigation district from \$350,000 to \$500,000 and allows the irrigation district to impose an assessment of up to \$5 per acre for deposit into a capital improvement fund. Presently, an irrigation district may also impose an assessment up to \$1.50 an acre for ordinary expenses of the district. The total of that assessment cannot exceed the \$5 limit. The bill also removes the cap on the amount of money that may be spent in cases of necessity for construction or repair.

This is enabling legislation for three districts: the Truckee-Carson Irrigation District (TCID), the Pershing County Water Conservation District (PCWCD), and the Walker River Irrigation District (WRID). Chapter 539 is a rather old section of law that needs a little bit of updating. In the case of the monies that could be spent out of necessity, in an emergency measure, that amount was set at 5 cents per acre. In the case of Pershing County, that wouldn't buy you a culvert. The assessment has not been changed in over 35 years. These districts really need the money to address the issues like the Fernley canal and the Rogers diversion in Pershing County. I ask for your support. We need to help them rebuild.

Madam Speaker requested the privilege of the Chair for the purpose of making the following remarks:

I heard some concerns that this measure might be seen as waving the white flag in terms of getting money from the federal government for the Fernley flood. Can you respond to that a little bit and tell me how much you think this would raise in terms of trying to fix things the way they need to be fixed?

ASSEMBLYMAN:

I understand what some of those concerns are. I have been working with some of the constituents in the Fallon area and TCID. Clearly, the TCID Board feels that they need to have the ability in place. If they need to generate the money, especially as match money, to rebuild the Fernley canal, they need this mechanism in place for the \$5 per acre capital improvement fund. Again, it is only enabling. It gives them the ability to meet those needs.

Madam Speaker requested the privilege of the Chair for the purpose of making the following remarks:

They won't be able to meet these needs, though, with this amount of money. We need help from the federal government, as well. Correct?

ASSEMBLYMAN GOICOECHEA:

That is correct. Presently, there is \$2.5 million that has been funded on the federal side to do a study of the rehab of the Fernley canal. That is a concern to all of us. I understand today that they reduced the flows in the Fernley canal from 300 cubic feet per second to 250 cubic feet per second. If we cannot get more water across there, especially in these drought years, we are going to be in big trouble as far as irrigation in the Lahontan Valley.

ASSEMBLYMAN GRADY:

Thank you, Madam Speaker. I rise in support of this. To answer your earlier question, what money they could raise in the TCID will not even touch the Fernley canal. They are going to need considerable help from the federal government to get that canal fixed. Thank you.

Roll call on Assembly Bill No. 226:

YEAS—42.

NAYS—None.

Assembly Bill No. 226 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 230.

Bill read third time.

Remarks by Assemblyman Segerblom.

Potential conflict of interest declared by Assemblyman Gustavson.

Roll call on Assembly Bill No. 230:

YEAS—42.

NAYS—None.

Assembly Bill No. 230 having received a two-thirds majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 232.

Bill read third time.

Remarks by Assemblymen Smith, Carpenter, Anderson and Madam Speaker.

Assemblyman Ocegüera requested that the following remarks be entered in the Journal.

ASSEMBLYWOMAN SMITH:

Assembly Bill 232 provides that the term of a member of the Interim Finance Committee or the Legislative Commission who does not run for reelection or who is defeated in the general election ends on the day following the general election. Vacancies on the Interim Finance Committee are to be filled by the Speaker of the Assembly or the Majority Leader of the Senate. Vacancies on the Legislative Commission are to be filled pursuant to the applicable joint rules of the Assembly and the Senate. The bill becomes effective October 1.

This became apparent in the last interim when we had special session and Interim Finance Committee meetings related to our budget shortfalls, and we realized that the current statute allowed members who were not returning to the Legislature to be able to attend as IFC members and potentially make budget decisions.

It seemed appropriate that the IFC and the Legislative Commission should also function with the same provisions.

ASSEMBLYMAN CARPENTER:

Do the same criteria apply to those of us that are term limited out? Because I need to know when to apply for my retirement.

Madam Speaker requested the privilege of the Chair for the purpose of making the following remarks:

The way the bill is written, Mr. Carpenter, is that yes, it would apply because you are no longer a candidate for reelection. So following the election, the day after the election in November is when you would no longer be able to serve on the Interim Finance Committee or Legislative Commission, and an alternate would have to be appointed. Up until that time, you still serve in the Assembly. You are still a member, and so during that year you would still be permitted to serve. It is following the election day that it would kick in, and I think the reason behind it is because the day after the election, the new term starts for the future legislators.

ASSEMBLYMAN CARPENTER:

So you could serve on an interim committee, is that right?

Madam Speaker requested the privilege of the Chair for the purpose of making the following remarks:

Yes, you could. You could serve during that year because you are still within the term of your office. Otherwise, your constituents would be deprived of a representative. This would only take effect the day after the election.

Assemblywoman Smith, is that correct?

ASSEMBLYWOMAN SMITH:

Thank you for the opportunity to respond to my colleague from rural Nevada. Absolutely. I made that extra effort in my floor statement to indicate that it is the day after the election, because everyone still serves until that time, and that is when the new legislators take over.

I regret to inform you that you are obligated and can't file for your retirement until the day after the election.

ASSEMBLYMAN CARPENTER:

Thank you. Probably some of my constituents would just as soon that I wasn't there.

Madam Speaker requested the privilege of the Chair for the purpose of making the following remarks:

I don't think so.

ASSEMBLYMAN ANDERSON:

My colleague from rural Nevada reminded me that he serves on an unusual committee that is made up predominantly of nonlegislative members, unlike our interim committees. Are committees like the sentencing commission affected similarly? It often meets after the election date, or at least it has in the past.

ASSEMBLYWOMAN SMITH:

This bill only provides for those two committees because they are two that are truly making decisions that effect the budget and regulations. This bill is limited to Interim Finance Committee and Legislative Commission. It did not deal with any of the other interim committees.

Roll call on Assembly Bill No. 232:

YEAS—42.

NAYS—None.

Assembly Bill No. 232 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 243.

Bill read third time.

Remarks by Assemblywoman Mastroluca.

Roll call on Assembly Bill No. 243:

YEAS—39.

NAYS—Cobb, Goedhart, Gustavson—3.

Assembly Bill No. 243 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 247.

Bill read third time.

Remarks by Assemblyman Bobzien, Settlemeyer, and Carpenter.

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

#### MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Ocegüera moved that Assembly Bill No. 247 be taken from the General File and placed on the Chief Clerk's desk.

Motion carried.

## GENERAL FILE AND THIRD READING

Assembly Bill No. 263.

Bill read third time.

Remarks by Assemblywoman Leslie.

Roll call on Assembly Bill No. 263:

YEAS—37.

NAYS—Cobb, Goedhart, Gustavson, Hambrick, McArthur—5.

Assembly Bill No. 263 having received a two-thirds 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. 267, 293, 305, 311, 314, 338, 364, 369, 377, 428, 433, 445, 505, 512; Senate Bills Nos. 38, 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 Carpenter, the privilege of the floor of the Assembly Chamber for this day was extended to Kim Foster, Vicki Bates, and Nancy Ernaut.

On request of Assemblyman Christensen, the privilege of the floor of the Assembly Chamber for this day was extended to David Saltman and Camille Saltman.

On request of Assemblyman Cobb, the privilege of the floor of the Assembly Chamber for this day was extended Alan Power, Dick Devencenzi, and Jeff Fox.

On request of Assemblyman Goicoechea, the privilege of the floor of the Assembly Chamber for this day was extended to Matt Maggey.

On request of Assemblyman Grady, the privilege of the floor of the Assembly Chamber for this day was extended to Dee McGinness.

On request of Assemblyman Hambrick, the privilege of the floor of the Assembly Chamber for this day was extended to Richard Scotti and Chris Carr.

On request of Assemblywoman Koivisto, the privilege of the floor of the Assembly Chamber for this day was extended to Betty Hicks.

On request of Assemblywoman Leslie, the privilege of the floor of the Assembly Chamber for this day was extended to Zainab Ali Al Mahari.

On request of Assemblywoman Mastroluca, the privilege of the floor of the Assembly Chamber for this day was extended to the following students from Green Valley Christian Academy: Gabriel Beajow, Matthew Buckels, Matthew Buford, Madison Cramer, Hunter Dale, Hayley Ellis, Kiayna Ford, Dara Franceschi, Alexa Harris, Caleb Ho, Jillian James, Zachary Kaempfer, Dakota Kouba, Lauren Longworth, Cole Lory, Jonathon McSwain, Jayda Medeiros, Alondra Mejia, Harlee Miscovich, Brianna Moers, Caitlin Nielen, Erica Olsen, Kendal Poff, Samantha Rios, Colin Smith, Jesse Sturdivant, Alexis Tomassi, Claire Tulak, Benjamin Webster, Katie Williams, Dylan Ziegler; chaperones Dario Franceschi, Ron Tulak, Charles McSwain, Robert Rios, Valerie James, Rich Kouba, Tina Poff, Nani Medeiros, Joannie Williams, Laurie Studivant, Jhovy Mejia, Kristen Farrell, Scott Ziegler, Becky Miscovich, Tricia Longworth, Nicole Dubois, Ty Lappen, Margaret Rios; teachers Tina Rodilloso and Marina Joyner.

On request of Assemblyman Oceguela, the privilege of the floor of the Assembly Chamber for this day was extended to Phillip Hoffman.

On request of Assemblywoman Spiegel, the privilege of the floor of the Assembly Chamber for this day was extended to Michael Naft.

Assemblyman Oceguela moved that the Assembly adjourn until Thursday, April 16, 2009, at 10:30 a.m.

Motion carried.

Assembly adjourned at 2:52 p.m.

Approved:

BARBARA E. BUCKLEY  
*Speaker of the Assembly*

Attest: SUSAN FURLONG REIL

*Chief Clerk of the Assembly*