

THE ONE HUNDREDTH DAY

CARSON CITY (Tuesday), May 12, 2009

Assembly called to order at 11:40 a.m.

Madam Speaker presiding.

Roll called.

All present except Assemblyman Carpenter, who was excused.

Prayer by the Chaplain, Reverend Ernie Hooper.

Heavenly Father, we look to Thee in Jesus' Name. We look to You because Thou art the author and finisher of our faith and the one who has brought us here on this earth and brought us here for a purpose. We are here today to fulfill that purpose. We are thankful, Father, that we have a great God, a great Savior who can mold and make us after His will, because man was made after God's image. We are glad to be here today in the presence of the people who make this life of ours possible and who do the things that need to be done here in the State of Nevada.

We pray for our government and our heads at the capitol and for our President. We ask You to help him make the right choices and do the right things. We wish this for all the others who are working in the capitol, and here in this Legislative Building. We are thankful, Father, for the people who are going out to do something for our country and for our people, the Indians, as well as other tribes and nationalities that are here in this state and in this great nation of ours. We are thankful for our fighting men and women. We ask You to be with them. They sacrifice their lives for our freedom here. We are thankful for the freedom that You have given us through these people and for the wonderful life that you have given us. We enjoy the scenery around us as well as being here today. We are thankful, Father, for Your goodness and mercy and Your love that You have bestowed upon us. In Jesus' Name.

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 Education, to which were referred Senate Bills Nos. 185, 298, 378, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

Also, your Committee on Education, to which were referred Senate Bills Nos. 77, 163, 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 Education, to which was referred Senate Bill No. 385, has had the same under consideration, and begs leave to report the same back with the recommendation: Without recommendation, and refer to the Committee on Ways and Means.

BONNIE PARNELL, *Chair*

Madam Speaker:

Your Concurrent Committee on Education, to which was referred Senate Bill No. 62, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

BONNIE PARNELL, *Chair*

Madam Speaker:

Your Committee on Government Affairs, to which were referred Senate Bills Nos. 37, 42, 44, 105, 111, 147, 175, 213, 412, 414 has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

MARILYN K. KIRKPATRICK, *Chair*

Madam Speaker:

Your Committee on Health and Human Services, to which was referred Senate Bill No. 4, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

Also, your Committee on Health and Human Services, to which was referred Senate Bill No. 54, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

DEBBIE SMITH, *Chair*

Madam Speaker:

Your Committee on Judiciary, to which were referred Senate Bills Nos. 130, 169, 254, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

Also, your Committee on Judiciary, to which were referred Senate Bills Nos. 35, 68, 101, 125, 194, 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 Natural Resources, Agriculture, and Mining, to which was referred Senate Bill No. 219, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

JERRY D. CLABORN, *Chair*

Madam Speaker:

Your Committee on Transportation, to which was referred Senate Bill No. 100, 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*

Madam Speaker:

Your Committee on Ways and Means, to which was referred Assembly Bill No. 458, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

SHEILA LESLIE, *VICE Chair*

Madam Speaker:

Your Committee on Ways and Means, to which were rereferred Assembly Bills Nos. 99, 349, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass, as amended.

Also, your Committee on Ways and Means, to which was rereferred Assembly Bill No. 279, 359, 461, 488, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

MORSE ARBERRY JR., *Chair*

MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, May 8, 2009

To the Honorable the Assembly:

I have the honor to inform your honorable body that the Senate on this day adopted Assembly Concurrent Resolution No. 32.

Also, I have the honor to inform your honorable body that the Senate on this day concurred in the Assembly Amendment No. 572 to Senate Bill No. 83.

SHERRY L. RODRIGUEZ
Assistant Secretary of the Senate

MOTIONS, RESOLUTIONS AND NOTICES

Senate Concurrent Resolution No. 5.

Assemblyman Bobzien moved the adoption of the resolution.

Remarks by Assemblyman Bobzien.

Resolution adopted, as amended.

Assemblyman Anderson moved that Senate Bill No. 106 be taken from the Chief Clerk's desk and placed on the General File.

Motion carried.

SECOND READING AND AMENDMENT

Assembly Bill No. 458.

Bill read second time.

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

Amendment No. 619.

AN ACT relating to public financial administration; creating the K-12 Public Education Stabilization Account; ~~repealing the provisions applying certain tax abatements to taxes imposed for public education and authorizing certain tax credits against taxes imposed for public education; exempting certain taxes imposed for public education from the reallocation~~ **reallocating money reverted from the State Distributive School Account; revising the provisions governing certain tax abatements and credits available for economic development; reallocating a portion of the property taxes levied on property in a redevelopment area; revising the provisions requiring certain redevelopment agencies to set aside revenue for low-income housing;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 3 of this bill creates the K-12 Public Education Stabilization Account within the Fund to Stabilize the Operation of the State Government ~~and~~ **and requires the State Controller to deposit any money reverted from the State Distributive School Account at the close of each odd-numbered fiscal year into that Account and into the Account for Programs for Innovation and the Prevention of Remediation.** (Chapter 353 of NRS) **Section 5** of this bill authorizes the Superintendent of Public Instruction to request from the Legislature, if the Legislature is in session, an allocation

from the K-12 Public Education Stabilization Account if a shortfall exists in the State Distributive School Account. If the Legislature is not in session, **section 6** of this bill authorizes the Superintendent to submit such a request to the Interim Finance Committee. Existing law authorizes the Chief of the Budget Division of the Department of Administration, with the approval of the Governor, to set aside reserves to meet emergencies arising during a fiscal year. (NRS 353.225) **Section 7** of this bill limits the amount that may be set aside as proposed reserves for the State Distributive School Account and certain other funds and accounts for education to the average that is reserved for all other departments, institutions and agencies. **Section 7** also requires the Chief to submit a request to the Legislature or, if the Legislature is not in session, to the Interim Finance Committee, to determine whether an allocation should be made from the K-12 Public Education Stabilization Account in lieu of setting aside a reserve in the State Distributive School Account and certain other funds and accounts for education.

Existing law authorizes the Commission on Economic Development to grant to certain businesses partial abatements of property taxes, business taxes and local sales and use taxes. (NRS 274.310, 274.320, 274.330, 360.750, 361.0687, 363B.120, 374.357, 701A.210) ~~Sections 8, 10, 13, 16-18 and 20-26, 26 and 28, 29, 31-33~~ of this bill ~~limit these abatements to taxes that are not imposed for public education.~~ **Sections 8-10, 13, 16-18 and 20-26, 26 and 28, 29, 31-33** of this bill **exclude local school support taxes from such a partial abatement of local sales and use taxes. Sections 16-18 and 29 also limit the duration and amount of such a partial abatement of property taxes. Section 27 of this bill requires the Commission to adopt regulations for determining the duration and amount of those partial abatements, to establish sanctions for the failure of a business to comply with the eligibility requirements for those partial abatements and to require the annual submission of information to determine compliance with those eligibility requirements, and authorizes the Department of Taxation to impose those sanctions.**

Existing law authorizes certain businesses located within a zone for economic development to obtain, pursuant to an agreement with the governing body of the municipality designating the zone for economic development, a credit against or refund of local sales and use taxes. (NRS 274.270, 374.643) ~~Sections 9-15 and 26, 33~~ of this bill ~~limit~~ **exclude local school support taxes from** such a credit or refund. ~~to taxes that are not imposed for public education.~~

Existing law authorizes the reallocation to a redevelopment agency of certain property taxes levied in a redevelopment area. (NRS 279.676) ~~Section 19~~ **Sections 19-23 and 36** of this bill ~~exempts from that reallocation any taxes imposed for public education.~~ **require the deposit of a portion of the amount of those taxes that would otherwise be reallocated to a redevelopment agency for the next 2 fiscal years into the State Distributive School Account and for succeeding fiscal years into the K-12 Public Education Stabilization Account.**

Under existing law, a redevelopment agency of a city whose population is 300,000 or more, as determined by the last decennial census (currently Las Vegas only), is required to set aside for low-income housing at least 18 percent of its tax revenue from a redevelopment area. (NRS 0.050, 279.685) Section 24 of this bill reduces the minimum amount of that set-aside to 15 percent, and requires an agency of a city that attains a population of 300,000 or more in the future, as determined from the populations of cities as certified annually by the Governor, to set aside for low-income housing at least 3 percent of its tax revenue from a redevelopment area for the first fiscal year and to increase that minimum percentage each fiscal year until it reaches a minimum amount of 15 percent.

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

Section 1. Chapter 353 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 6, inclusive, of this act.

Sec. 2. ~~[As used in sections 2 to 6, inclusive, of this act, "Account" means the K-12 Public Education Stabilization Account created by section 3 of this act.] (Deleted by amendment.)~~

Sec. 3. 1. *The K-12 Public Education Stabilization Account is hereby created in the Fund to Stabilize the Operation of the State Government created by NRS 353.288.*

2. ~~[Except as otherwise provided in subsection 3, the]~~ *The State Controller shall, after the close of each odd-numbered fiscal year and before the issuance of the State Controller's annual report, transfer from the State General Fund ~~to the Account~~ :*

(a) Fifty percent of any money which was reverted from the State Distributive School Account at the close of the previous fiscal year to the Account for Programs for Innovation and the Prevention of Remediation created by NRS 385.379. Money transferred pursuant to this paragraph to the Account for Programs for Innovation and the Prevention of Remediation is hereby appropriated as a continuing appropriation solely for the purpose of carrying out the provisions of NRS 385.3781 to 385.379, inclusive.

(b) Except as otherwise provided in subsection 3, fifty percent of any money which was reverted from the State Distributive School Account at the close of the previous fiscal year ~~to~~ to the K-12 Public Education Stabilization Account. Money transferred pursuant to this ~~subsection~~ paragraph to the Account is hereby appropriated as a continuing appropriation solely for the purpose of authorizing the expenditure of the transferred money for the purposes set forth in sections 2 to 6, inclusive, of this act.

3. *The balance in the K-12 Public Education Stabilization Account must not exceed 20 percent of the combined sum of:*

(a) *The total anticipated apportionments pursuant to NRS 387.124 for the fiscal year in which the transfer pursuant to paragraph (b) of subsection 2 is made;*

(b) *The total anticipated local revenue pursuant to NRS 387.1235 for the fiscal year in which the transfer pursuant to paragraph (b) of subsection 2 is made; and*

(c) *The amount established by the Legislature for the reduction of pupil-teacher ratios pursuant to NRS 388.700 for the fiscal year in which the transfer pursuant to paragraph (b) of subsection 2 is made.*

4. *The money in the K-12 Public Education Stabilization Account may only be allocated by the Legislature or, if the Legislature is not in session, the Interim Finance Committee, pursuant to sections 2 to 6, inclusive, of this act. Not more than 50 percent of the money in the Account may be so allocated in even-numbered fiscal years.*

5. *Except as otherwise provided in subsection 3, the interest and income earned on the sum of:*

(a) *The money in the K-12 Public Education Stabilization Account; and*

(b) *Unexpended appropriations made to the Account from the State General Fund,*

↪ must be credited to the Account. If the amount of such credit would cause the Account to exceed the maximum allowed balance in the Account established pursuant to subsection 3, the amount of such excess credit must be deposited for credit to the Fund to Stabilize the Operation of the State Government or, if the amount of such excess credit would cause that Fund to exceed the maximum allowed balance in that Fund established pursuant to subsection 2 of NRS 353.288, the amount of such excess credit must be deposited for credit to the State General Fund.

6. *The money in the K-12 Public Education Stabilization Account must not be used to replace or supplant money otherwise available from other sources for the operation of the K-12 public schools in this State.*

7. *The actual or projected balance of money in the K-12 Public Education Stabilization Account must not be included in the calculation of the basic support guarantee per pupil established for each school year pursuant to NRS 387.122 or the basic support guarantee for special education program units established pursuant to NRS 387.1221.*

Sec. 4. *For purposes of sections 5 and 6 of this act, a shortfall exists in the State Distributive School Account if the projections of local revenue pursuant to NRS 387.1235 are at least 2 percent less than what was anticipated when the Legislature determined the amount of basic support for the biennium.*

Sec. 5. 1. *If there is a shortfall in the State Distributive School Account and the Legislature is in session, the Superintendent of Public Instruction may submit a request for an allocation from the K-12 Public Education Stabilization Account to the Director of the Legislative Counsel Bureau for transmission to the Legislature.*

2. If the Legislature finds that an allocation should be made from the K-12 Public Education Stabilization Account, the Legislature shall by resolution establish the amount and purpose of the allocation and direct the State Controller to transfer that amount to the State Distributive School Account, giving first priority to the shortfall in the State Distributive School Account. The State Controller shall thereupon make the transfer.

Sec. 6. 1. If there is a shortfall in the State Distributive School Account and the Legislature is not in session, the Superintendent of Public Instruction may submit a request to the State Board of Examiners for an allocation from the K-12 Public Education Stabilization Account by the Interim Finance Committee.

2. The State Board of Examiners shall consider the request and may require additional information from the Superintendent of Public Instruction as the Board deems appropriate. If the State Board of Examiners finds that an allocation should be made, the Board shall recommend the amount of the allocation to the Interim Finance Committee for its independent evaluation and action. The Interim Finance Committee is not bound to follow the recommendation of the State Board of Examiners.

3. If the Interim Finance Committee, after independent determination, finds that an allocation should and may lawfully be made from the K-12 Public Education Stabilization Account, the Committee shall by resolution establish the amount and purpose of the allocation, giving first priority to the shortfall in the State Distributive School Account, and direct the State Controller to transfer that amount to the State Distributive School Account.

Sec. 7. NRS 353.225 is hereby amended to read as follows:

353.225 1. ~~It~~ Subject to the requirements of subsections 2 and 3, in order to provide some degree of flexibility to meet emergencies arising during each fiscal year in the expenditures for the State Distributive School Account in the State General Fund and for operation and maintenance of the various departments, institutions and agencies of the Executive Department of the State Government, the Chief, with the approval in writing of the Governor, may require the State Controller or the head of each such department, institution or agency to set aside a reserve in such amount as the Chief may determine, out of the total amount appropriated or out of other funds available from any source whatever to the department, institution or agency.

2. If the Chief determines that a reserve pursuant to subsection 1 is required in the State Distributive School Account, the Account for Programs for Innovation and the Prevention of Remediation created by NRS 385.379, the Grant Fund for Incentives for Licensed Educational Personnel created by NRS 391.166, or any other account established for administration by the Department of Education for other educational programs for the school districts, charter schools and university schools for profoundly gifted pupils, the amount of any proposed reserves in each of

those accounts and the Grant Fund, when combined and calculated as a percentage of the general fund appropriations in those accounts and the Grant Fund, must not exceed the average percentage of reserves for all other accounts and funds that include general fund appropriations for the operation of all departments, institutions and agencies of the State Government and authorized expenditures from the State General Fund for the regulation of gaming for that fiscal year.

3. Before setting aside any reserves in the State Distributive School Account, the Account for Programs for Innovation and the Prevention of Remediation created by NRS 385.379, the Grant Fund for Incentives for Licensed Educational Personnel created by NRS 391.166, or any other account established for administration by the Department of Education for other educational programs for the school districts, charter schools and university schools for profoundly gifted pupils, the Chief must make a request to the Legislature or, if the Legislature is not in session, to the Interim Finance Committee, to determine whether an allocation should be made from the K-12 Public Education Stabilization Account created by section 3 of this act in lieu of setting aside the reserve. If the Legislature or the Interim Finance Committee finds that an allocation should be made from the K-12 Public Education Stabilization Account in lieu of a reserve, the Legislature or the Interim Finance Committee shall by resolution establish the amount and the purpose of the allocation and direct the State Controller to transfer that amount to the State General Fund. If the Legislature or the Interim Finance Committee adopts such a resolution, only the difference between the proposed amount of reserves determined pursuant to subsection 2 and the allocation made by resolution pursuant to this subsection may be set aside as reserves in the State Distributive School Account, the Account for Programs for Innovation and the Prevention of Remediation created by NRS 385.379, the Grant Fund for Incentives for Licensed Educational Personnel created by NRS 391.166, or any other account established for administration by the Department of Education for other educational programs for the school districts, charter schools and university schools for profoundly gifted pupils.

4. At any time during the fiscal year this reserve or any portion of it may be returned to the appropriation or other fund to which it belongs and may be added to any one or more of the allotments, if the Chief so orders in writing.

Sec. 8. NRS 266.267 is hereby amended to read as follows:

266.267 1. A city council shall not enter into a lease of real property owned by the city for a term of 3 years or longer or enter into a contract for the sale of real property until after the property has been appraised pursuant to NRS 268.059. Except as otherwise provided in this section, paragraph (a) of subsection 1 of NRS 268.050 and subsection 3 of NRS 496.080:

(a) The sale or lease of real property must be made in the manner required pursuant to NRS 268.059, 268.061 and 268.062; and

(b) A lease or sale must be made at or above the highest appraised value of the real property as determined pursuant to the appraisal conducted pursuant to NRS 268.059.

2. The city council may sell or lease real property for less than its appraised value to any person who maintains or intends to maintain a business within the boundaries of the city which is eligible **for an abatement from local sales and use taxes** pursuant to ~~[NRS 374.357 for an abatement from the sales and use taxes imposed pursuant to chapter 374 of NRS.]~~ **section ~~207~~ 26 of this act.**

Sec. 9. Chapter 274 of NRS is hereby amended by adding thereto the provisions set forth as sections 10, 11 and 12 of this act.

Sec. 10. **"Local sales and use taxes" means any taxes imposed on the gross receipts of any retailer from the sale of tangible personal property sold at retail, or stored, used or otherwise consumed, in any political subdivision of this State, except the taxes imposed by NRS 374.110 or 374.190 or the Sales and Use Tax Act.**

Sec. 11. ~~["Taxes imposed for public education" means:~~
~~1. Any ad valorem tax authorized or required by chapter 387 of NRS;~~
~~2. Any ad valorem tax authorized or required by chapter 350 of NRS for the obligations of a school district, including, without limitation, any ad valorem tax necessary to carry out the provisions of subsection 5 of NRS 350.020;~~
~~3. The taxes imposed by NRS 374.110, 374.190 and 374A.010; and~~
~~4. Any other ad valorem tax or local sales and use taxes for which the proceeds thereof are dedicated to the public education of pupils in kindergarten through grade 12.] (Deleted by amendment.)~~

Sec. 12. 1. **Each person who holds a valid certificate, issued under NRS 274.270, as a qualified business may file for a credit or refund to recover the amount of the local sales and use taxes ~~for other than taxes imposed for public education,~~ paid for all tangible personal property purchased in the conduct of its business for the period, not to exceed 5 years, stated in its agreement with the governing body of the municipality made under NRS 274.270, or until the person is no longer certified as a qualified business under that section, whichever occurs first.**

2. **Claims for credit or refund may be filed under this section only if:**

(a) **The designating municipality has adopted an ordinance authorizing such claims; and**

(b) **This benefit is specified in the agreement made under NRS 274.270.**

Sec. 13. NRS 274.010 is hereby amended to read as follows:

274.010 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 274.020 to 274.080, inclusive, **and ~~sections 10 and 11~~ section 10 of this act** have the meanings ascribed to them in those sections.

Sec. 14. NRS 274.230 is hereby amended to read as follows:

274.230 When a specially benefited zone is designated and approved under this chapter, the governing body of the designating municipality may:

1. Apply with the United States Department of Commerce to have the specially benefited zone declared to be a free trade zone.

2. When any federal legislation concerning specially benefited zones is enacted or becomes effective, prepare and submit, with the assistance of the Administrator and in a timely fashion, all information and forms necessary to permit the specially benefited zone designated and approved under this chapter to be considered as an eligible area under the federal program.

3. Apply for all available assistance from the federal, state, and in the case of a city, the county government, including the suspension or modification of their regulations within the specially benefited zone that have the characteristics described in subsection 1 of NRS 274.110.

4. Develop and carry out a program to improve police protection within the zone.

5. Give priority to the use in the zone of any federal assistance for urban development or job training.

6. By ordinance adopt regulations for qualifying employers for the benefits authorized specifically for qualified businesses under this chapter .
~~[and NRS 374.643.]~~

Sec. 15. NRS 274.270 is hereby amended to read as follows:

274.270 1. The governing body shall investigate the proposal made by a business pursuant to NRS 274.260, and if it finds that the business is qualified by financial responsibility and business experience to create and preserve employment opportunities in the specially benefited zone and improve the economic climate of the municipality and finds further that the business did not relocate from a depressed area in this State or reduce employment elsewhere in Nevada in order to expand in the specially benefited zone, the governing body may, on behalf of the municipality, enter into an agreement with the business, for a period of not more than 20 years, under which the business agrees in return for one or more of the benefits authorized in this chapter ~~[and NRS 374.643]~~ for qualified businesses, as specified in the agreement, to establish, expand, renovate or occupy a place of business within the specially benefited zone and hire new employees at least 35 percent of whom at the time they are employed are at least one of the following:

(a) Unemployed persons who have resided at least 6 months in the municipality.

(b) Persons eligible for employment or job training under any federal program for employment and training who have resided at least 6 months in the municipality.

(c) Recipients of benefits under any state or county program of public assistance, including, without limitation, temporary assistance for needy families, Medicaid and unemployment compensation who have resided at least 6 months in the municipality.

(d) Persons with a physical or mental handicap who have resided at least 6 months in the State.

(e) Residents for at least 1 year of the area comprising the specially benefited zone.

2. To determine whether a business is in compliance with an agreement, the governing body:

(a) Shall each year require the business to file proof satisfactory to the governing body of its compliance with the agreement.

(b) May conduct any necessary investigation into the affairs of the business and may inspect at any reasonable hour its place of business within the specially benefited zone.

↪ If the governing body determines that the business is in compliance with the agreement, it shall issue a certificate to that effect to the business. The certificate expires 1 year after the date of its issuance.

3. The governing body shall file with the Administrator, the Department of Taxation and the Employment Security Division of the Department of Employment, Training and Rehabilitation a copy of each agreement, the information submitted under paragraph (a) of subsection 2 and the current certificate issued to the business under that subsection. The governing body shall immediately notify the Administrator, the Department of Taxation and the Employment Security Division of the Department of Employment, Training and Rehabilitation whenever the business is no longer certified.

Sec. 16. NRS 274.310 is hereby amended to read as follows:

274.310 1. A person who intends to locate a business in this State within:

(a) A historically underutilized business zone, as defined in 15 U.S.C. § 632;

(b) A redevelopment area created pursuant to NRS 279.382 to 279.685, inclusive, ~~§§~~, **and section 19 of this act;**

(c) An area eligible for a community development block grant pursuant to 24 C.F.R. Part 570; or

(d) An enterprise community established pursuant to 24 C.F.R. Part 597,
 ↪ may submit a request to the governing body of the county, city or town in which the business would operate for an endorsement of an application by the person to the Commission on Economic Development for a partial abatement of one or more of the **local sales and use taxes or** taxes imposed pursuant to chapter 361 ~~for 374~~ of NRS . The governing body of the county, city or town shall provide notice of the request to the board of trustees of the school district in which the business would operate. The notice must set forth the date, time and location of the hearing at which the governing body will consider whether to endorse the application. ~~for other than any taxes imposed for public education.~~

2. The governing body of a county, city or town shall develop procedures for:

(a) Evaluating whether such an abatement would be beneficial for the economic development of the county, city or town.

(b) Issuing a certificate of endorsement for an application for such an abatement that is found to be beneficial for the economic development of the county, city or town.

3. A person whose application has been endorsed by the governing body of the county, city or town, as applicable, pursuant to this section may submit the application to the Commission on Economic Development. The Commission shall approve the application if the Commission makes the following determinations:

(a) The business is consistent with:

(1) The State Plan for Industrial Development and Diversification that is developed by the Commission pursuant to NRS 231.067; and

(2) Any guidelines adopted pursuant to the State Plan.

(b) The applicant has executed an agreement with the Commission which states that the business will, after the date on which a certificate of eligibility for the abatement is issued pursuant to subsection ~~4~~ 5:

(1) Commence operation and continue in operation in the historically underutilized business zone, as defined in 15 U.S.C. § 632, redevelopment area created pursuant to NRS 279.382 to 279.685, inclusive, **and section 19 of this act**, area eligible for a community development block grant pursuant to 24 C.F.R. Part 570 or enterprise community established pursuant to 24 C.F.R. Part 597 for a period specified by the Commission, which must be at least 5 years; and

(2) Continue to meet the eligibility requirements set forth in this subsection.

↪ The agreement must bind successors in interest of the business for the specified period.

(c) The business is registered pursuant to the laws of this State or the applicant commits to obtain a valid business license and all other permits required by the county, city or town in which the business will operate.

(d) The applicant invested or commits to invest a minimum of \$500,000 in capital.

4. **If a partial abatement from property taxes imposed pursuant to chapter 361 of NRS is approved by the Commission on Economic Development pursuant to this section, the partial abatement must:**

(a) Be for a duration of not more than 10 years; and

(b) Not exceed 50 percent of the property taxes payable by a business each year.

5. If the Commission on Economic Development approves an application for a partial abatement, the Commission shall immediately forward a certificate of eligibility for the abatement to:

(a) The Department of Taxation;

(b) The Nevada Tax Commission; and

(c) If the partial abatement is from ~~the property tax~~ **property taxes** imposed pursuant to chapter 361 of NRS, the county treasurer of the county in which the business will be located.

~~5.1~~ **6.** The Commission on Economic Development may adopt such regulations as the Commission determines to be necessary or advisable to carry out the provisions of this section.

~~6.1~~ **7.** An applicant for an abatement who is aggrieved by a final decision of the Commission on Economic Development may petition for judicial review in the manner provided in chapter 233B of NRS.

Sec. 17. NRS 274.320 is hereby amended to read as follows:

274.320 1. A person who intends to expand a business in this State within:

(a) A historically underutilized business zone, as defined in 15 U.S.C. § 632;

(b) A redevelopment area created pursuant to NRS 279.382 to 279.685, inclusive ~~11~~, **and section 19 of this act;**

(c) An area eligible for a community development block grant pursuant to 24 C.F.R. Part 570; or

(d) An enterprise community established pursuant to 24 C.F.R. Part 597,
 ↪ may submit a request to the governing body of the county, city or town in which the business operates for an endorsement of an application by the person to the Commission on Economic Development for a partial abatement of the **local sales and use** taxes imposed on capital equipment. ~~pursuant to chapter 374 of NRS.~~ The governing body of the county, city or town shall provide notice of the request to the board of trustees of the school district in which the business operates. The notice must set forth the date, time and location of the hearing at which the governing body will consider whether to endorse the application. ~~f, other than any taxes imposed for public education.~~

2. The governing body of a county, city or town shall develop procedures for:

(a) Evaluating whether such an abatement would be beneficial for the economic development of the county, city or town.

(b) Issuing a certificate of endorsement for an application for such an abatement that is found to be beneficial for the economic development of the county, city or town.

3. A person whose application has been endorsed by the governing body of the county, city or town, as applicable, pursuant to this section may submit the application to the Commission on Economic Development. The Commission shall approve the application if the Commission makes the following determinations:

(a) The business is consistent with:

(1) The State Plan for Industrial Development and Diversification that is developed by the Commission pursuant to NRS 231.067; and

(2) Any guidelines adopted pursuant to the State Plan.

(b) The applicant has executed an agreement with the Commission which states that the business will, after the date on which a certificate of eligibility for the abatement is issued pursuant to subsection 4:

(1) Continue in operation in the historically underutilized business zone, as defined in 15 U.S.C. § 632, redevelopment area created pursuant to NRS 279.382 to 279.685, inclusive, ***and section 19 of this act***, area eligible for a community development block grant pursuant to 24 C.F.R. Part 570 or enterprise community established pursuant to 24 C.F.R. Part 597 for a period specified by the Commission, which must be at least 5 years; and

(2) Continue to meet the eligibility requirements set forth in this subsection.

↪ The agreement must bind successors in interest of the business for the specified period.

(c) The business is registered pursuant to the laws of this State or the applicant commits to obtain a valid business license and all other permits required by the county, city or town in which the business operates.

(d) The applicant invested or commits to invest a minimum of \$250,000 in capital equipment.

4. If the Commission on Economic Development approves an application for a partial abatement, the Commission shall immediately forward a certificate of eligibility for the abatement to:

- (a) The Department of Taxation; and
- (b) The Nevada Tax Commission.

5. The Commission on Economic Development may adopt such regulations as the Commission determines to be necessary or advisable to carry out the provisions of this section.

6. An applicant for an abatement who is aggrieved by a final decision of the Commission on Economic Development may petition for judicial review in the manner provided in chapter 233B of NRS.

Sec. 18. NRS 274.330 is hereby amended to read as follows:

274.330 1. A person who owns a business which is located within an enterprise community established pursuant to 24 C.F.R. Part 597 in this State may submit a request to the governing body of the county, city or town in which the business is located for an endorsement of an application by the person to the Commission on Economic Development for a partial abatement of one or more of the ***local sales and use taxes or*** taxes imposed pursuant to chapter 361 ~~for 374~~ of NRS. The governing body of the county, city or town shall provide notice of the request to the board of trustees of the school district in which the business operates. The notice must set forth the date, time and location of the hearing at which the governing body will consider whether to endorse the application. ~~f other than any taxes imposed for public education.~~

2. The governing body of a county, city or town shall develop procedures for:

(a) Evaluating whether such an abatement would be beneficial for the economic development of the county, city or town.

(b) Issuing a certificate of endorsement for an application for such an abatement that is found to be beneficial for the economic development of the county, city or town.

3. A person whose application has been endorsed by the governing body of the county, city or town, as applicable, pursuant to this section may submit the application to the Commission on Economic Development. The Commission shall approve the application if the Commission makes the following determinations:

(a) The business is consistent with:

(1) The State Plan for Industrial Development and Diversification that is developed by the Commission pursuant to NRS 231.067; and

(2) Any guidelines adopted pursuant to the State Plan.

(b) The applicant has executed an agreement with the Commission which states that the business will, after the date on which a certificate of eligibility for the abatement is issued pursuant to subsection ~~4~~ 5:

(1) Continue in operation in the enterprise community for a period specified by the Commission, which must be at least 5 years; and

(2) Continue to meet the eligibility requirements set forth in this subsection.

↪ The agreement must bind successors in interest of the business for the specified period.

(c) The business is registered pursuant to the laws of this State or the applicant commits to obtain a valid business license and all other permits required by the county, city or town in which the business operates.

(d) The business:

(1) Employs one or more dislocated workers who reside in the enterprise community; and

(2) Pays such employee or employees a wage of not less than 100 percent of the federally designated level signifying poverty for a family of four persons and provides medical benefits to the employee or employees and his or their dependents.

4. *If a partial abatement from property taxes imposed pursuant to chapter 361 of NRS is approved by the Commission on Economic Development pursuant to this section, the partial abatement must:*

(a) Be for a duration of not more than 10 years; and

(b) Not exceed 50 percent of the property taxes payable by a business each year.

5. If the Commission on Economic Development approves an application for a partial abatement, the Commission shall:

(a) Determine the percentage of employees of the business which meet the requirements of paragraph (d) of subsection 3 and *except as otherwise provided in subsection 4*, grant a partial abatement equal to that percentage; and

(b) Immediately forward a certificate of eligibility for the abatement to:

- (1) The Department of Taxation;
- (2) The Nevada Tax Commission; and

(3) If the partial abatement is from ~~the property tax~~ **property taxes** imposed pursuant to chapter 361 of NRS, the county treasurer of the county in which the business is located.

~~5.1~~ **6.** The Commission on Economic Development:

(a) Shall adopt regulations relating to the minimum level of benefits that a business must provide to its employees to qualify for an abatement pursuant to this section.

(b) May adopt such other regulations as the Commission determines to be necessary or advisable to carry out the provisions of this section.

~~6.1~~ **7.** An applicant for an abatement who is aggrieved by a final decision of the Commission on Economic Development may petition for judicial review in the manner provided in chapter 233B of NRS.

~~7.1~~ **8.** As used in this section, “dislocated worker” means a person who:

- (a) Has been terminated, laid off or received notice of termination or layoff from employment;
- (b) Is eligible for or receiving or has exhausted his entitlement to unemployment compensation;
- (c) Has been dependent on the income of another family member but is no longer supported by that income;
- (d) Has been self-employed but is no longer receiving an income from self-employment because of general economic conditions in the community or natural disaster; or
- (e) Is currently unemployed and unable to return to a previous industry or occupation.

Sec. 19. Chapter 279 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Except as otherwise provided in this section, out of any revenue from taxes which is otherwise required to be paid into a special fund of a redevelopment agency in accordance with paragraph (b) of subsection 1 of NRS 279.676, the county treasurer shall set aside:

(a) Three percent of that revenue for the fiscal year beginning on July 1, 2009;

(b) Four percent of that revenue for the fiscal year beginning on July 1, 2010;

(c) Five percent of that revenue for the fiscal year beginning on July 1, 2011;

(d) Six percent of that revenue for the fiscal year beginning on July 1, 2012;

(e) Seven percent of that revenue for the fiscal year beginning on July 1, 2013;

(f) Eight percent of that revenue for the fiscal year beginning on July 1, 2014;

(g) Nine percent of that revenue for the fiscal year beginning on July 1, 2015;

(h) Ten percent of that revenue for the fiscal year beginning on July 1, 2016;

(i) Eleven percent of that revenue for the fiscal year beginning on July 1, 2017;

(j) Twelve percent of that revenue for the fiscal year beginning on July 1, 2018;

(k) Thirteen percent of that revenue for the fiscal year beginning on July 1, 2019;

(l) Fourteen percent of that revenue for the fiscal year beginning on July 1, 2020; and

(m) Fifteen percent of that revenue for each fiscal year beginning on or after July 1, 2021,

↪ and pay the amount set aside to the State Treasurer.

2. The provisions of subsection 1:

(a) Shall not apply to reduce the amounts payable under any existing obligation of the agency or otherwise be applied in such a manner as to impair adversely any existing obligation of the agency, as determined by independent bond counsel, until the existing obligation has been discharged in full; and

(b) Do not apply to any revenue required to be paid into a special fund of the agency which is attributable to the taxes imposed on the property included in a particular redevelopment project within the redevelopment area if:

(1) The legislative body determines that any of the property included in that redevelopment project is characterized by the factor specified in paragraph (j) of subsection 1 of NRS 279.388;

(2) Before July 1, 2009, the agency entered into a memorandum of understanding or other agreement with a private entity regarding that redevelopment project; and

(3) The agency certifies that a private entity has entered into or will be obligated to enter into a memorandum of understanding or other agreement with the board of trustees of the school district in which that redevelopment project is located which obligates the private entity to donate to that school district sites for the construction of schools, in such a number, size and location as that board of trustees determines to be appropriate for that redevelopment project.

3. The State Treasurer shall deposit any money received pursuant to subsection 1:

(a) Except as otherwise provided in paragraph (b), into the K-12 Public Education Stabilization Account created by section 3 of this act; and

(b) To the extent that the amount received would cause the K-12 Public Education Stabilization Account to exceed the maximum allowed balance in the Account established pursuant to subsection 3 of section 3 of this act,

into the Account for Programs for Innovation and the Prevention of Remediation created by NRS 385.379.

4. For the purposes of this section, “existing obligation” means:

(a) Any bond, note, medium-term financing, certificate, debenture or other financial obligation issued by the agency before July 1, 2009;

(b) Any loan, letter of credit or other advance of money to the agency before July 1, 2009, including, without limitation, a loan from any federal, state or local governmental entity and any loan from or other financial obligation owed to any bank or other private entity;

(c) Any minimum payment required on any note issued or other indebtedness or obligation incurred by the agency pursuant to any agreement for tax increment financing made pursuant to the redevelopment plan before July 1, 2009, including, without limitation, any owner participation agreement;

(d) Any money required to be set aside by the agency pursuant to NRS 279.685 for each fiscal year, but not less than the amount set aside by the agency pursuant to that section for the fiscal year ending on June 30, 2009;

(e) Any money required to administer and operate the agency for each fiscal year, except that for each fiscal year beginning after the first full fiscal year of the administration and operation of the agency, this amount must not exceed 102 percent of the amount expended for the administration and operation of the agency for the immediately preceding fiscal year;

(f) Any contractual obligation incurred by the agency before July 1, 2009, which, if breached by the agency, may subject the agency to damages or other liability, including, without limitation, any obligation, covenant or representation of the agency to issue any bonds, notes or other additional indebtedness in the future, any covenant to maintain reserve funds, any covenant to maintain minimum annual debt service ratios, any obligation to purchase property and any obligation to construct improvements, whether or not such obligation is an obligation or debt of the agency under NRS 279.638 and whether or not such obligation is limited to particular revenues of the agency; and

(g) The provisions of any memorandum of understanding between the agency and any private entity relating to the redevelopment of any site as part of a redevelopment project, if:

(1) Before July 1, 2009, in anticipation of the redevelopment of the site as part of a redevelopment project, the private entity reduced the fair market value of the site by clearing, demolishing or excavating any property at the site; and

(2) Before July 1, 2011, the agency and private entity execute a formal contract for the redevelopment of the site as part of a redevelopment project.

Sec. 20. NRS 279.636 is hereby amended to read as follows:

279.636 1. An agency may issue such types of bonds as it may determine, including bonds on which the principal and interest are payable:

(a) Exclusively from the income and revenues of the redevelopment projects financed with the proceeds of the bonds, or with those proceeds together with financial assistance from the State or Federal Government in aid of the projects.

(b) Exclusively from the income and revenues of certain designated redevelopment projects whether or not they were financed in whole or in part with the proceeds of the bonds.

(c) In whole or in part from taxes allocated to, and paid into a special fund of, the agency pursuant to the provisions of NRS 279.674 to 279.685, inclusive ~~19~~, **and section 19 of this act.**

(d) From its revenues generally.

(e) From any contributions or other financial assistance from the State or Federal Government.

(f) By any combination of these methods.

2. Any of the bonds may be additionally secured by a pledge of any revenue or by an encumbrance by mortgage, deed of trust or otherwise of any redevelopment project or other property of the agency or by a pledge of the taxes referred to in subsection 1.

3. Amounts payable in any manner permitted by this section may be additionally secured by a pledge of the full faith and credit of the community whose legislative body has declared the need for the agency to function. Such additional security may only be provided upon the approval of the majority of the voters voting on the question at a primary or general election or a special election called for that purpose. In its proposal to its voters the governing body shall define the area to be redeveloped, the primary source or sources of revenue first to be employed to retire the bonds and the maximum sum for which the city may pledge its full faith and credit in connection with the bonds to be issued for the project.

Sec. 21. NRS 279.674 is hereby amended to read as follows:

279.674 As used in NRS 279.674 to 279.685, inclusive, **and section 19 of this act.** the word "taxes" ~~shall include, but~~ **includes,** without limitation, all levies on an ad valorem basis upon land or real property.

~~Sec. 19.~~ **Sec. 22. NRS 279.676 is hereby amended to read as follows:**

279.676 1. Any redevelopment plan may contain a provision that taxes, if any, levied upon taxable property in the redevelopment area each year by or for the benefit of the State, any city, county, district or other public corporation, after the effective date of the ordinance approving the redevelopment plan, must be divided as follows:

(a) That portion of the taxes which would be produced by the rate upon which the tax is levied each year by or for each of the taxing agencies upon the total sum of the assessed value of the taxable property in the redevelopment area as shown upon the assessment roll used in connection

with the taxation of the property by the taxing agency, last equalized before the effective date of the ordinance, must be allocated to and when collected must be paid into the funds of the respective taxing agencies as taxes by or for such taxing agencies on all other property are paid. To allocate taxes levied by or for any taxing agency or agencies which did not include the territory in a redevelopment area on the effective date of the ordinance but to which the territory has been annexed or otherwise included after the effective date, the assessment roll of the county last equalized on the effective date of the ordinance must be used in determining the assessed valuation of the taxable property in the redevelopment area on the effective date. If property which was shown on the assessment roll used to determine the amount of taxes allocated to the taxing agencies is transferred to the State and becomes exempt from taxation, the assessed valuation of the exempt property as shown on the assessment roll last equalized before the date on which the property was transferred to the State must be subtracted from the assessed valuation used to determine the amount of revenue allocated to the taxing agencies.

(b) Except as otherwise provided in ~~paragraphs (c) and (d)~~ **this section , section 19 of this act** and NRS 540A.265, that portion of the levied taxes each year in excess of the amount set forth in paragraph (a) must be allocated to and when collected must be paid into a special fund of the redevelopment agency to pay the costs of redevelopment and to pay the principal of and interest on loans, money advanced to, or indebtedness, whether funded, refunded, assumed, or otherwise, incurred by the redevelopment agency to finance or refinance, in whole or in part, redevelopment. Unless the total assessed valuation of the taxable property in a redevelopment area exceeds the total assessed value of the taxable property in the redevelopment area as shown by the assessment roll last equalized before the effective date of the ordinance approving the redevelopment plan, less the assessed valuation of any exempt property subtracted pursuant to paragraph (a), all of the taxes levied and collected upon the taxable property in the redevelopment area must be paid into the funds of the respective taxing agencies. When the redevelopment plan is terminated pursuant to the provisions of NRS 279.438 and 279.439 and all loans, advances and indebtedness, if any, and interest thereon, have been paid, all money thereafter received from taxes upon the taxable property in the redevelopment area must be paid into the funds of the respective taxing agencies as taxes on all other property are paid.

(c) That portion of the taxes in excess of the amount set forth in paragraph (a) that is attributable to a tax rate levied by a taxing agency to produce revenues in an amount sufficient to make annual repayments of the principal of, and the interest on, any bonded indebtedness that was approved by the voters of the taxing agency on or after November 5, 1996, must be allocated to and when collected must be paid into the debt service fund of that taxing agency.

(d) That portion of the taxes in excess of the amount set forth in paragraph (a) that is attributable to a new or increased tax rate levied by a taxing agency and was approved by the voters of the taxing agency on or after November 5, 1996, must be allocated to and when collected must be paid into the appropriate fund of the taxing agency.

~~f (c) That portion of the taxes in excess of the amount set forth in paragraph (a) that is attributable to any taxes imposed for public education levied by a taxing agency must be allocated to and when collected must be paid into the appropriate fund of the taxing agency.~~

2. Except as otherwise provided in subsection 3, in any fiscal year, the total revenue paid to a redevelopment agency must not exceed:

(a) In a municipality whose population is 100,000 or more, an amount equal to the combined tax rates of the taxing agencies for that fiscal year multiplied by 10 percent of the total assessed valuation of the municipality.

(b) In a municipality whose population is 25,000 or more but less than 100,000, an amount equal to the combined tax rates of the taxing agencies for that fiscal year multiplied by 15 percent of the total assessed valuation of the municipality.

(c) In a municipality whose population is less than 25,000, an amount equal to the combined tax rates of the taxing agencies for that fiscal year multiplied by 20 percent of the total assessed valuation of the municipality.

↪ If the revenue paid to a redevelopment agency must be limited pursuant to paragraph (a), (b) or (c) and the redevelopment agency has more than one redevelopment area, the redevelopment agency shall determine the allocation to each area. Any revenue which would be allocated to a redevelopment agency but for the provisions of this section must be paid into the funds of the respective taxing agencies.

3. The taxing agencies shall continue to pay to a redevelopment agency any amount which was being paid before July 1, 1987, and in anticipation of which the agency became obligated before July 1, 1987, to repay any bond, loan, money advanced or any other indebtedness, whether funded, refunded, assumed or otherwise incurred.

4. For the purposes of this section, the assessment roll last equalized before the effective date of the ordinance approving the redevelopment plan is the assessment roll in existence on March 15 immediately preceding the effective date of the ordinance.

~~f 5. As used in this section, "taxes imposed for public education" means:~~

~~(a) Any ad valorem tax authorized or required by chapter 387 of NRS;~~

~~(b) Any ad valorem tax authorized or required by chapter 350 of NRS for the obligations of a school district, including, without limitation, any ad valorem tax necessary to carry out the provisions of subsection 5 of NRS 350.020; and~~

~~(c) Any other ad valorem tax for which the proceeds thereof are dedicated to the public education of pupils in kindergarten through grade 12.~~

Sec. 23. NRS 279.680 is hereby amended to read as follows:

279.680 Except as otherwise provided in NRS 279.685, in any redevelopment plan, or in the proceedings for the advance of money, or the making of loans, or the incurring of any indebtedness, whether funded, refunded, assumed or otherwise, by the redevelopment agency to finance or refinance, in whole or in part, the redevelopment project, the portion of taxes mentioned in paragraph (b) of subsection 1 of NRS 279.676 ***which is paid into a special fund of the redevelopment agency*** may be irrevocably pledged for the payment of the principal of and interest on those loans, advances or indebtedness.

Sec. 24. NRS 279.685 is hereby amended to read as follows:

279.685 1. Except as otherwise provided in this section, an agency of a city whose population ***for a fiscal year*** is 300,000 or more that receives revenue from taxes pursuant to paragraph (b) of subsection 1 of NRS 279.676 shall set aside not less than 15 percent of that revenue received on or ~~before October 1, 1999, and 18 percent of that revenue received after October 1, 1999,~~ ***after July 1, 2009,*** to increase, improve and preserve the number of dwelling units in the community for low-income households.

~~{2.} The obligation of an agency ***pursuant to this subsection*** to set aside ~~not less than 15 percent of the~~ ***any*** revenue from taxes allocated to and received by the agency pursuant to paragraph (b) of subsection 1 of NRS 279.676 is subordinate to any existing obligations of the agency. As used in this subsection, “existing obligations” means the principal and interest, when due, on any bonds, notes or other indebtedness whether funded, refunded, assumed or otherwise incurred by the agency before ~~July 1, 1993, to finance or refinance in whole or in part, the redevelopment of a redevelopment area. For the purposes of this subsection, obligations incurred by an agency after July 1, 1993, shall be deemed existing obligations if the net proceeds are used to refinance existing obligations of the agency.~~~~

~~3. The obligation of an agency to set aside an additional 3 percent of the revenue from taxes allocated to and received by the agency pursuant to paragraph (b) of subsection 1 of NRS 279.676 is subordinate to any existing obligations of the agency. As used in this subsection, “existing obligations” means the principal and interest, when due, on any bonds, notes or other indebtedness whether funded, refunded, assumed or otherwise incurred by the agency before} October 1, 1999, to finance or refinance in whole or in part, the redevelopment of a redevelopment area. For the purposes of this subsection, obligations incurred by an agency after October 1, 1999, shall be deemed existing obligations if the net proceeds are used to refinance existing obligations of the agency.~~

~~{4.} 2. ***Subsection 1 does not apply to an agency of a city whose population for a fiscal year is 300,000 or more if the first fiscal year for which that population is 300,000 or more begins on or after July 1, 2009. Except as otherwise provided in this subsection, an agency of a city whose population for a fiscal year is 300,000 or more to which subsection 1 does***~~

not apply shall, if the agency receives revenue from taxes pursuant to paragraph (b) of subsection 1 of NRS 279.676, set aside not less than:

(a) Three percent of that revenue for the first fiscal year for which the population of that city is 300,000 or more;

(b) Four percent of that revenue for the second fiscal year for which the population of that city is 300,000 or more;

(c) Five percent of that revenue for the third fiscal year for which the population of that city is 300,000 or more;

(d) Six percent of that revenue for the fourth fiscal year for which the population of that city is 300,000 or more;

(e) Seven percent of that revenue for the fifth fiscal year for which the population of that city is 300,000 or more;

(f) Eight percent of that revenue for the sixth fiscal year for which the population of that city is 300,000 or more;

(g) Nine percent of that revenue for the seventh fiscal year for which the population of that city is 300,000 or more;

(h) Ten percent of that revenue for the eighth fiscal year for which the population of that city is 300,000 or more;

(i) Eleven percent of that revenue for the ninth fiscal year for which the population of that city is 300,000 or more;

(j) Twelve percent of that revenue for the 10th fiscal year for which the population of that city is 300,000 or more;

(k) Thirteen percent of that revenue for the 11th fiscal year for which the population of that city is 300,000 or more;

(l) Fourteen percent of that revenue for the 12th fiscal year for which the population of that city is 300,000 or more; and

(m) Fifteen percent of that revenue for the 13th and each subsequent fiscal year for which the population of that city is 300,000 or more.

↳ to increase, improve and preserve the number of dwelling units in the community for low-income households. The obligation of an agency pursuant to this subsection to set aside any revenue from taxes allocated to and received by the agency pursuant to paragraph (b) of subsection 1 of NRS 279.676 is subordinate to any existing obligations of the agency. As used in this subsection, "existing obligations" means the principal and interest, when due, on any bonds, notes or other indebtedness whether funded, refunded, assumed or otherwise incurred by the agency before July 1, 2009, to finance or refinance, in whole or in part, the redevelopment of a redevelopment area. For the purposes of this subsection, obligations incurred by an agency on or after July 1, 2009, shall be deemed existing obligations if the net proceeds are used to refinance existing obligations of the agency.

3. The agency may expend or otherwise commit money for the purposes of subsection 1 or 2, as applicable, outside the boundaries of the redevelopment area.

4. For the purposes of this section, the population of a city for a fiscal year is the population of that city as certified for that fiscal year by the Governor pursuant to NRS 360.285. The Department of Taxation shall, as soon as practicable after the Governor first certifies the population of a city pursuant to NRS 360.285 as being 300,000 or more, notify any agency of that city of that certification.

~~[Sec. 20.]~~ Sec. 25. Chapter 360 of NRS is hereby amended by adding thereto ~~to a new section to read as follows:~~ the provisions set forth as sections 26 and 27 of this act.

Sec. 26. 1. A person who maintains a business or intends to locate a business in this State may, pursuant to NRS 360.750, apply to the Commission on Economic Development for an abatement from the local sales and use taxes ~~other than any taxes imposed for public education,~~ imposed on the gross receipts from the sale, and the storage, use or other consumption, of eligible machinery or equipment for use by a business which has been approved for an abatement pursuant to NRS 360.750.

2. If an application for an abatement is approved pursuant to NRS 360.750:

(a) ~~The taxpayer is eligible for an abatement from local sales and use taxes other than any taxes imposed for public education,~~ for not more than 2 years.

(b) The abatement must be administered and carried out in the manner set forth in NRS 360.750.

3. As used in this section, unless the context otherwise requires:

(a) "Eligible machinery or equipment" means machinery or equipment for which a deduction is authorized pursuant to 26 U.S.C. § 179. The term does not include:

- (1) Buildings or the structural components of buildings;
- (2) Equipment used by a public utility;
- (3) Equipment used for medical treatment;
- (4) Machinery or equipment used in mining; or
- (5) Machinery or equipment used in gaming.

(b) "Local sales and use taxes" has the meaning ascribed to it in NRS 360.750.

~~(c) "Taxes imposed for public education" has the meaning ascribed to it in NRS 360.750.~~

Sec. 27. 1. The Commission on Economic Development shall adopt regulations:

(a) Specifying criteria for determining, subject to such limitations as may be prescribed by specific statute, the duration and amount of any abatement of taxes which the Commission is authorized or required to approve. The criteria must provide for progressively greater abatements based upon the extent to which the business exceeds any minimum eligibility requirements for the abatement and meets such additional eligibility requirements as the Commission deems appropriate.

(b) Establishing a schedule of progressively greater sanctions for the failure of a business to comply with any eligibility requirements for any abatement of taxes approved by the Commission. The sanctions:

(1) Must be commensurate with the severity of the failure to comply with such eligibility requirements; and

(2) May include:

(I) A reduction in the duration or amount of the abatement;

(II) The termination of the abatement; and

(III) The repayment of all or any portion of the abatement to the Department or county treasurer, as appropriate.

(c) Requiring each business that accepts any abatement of taxes approved by the Commission to submit annually such information and documentation as may be necessary for the Commission to determine whether the business is in compliance with any eligibility requirements for the abatement.

2. If the Commission on Economic Development determines that any business which accepts any abatement of taxes approved by the Commission may not be in compliance with any eligibility requirements for the abatement, the Commission shall notify the Department of that determination and the Department may, after providing the business with notice of and an opportunity for a hearing on the matter, impose such sanctions as may be appropriate in accordance with the regulations adopted pursuant to subsection 1. If the abatement is from property taxes imposed pursuant to chapter 361 of NRS, the Department shall provide notice of the imposition of any such sanctions to the county treasurer.

3. If a business is required to repay all or any portion of any abatement to a county treasurer as a result of the imposition of any sanctions pursuant to this section, the county treasurer:

(a) Shall deposit the money in one or more of the funds established by a local government of the county pursuant to NRS 354.6113 or 354.6115; and

(b) May use the money deposited pursuant to paragraph (a) only for the purposes authorized by NRS 354.6113 and 354.6115.

~~{Sec. 21.}~~ Sec. 28. NRS 360.225 is hereby amended to read as follows:

360.225 1. During the course of an investigation undertaken pursuant to NRS 360.130 of a person claiming:

(a) A partial abatement of property taxes pursuant to NRS 361.0687;

(b) An exemption from taxes pursuant to NRS 363B.120;

(c) A deferral of the payment of taxes on the sale of capital goods pursuant to NRS 372.397 or 374.402; or

(d) An abatement of taxes on the gross receipts from the sale, storage, use or other consumption of eligible machinery or equipment pursuant to ~~{NRS 374.357.}~~ section ~~20~~ 26 of this act,

↳ the Department shall investigate whether the person meets the eligibility requirements for the abatement, partial abatement, exemption or deferral that the person is claiming.

2. If the Department finds that the person does not meet the eligibility requirements for the abatement, exemption or deferral which the person is claiming, the Department shall report its findings to the Commission on Economic Development and take any other necessary actions.

~~[Sec. 22]~~ **Sec. 29.** NRS 360.750 is hereby amended to read as follows:

360.750 1. A person who intends to locate or expand a business in this State may apply to the Commission on Economic Development for a partial abatement of one or more of the **local sales and use taxes imposed on the new or expanded business or** taxes imposed on the new or expanded business pursuant to chapter 361 ~~[, 363B or 374]~~ **or 363B** of NRS ~~or other than any taxes imposed for public education.]~~

2. The Commission on Economic Development shall approve an application for a partial abatement if the Commission makes the following determinations:

(a) The business is consistent with:

- (1) The State Plan for Industrial Development and Diversification that is developed by the Commission pursuant to NRS 231.067; and
- (2) Any guidelines adopted pursuant to the State Plan.

(b) The applicant has executed an agreement with the Commission which must:

- (1) Comply with the requirements of NRS 360.755;
- (2) State that the business will, after the date on which a certificate of eligibility for the abatement is issued pursuant to subsection 5, continue in operation in this State for a period specified by the Commission, which must be at least ~~5~~ **6** years, and will continue to meet the eligibility requirements set forth in this subsection; and

(3) Bind the successors in interest of the business for the specified period.

(c) The business is registered pursuant to the laws of this State or the applicant commits to obtain a valid business license and all other permits required by the county, city or town in which the business operates.

(d) Except as otherwise provided in NRS 361.0687, if the business is a new business in a county whose population is 100,000 or more or a city whose population is 60,000 or more, the business meets at least two of the following requirements:

- (1) The business will have 75 or more full-time employees on the payroll of the business by the fourth quarter that it is in operation.
- (2) Establishing the business will require the business to make a capital investment of at least \$1,000,000 in this State.
- (3) The average hourly wage that will be paid by the new business to its employees in this State is at least 100 percent of the average statewide hourly

wage as established by the Employment Security Division of the Department of Employment, Training and Rehabilitation on July 1 of each fiscal year and:

(I) The business will provide a health insurance plan for all employees that includes an option for health insurance coverage for dependents of the employees; and

(II) The cost to the business for the benefits the business provides to its employees in this State will meet the minimum requirements for benefits established by the Commission by regulation pursuant to subsection ~~9-1~~ 10.

(e) Except as otherwise provided in NRS 361.0687, if the business is a new business in a county whose population is less than 100,000 or a city whose population is less than 60,000, the business meets at least two of the following requirements:

(1) The business will have 15 or more full-time employees on the payroll of the business by the fourth quarter that it is in operation.

(2) Establishing the business will require the business to make a capital investment of at least \$250,000 in this State.

(3) The average hourly wage that will be paid by the new business to its employees in this State is at least 100 percent of the average statewide hourly wage or the average countywide hourly wage, whichever is less, as established by the Employment Security Division of the Department of Employment, Training and Rehabilitation on July 1 of each fiscal year and:

(I) The business will provide a health insurance plan for all employees that includes an option for health insurance coverage for dependents of the employees; and

(II) The cost to the business for the benefits the business provides to its employees in this State will meet the minimum requirements for benefits established by the Commission by regulation pursuant to subsection ~~9-1~~ 10.

(f) If the business is an existing business, the business meets at least two of the following requirements:

(1) The business will increase the number of employees on its payroll by 10 percent more than it employed in the immediately preceding fiscal year or by six employees, whichever is greater.

(2) The business will expand by making a capital investment in this State in an amount equal to at least 20 percent of the value of the tangible property possessed by the business in the immediately preceding fiscal year. The determination of the value of the tangible property possessed by the business in the immediately preceding fiscal year must be made by the:

(I) County assessor of the county in which the business will expand, if the business is locally assessed; or

(II) Department, if the business is centrally assessed.

(3) The average hourly wage that will be paid by the existing business to its new employees in this State is at least the amount of the average hourly wage required to be paid by businesses pursuant to subparagraph (2) of either

paragraph (a) or (b) of subsection 2 of NRS 361.0687, whichever is applicable, and:

(I) The business will provide a health insurance plan for all new employees that includes an option for health insurance coverage for dependents of the employees; and

(II) The cost to the business for the benefits the business provides to its new employees in this State will meet the minimum requirements for benefits established by the Commission by regulation pursuant to subsection ~~9~~ 10.

(g) In lieu of meeting the requirements of paragraph (d), (e) or (f), if the business furthers the development and refinement of intellectual property, a patent or a copyright into a commercial product, the business meets at least two of the following requirements:

(1) The business will have 10 or more full-time employees on the payroll of the business by the fourth quarter that it is in operation.

(2) Establishing the business will require the business to make a capital investment of at least \$500,000 in this State.

(3) The average hourly wage that will be paid by the new business to its employees in this State is at least the amount of the average hourly wage required to be paid by businesses pursuant to subparagraph (2) of either paragraph (a) or (b) of subsection 2 of NRS 361.0687, whichever is applicable, and:

(I) The business will provide a health insurance plan for all employees that includes an option for health insurance coverage for dependents of the employees; and

(II) The cost to the business for the benefits the business provides to its employees in this State will meet with minimum requirements established by the Commission by regulation pursuant to subsection 9.

3. Notwithstanding the provisions of subsection 2, the Commission on Economic Development:

(a) Shall not consider an application for a partial abatement unless the Commission has requested a letter of acknowledgment of the request for the abatement from any affected county, school district, city or town.

(b) May, if the Commission determines that such action is necessary:

(1) Approve an application for a partial abatement by a business that does not meet the requirements set forth in paragraph (d), (e), (f) or (g) of subsection 2;

(2) Make the requirements set forth in paragraph (d), (e), (f) or (g) of subsection 2 more stringent; or

(3) Add additional requirements that a business must meet to qualify for a partial abatement.

4. If a person submits an application to the Commission on Economic Development pursuant to subsection 1, the Commission shall provide notice to the governing body of the county, the board of trustees of the school district and the governing body of the city or town, if any, in which the

person intends to locate or expand a business. The notice required pursuant to this subsection must set forth the date, time and location of the hearing at which the Commission will consider the application.

5. If a partial abatement from property taxes imposed pursuant to chapter 361 of NRS is approved by the Commission on Economic Development pursuant to this section, the partial abatement must:

(a) Be for a duration of not more than 10 years; and

(b) Not exceed 50 percent of the property taxes payable by a business each year.

6. If the Commission on Economic Development approves an application for a partial abatement, the Commission shall immediately forward a certificate of eligibility for the abatement to:

(a) The Department;

(b) The Nevada Tax Commission; and

(c) If the partial abatement is from ~~the property tax~~ **property taxes** imposed pursuant to chapter 361 of NRS, the county treasurer.

~~6.7.~~ **7.** An applicant for a partial abatement pursuant to this section or an existing business whose partial abatement is in effect shall, upon the request of the Executive Director of the Commission on Economic Development, furnish the Executive Director with copies of all records necessary to verify that the applicant meets the requirements of subsection 2.

~~7.8.~~

8. Except as otherwise provided in the regulations adopted by the Commission on Economic Development pursuant to section 27 of this act, if a business whose partial abatement has been approved pursuant to this section and is in effect ceases:

(a) To meet the requirements set forth in subsection 2; or

(b) Operation before the time specified in the agreement described in paragraph (b) of subsection 2,

↪ the business shall repay to the Department or, if the partial abatement was from ~~the property tax~~ **property taxes** imposed pursuant to chapter 361 of NRS, to the county treasurer, the amount of the exemption that was allowed pursuant to this section before the failure of the business to comply unless the Nevada Tax Commission determines that the business has substantially complied with the requirements of this section. Except as otherwise provided in NRS 360.232 and 360.320, the business shall, in addition to the amount of the exemption required to be paid pursuant to this subsection, pay interest on the amount due at the rate most recently established pursuant to NRS 99.040 for each month, or portion thereof, from the last day of the month following the period for which the payment would have been made had the partial abatement not been approved until the date of payment of the tax.

~~8.9.~~ **9.** A county treasurer:

(a) Shall deposit any money that he receives pursuant to subsection ~~7.8~~ **8** in one or more of the funds established by a local government of the county pursuant to NRS 354.6113 or 354.6115; and

(b) May use the money deposited pursuant to paragraph (a) only for the purposes authorized by NRS 354.6113 and 354.6115.

~~9.~~ **10.** The Commission on Economic Development:

(a) Shall adopt regulations relating to:

(1) The minimum level of benefits that a business must provide to its employees if the business is going to use benefits paid to employees as a basis to qualify for a partial abatement; and

(2) The notice that must be provided pursuant to subsection 4.

(b) May adopt such other regulations as the Commission on Economic Development determines to be necessary to carry out the provisions of this section and NRS 360.755.

~~10.~~ **11.** The Nevada Tax Commission:

(a) Shall adopt regulations regarding:

(1) The capital investment that a new business must make to meet the requirement set forth in paragraph (d), (e) or (g) of subsection 2; and

(2) Any security that a business is required to post to qualify for a partial abatement pursuant to this section.

(b) May adopt such other regulations as the Nevada Tax Commission determines to be necessary to carry out the provisions of this section and NRS 360.755.

~~11.~~ **12.** An applicant for an abatement who is aggrieved by a final decision of the Commission on Economic Development may petition for judicial review in the manner provided in chapter 233B of NRS.

~~12.~~ **13.** *As used in this section:*

~~(a) "Local," "local sales and use taxes" means any taxes imposed on the gross receipts of any retailer from the sale of tangible personal property sold at retail, or stored, used or otherwise consumed, in any political subdivision of this State, except the taxes imposed by NRS 374.110 or 374.190 or the Sales and Use Tax Act.~~

~~(b) "Taxes imposed for public education" means:~~

~~(1) Any ad valorem tax authorized or required by chapter 387 of NRS;~~

~~(2) Any ad valorem tax authorized or required by chapter 350 of NRS for the obligations of a school district, including, without limitation, any ad valorem tax necessary to carry out the provisions of subsection 5 of NRS 350.020;~~

~~(3) The taxes imposed by NRS 374.110, 374.190 and 374A.010; and~~

~~(4) Any other ad valorem tax or local sales and use taxes for which the proceeds thereof are dedicated to the public education of pupils in kindergarten through grade 12.~~

~~[Sec. 23.] Sec. 30. [NRS 361.0687 is hereby amended to read as follows:~~

~~361.0687 1. A person who intends to locate or expand a business in this State may, pursuant to NRS 360.750, apply to the Commission on Economic Development for a partial abatement from the taxes imposed by this chapter.~~

~~2.—For a business to qualify pursuant to NRS 360.750 for a partial abatement from the taxes imposed by this chapter, the Commission on Economic Development must determine that, in addition to meeting the other requirements set forth in subsection 2 of that section:~~

~~(a) If the business is a new business in a county whose population is 100,000 or more or a city whose population is 60,000 or more:~~

~~(1) The business will make a capital investment in the county of at least \$50,000,000 if the business is an industrial or manufacturing business or at least \$5,000,000 if the business is not an industrial or manufacturing business; and~~

~~(2) The average hourly wage that will be paid by the new business to its employees in this State is at least 100 percent of the average statewide hourly wage as established by the Employment Security Division of the Department of Employment, Training and Rehabilitation on July 1 of each fiscal year.~~

~~(b) If the business is a new business in a county whose population is less than 100,000 or a city whose population is less than 60,000:~~

~~(1) The business will make a capital investment in the county of at least \$5,000,000 if the business is an industrial or manufacturing business or at least \$500,000 if the business is not an industrial or manufacturing business; and~~

~~(2) The average hourly wage that will be paid by the new business to its employees in this State is at least 100 percent of the average statewide hourly wage or the average countywide hourly wage, whichever is less, as established by the Employment Security Division of the Department of Employment, Training and Rehabilitation on July 1 of each fiscal year.~~

~~3.—Except as otherwise provided in NRS 701A.210, if a partial abatement from the taxes imposed by this chapter is approved by the Commission on Economic Development pursuant to NRS 360.750:~~

~~(a) The partial abatement must:~~

~~(1) Be for a duration of at least 1 year but not more than 10 years;~~

~~(2) Not exceed 50 percent of the taxes on personal property payable by a business each year pursuant to this chapter;~~

~~(3) *Not apply to any taxes imposed for public education;* and~~

~~[(3)]—(4) Be administered and carried out in the manner set forth in NRS 360.750.~~

~~(b) The Executive Director of the Commission on Economic Development shall notify the county assessor of the county in which the business is located of the approval of the partial abatement, including, without limitation, the duration and percentage of the partial abatement that the Commission granted. The Executive Director shall, on or before April 15 of each year, advise the county assessor of each county in which a business qualifies for a partial abatement during the current fiscal year as to whether the business is still eligible for the partial abatement in the next succeeding fiscal year.~~

~~4.—As used in this section, “taxes imposed for public education” has the meaning ascribed to it in NRS 360.750. [Deleted by amendment.]~~

~~[Sec. 24.] Sec. 31. [NRS 701A.210 is hereby amended to read as follows:~~

~~701A.210 1. Except as otherwise provided in this section, if a:~~

~~(a) Business that engages in the primary trade of preparing, fabricating, manufacturing or otherwise processing raw material or an intermediate product through a process in which at least 50 percent of the material or product is recycled on site; or~~

~~(b) Business that includes as a primary component a facility for the generation of electricity from recycled material;~~

~~is found by the Commission on Economic Development to have as a primary purpose the conservation of energy or the substitution of other sources of energy for fossil sources of energy and obtains certification from the Commission on Economic Development pursuant to NRS 360.750, the Commission may, if the business additionally satisfies the requirements set forth in subsection 2 of NRS 361.0687, grant to the business a partial abatement from the taxes imposed on real property pursuant to chapter 361 of NRS.~~

~~2. If a partial abatement from the taxes imposed on real property pursuant to chapter 361 of NRS is approved by the Commission on Economic Development pursuant to NRS 360.750 for a business described in subsection 1:~~

~~(a) The partial abatement must:~~

~~(1) Be for a duration of at least 1 year but not more than 10 years;~~

~~(2) Not exceed 50 percent of the taxes on real property payable by the business each year;~~

~~(3) Not apply to any taxes imposed for public education; and~~

~~[(3)] (4) Be administered and carried out in the manner set forth in NRS 360.750.~~

~~(b) The Executive Director of the Commission on Economic Development shall notify the county assessor of the county in which the business is located of the approval of the partial abatement, including, without limitation, the duration and percentage of the partial abatement that the Commission granted. The Executive Director shall, on or before April 15 of each year, advise the county assessor of each county in which a business qualifies for a partial abatement during the current fiscal year as to whether the business is still eligible for the partial abatement in the next succeeding fiscal year.~~

~~3. The partial abatement provided in this section applies only to the business for which certification was granted pursuant to NRS 360.750 and the property used in connection with that business. The exemption does not apply to property in this State that is not related to the business for which the certification was granted pursuant to NRS 360.750 or to property in existence and subject to taxation before the certification was granted.~~

~~4. As used in this section [, "facility"]:~~

~~(a) "Facility for the generation of electricity from recycled material" means a facility for the generation of electricity that uses recycled material as its primary fuel, including material from:~~

~~[(a)] (1) Industrial or domestic waste, other than hazardous waste, even though it includes a product made from oil, natural gas or coal, such as plastics, asphalt shingles or tires;~~

~~[(b)] (2) Agricultural crops, whether terrestrial or aquatic, and agricultural waste, such as manure and residue from crops; and~~

~~[(c)] (3) Municipal waste, such as sewage and sludge.~~

~~The term includes all the equipment in the facility used to process and convert into electricity the energy derived from a recycled material fuel.~~

~~(b) "Taxes imposed for public education" has the meaning ascribed to it in NRS 360.750. (Deleted by amendment.)~~

~~[Sec. 25.]~~ *Sec. 32.* Section 2.320 of the Charter of the City of Henderson, being chapter 266, Statutes of Nevada 1971, as last amended by chapter 48, Statutes of Nevada 1997, at page 89, is hereby amended to read as follows:

Sec. 2.320 Sale, lease, exchange of real property owned by the City: Procedure; disposition of proceeds.

1. Subject to the provisions of this section, the City may sell, lease or exchange real property in Clark County, Nevada, acquired by the City pursuant to federal law from the United States of America.

2. Except as otherwise provided in subsection 3:

(a) The City may sell, lease or exchange real property only by resolution. Following the adoption of a resolution to sell, lease or exchange, the City Council shall cause a notice of its intention to sell, lease or exchange the real property to be published once in a newspaper qualified pursuant to the provisions of chapter 238 of NRS and published in the City. The notice must be published at least 30 days before the date set by the City Council for the sale, lease or exchange, and must state:

(1) The date, time and place of the proposed sale, lease or exchange.

(2) The place where and the time within which applications and deposits may be made by prospective purchasers or lessees.

(3) Such other information as the City Council desires.

(b) Applications or offers to purchase, lease or exchange pursuant to the notice required in paragraph (a) must be in writing, must not be accepted by the City Council for consideration before the date of publication of the notice and must be accompanied by a deposit of not less than 1 percent of the total offer to purchase. If a lease, sale or exchange is not consummated because:

(1) The City refuses or is unable to consummate the lease, sale or exchange, the deposit must be refunded.

(2) The person who made the application or offer to lease, buy or exchange refuses or is unable to consummate the lease, sale or exchange, the City shall retain an amount of the deposit that does not exceed 5 percent of the total offer to purchase.

3. The City Council may waive the requirements of subsection 2 for any lease of residential property that is for a term of 1 year or less.

4. The City Council shall not make a lease for a term of 3 years or longer or enter into a contract for the sale or exchange of real property until after the property has been appraised by one disinterested appraiser employed by the City Council. Except as otherwise provided in subsections 7 and 8, it must be the policy of the City Council to require that all such sales, leases or exchanges be made at or above the current appraised value as determined by the appraiser unless the City Council, in a public hearing held before the adoption of the resolution to sell, lease or exchange the property, determines by affirmative vote of not fewer than two-thirds of the entire City Council based upon specified findings of fact that a lesser value would be in the best interest of the public. For the purposes of this subsection, an appraisal is not considered current if it is more than 3 years old.

5. It must be the policy of the City Council to sell, lease and exchange real property in a manner that will result in the maximum benefit accruing to the City from the sales, leases and exchanges. The City Council may attach any condition to the sale, lease or exchange as appears to the City Council to be in the best interests of the City.

6. The City Council may sell unimproved real property owned by the City on a time payment basis. The down payment must be in an amount determined by the City Council, and the interest rate must be in an amount determined by the City Council, but must not be less than 6 percent per annum on the declining balance.

7. Notwithstanding the provisions of subsection 4, the City Council may dispose of any real property belonging to the City to the United States of America, the State of Nevada, Clark County, any other political subdivision of the State, or any quasi-public or nonprofit entity for a nominal consideration whenever the public interest requires such a disposition. In any such case, the consideration paid must equal the cost of the acquisition to the City.

8. The City Council may sell, lease or exchange real property for less than its appraised value to any person who maintains or intends to maintain a business within the boundaries of the City which is eligible *for an abatement from local sales and use taxes* pursuant to ~~[NRS 374.357 for an abatement from the sales and use taxes imposed pursuant to chapter 374 of NRS.]~~ **section ~~207~~ 26 of this act.**

9. Proceeds from all sales and exchanges of real property owned by the City, after deduction of the cost of the real property, reasonable costs of publication, title insurance, escrow and normal costs of sale, must be placed in the Land Fund previously created by the City in the City Treasury and hereby continued. Except as otherwise provided in subsection 10, money in the Land Fund may be expended only for:

(a) Acquisition of assets of a long-term character which are intended to continue to be held or used, such as land, buildings, machinery, furniture, computer software and other equipment.

(b) Capital improvements of improvements thereon.

(c) Expenses incurred in the preparation of a long-term comprehensive master planning study and any expenses incurred in the master planning of the City.

(d) All costs, including salaries, for administration of the Land Fund, and the land within the City.

(e) Expenses incurred in making major improvements and repairs to the water, sewer and street systems as differentiated from normal maintenance costs.

↪ Money received from leases of real property owned by the City must be placed in the Land Fund if the term of lease is 20 years or longer, whether the 20 years is for an initial term of lease or for an initial term and an option for renewal. Money received by the City from all other leases and interest on time payment sales of real property owned by the City must be apportioned in the ratio of 20 percent to current operational expenses of the City, 20 percent to the Land Fund, and 60 percent divided between the Land Fund and current operational expenses as determined by the Council.

10. If available, money in the Land Fund may be borrowed by the City pursuant to the provisions of NRS 354.430 to 354.460, inclusive.

~~{Sec. 26.}~~ *Sec. 33.* NRS 374.357 and 374.643 are hereby repealed.

~~{Sec. 27.}~~ *Sec. 34.* The provisions of sections 8, ~~{20 to 23, inclusive,}~~ **9, 10, 13, 16, 17, 18, ~~{24, 25 and 26}~~ and 25 to 33, inclusive,** of this act do not apply to or affect the terms of any abatement of taxes approved by the Commission on Economic Development before July 1, 2009.

~~{Sec. 28.}~~ *Sec. 35.* The provisions of sections 9 to 15, inclusive, and ~~{26}~~ **33** of this act do not apply to or affect the terms of any agreement made pursuant to NRS 274.270 before July 1, 2009.

~~{Sec. 29.}~~ *Sec. 36.* 1. Any redevelopment plan adopted pursuant to chapter 279 of NRS before July 1, 2009, which contains a provision for the division of taxes pursuant to NRS 279.676 shall be deemed to include the ~~{amendatory}~~ provisions of section ~~{19}~~ **22** of this act.

2. Notwithstanding ~~{the provisions of subsection 1 and the amendatory provisions of section 19 of this act, those provisions must not be applied in such a manner as to impair adversely any obligations outstanding on July 1, 2009, including, without limitation, bonds, medium term financing, letters of credit and any other financial obligation, until all such obligations have been discharged in full or provision for their payment and redemption has been fully made.}~~ **any provision of section 19 of this act to the contrary, the State Treasurer shall deposit any money received pursuant to paragraphs (a) and (b) of subsection 1 of that section into the State Distributive School Account in the State General Fund.**

3. The provisions of section 24 f this act do not apply to any revenue from taxes received by a redevelopment agency before July 1, 2009.

~~Sec. 30.]~~ **Sec. 37.** This act becomes effective on July 1, 2009.

TEXT OF REPEALED SECTIONS

374.357 Abatement for eligible machinery or equipment used by certain new or expanded businesses. [Effective July 1, 2009.]

1. A person who maintains a business or intends to locate a business in this State may, pursuant to NRS 360.750, apply to the Commission on Economic Development for an abatement from the taxes imposed by this chapter on the gross receipts from the sale, and the storage, use or other consumption, of eligible machinery or equipment for use by a business which has been approved for an abatement pursuant to NRS 360.750.

2. If an application for an abatement is approved pursuant to NRS 360.750:

(a) The taxpayer is eligible for an abatement from the tax imposed by this chapter for not more than 2 years.

(b) The abatement must be administered and carried out in the manner set forth in NRS 360.750.

3. As used in this section, unless the context otherwise requires, “eligible machinery or equipment” means machinery or equipment for which a deduction is authorized pursuant to 26 U.S.C. § 179. The term does not include:

- (a) Buildings or the structural components of buildings;
- (b) Equipment used by a public utility;
- (c) Equipment used for medical treatment;
- (d) Machinery or equipment used in mining; or
- (e) Machinery or equipment used in gaming.

374.643 Credit or refund of tax for business within zone for economic development.

1. Each person who holds a valid certificate, issued under NRS 274.270, as a qualified business within a specially benefited zone may file for a credit or refund to recover the amount of tax paid under this chapter for all tangible personal property purchased in the conduct of its business for the period, not to exceed 5 years, stated in its agreement with the city or county, as the case may be, made under NRS 274.270, or until the person is no longer certified as a qualified business under that section, whichever occurs first.

2. Claims for credit or refund may be filed under this section only if:

(a) The city or county which designated the specially benefited zone has adopted an ordinance authorizing such claims; and

(b) This benefit is specified in the agreement made under NRS 274.270.

Assemblywoman Leslie moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 488.

Bill read third time.

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

Amendment No. 635.

SUMMARY—Revises provisions governing ~~educational personnel~~, the employment of retired public employees. (BDR ~~[34-782]~~, 23-782).

AN ACT relating to ~~education~~; **public employees' retirement**; revising provisions governing the allowances that may be paid to a retired public employee who accepts employment or an independent contract with ~~the board of trustees of a school district or the governing body of a charter school~~; **a public employer** in a position for which there is a critical labor shortage; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides that a retired public employee who accepts employment or an independent contract with a public employer under the Public Employees' Retirement System is disqualified from receiving allowances under the System for the duration of that employment or contract under certain circumstances. (NRS 286.520) Existing law also provides an exception to this disqualification from receipt of allowances if the retired public employee fills a position for which there is a critical labor shortage. (NRS 286.523) This exception under existing law is scheduled to expire on June 30, 2009. (Chapter 316, Statutes of Nevada 2005, p. ~~[1076]~~) ~~Section 1 of this bill continues this exception for a retired public employee who accepts employment or an independent contract with the board of trustees of a school district or the governing body of a charter school in a position for which there is a critical labor shortage, as designated by the Department of Education.~~ **1077) This bill extends the prospective expiration of this exception to June 30, 2015. Section 4 of this bill revises the criteria which must be considered by a designating authority in determining whether to designate a position for which there is a critical labor shortage. Section 4 also requires the designating authority to submit written findings of the determination to the Public Employees' Retirement Board on a form prescribed by the Board. The Board must compile the forms and submit a biennial report of the compilation to the Interim Retirement and Benefits Committee of the Legislature.**

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 a new section to read as follows:~~

~~***1.—The provisions of subsections 1 and 2 of NRS 286.520 do not apply to a retired public employee who accepts employment or an independent contract with the board of trustees of a school district or the governing body of a charter school if:***~~

~~(a) He fills a position for which there is a critical labor shortage; and~~

~~(b) At the time of his reemployment, he is receiving:~~

~~(1) A benefit that is not actuarially reduced pursuant to subsection 6 of NRS 286.510; or~~

~~(2) A benefit actuarially reduced pursuant to subsection 6 of NRS 286.510 and has reached the required age at which he could have retired with a benefit that was not actuarially reduced pursuant to subsection 6 of NRS 286.510.~~

~~2. A retired public employee who is reemployed under the circumstances set forth in subsection 1 may reenroll in the Public Employees' Retirement System as provided in NRS 286.525.~~

~~3. The Department shall designate the positions with the various school districts and charter schools for which there are critical labor shortages.~~

~~4. In determining whether a position is a position for which there is a critical labor shortage, the Department shall give consideration to:~~

~~(a) The history of the rate of turnover for the position;~~

~~(b) The number of openings for the position and the number of qualified candidates for those openings;~~

~~(c) The length of time the position has been vacant; and~~

~~(d) The success of recruiting persons in other states to fill the position.~~

~~5. The Department shall not designate a position pursuant to subsection 3 as a position for which there is a critical labor shortage for a period longer than 2 years. When redesignating a position as such, the Department shall consider whether the position continues to meet the criteria set forth in subsection 4. (Deleted by amendment.)~~

Sec. 2. [NRS 286.520 is hereby amended to read as follows:

~~286.520 1. Except as otherwise provided in this section, [and] NRS 286.525 [.] and section 1 of this act, the consequences of the employment of a retired employee are:~~

~~(a) A retired employee who accepts employment or an independent contract with a public employer under this System is disqualified from receiving any allowances under this System for the duration of that employment or contract if:~~

~~(1) He accepted the employment or contract within 90 calendar days after the effective date of his retirement; or~~

~~(2) He is employed in a position which is eligible to participate in this System.~~

~~(b) If a retired employee accepts employment or an independent contract with a public employer under this System more than 90 calendar days after the effective date of his retirement in a position which is not eligible to participate in this System, his allowance under this System terminates upon his earning an amount equal to one-half of the average salary for participating public employees who are not police officers or firefighters in any fiscal year, for the duration of that employment or contract.~~

~~(e) If a retired employee accepts employment with an employer who is not a public employer under this System, the employee is entitled to the same allowances as a retired employee who has no employment.~~

~~2. The retired employee and the public employer shall notify the System:~~

~~(a) Within 10 days after the first day of an employment or contract governed by paragraph (a) of subsection 1.~~

~~(b) Within 30 days after the first day of an employment or contract governed by paragraph (b) of subsection 1.~~

~~(c) Within 10 days after a retired employee earns more than one half of the average salary for participating public employees who are not police officers or firefighters in any fiscal year from an employment or contract governed by paragraph (b) of subsection 1.~~

~~3. For the purposes of this section, the average salary for participating public employees who are not police officers or firefighters must be computed on the basis of the most recent actuarial valuation of the System.~~

~~4. If a retired employee who accepts employment or an independent contract with a public employer under this System pursuant to this section elects not to reenroll in the System pursuant to subsection 1 of NRS 286.525, the public employer with which the retired employee accepted employment or an independent contract may pay contributions on behalf of the retired employee to a retirement fund which is not a part of the System in an amount not to exceed the amount of the contributions that the public employer would pay to the System on behalf of a participating public employee who is employed in a similar position.~~

~~5. If a retired employee is chosen by election or appointment to fill an elective public office, he is entitled to the same allowances as a retired employee who has no employment, unless he is serving in the same office in which he served and for which he received service credit as a member. A public employer may pay contributions on behalf of such a retired employee to a retirement fund which is not a part of the System in an amount not to exceed the amount of the contributions that the public employer would pay to the System on behalf of a participating public employee who serves in the same office.~~

~~6. The System may waive for one period of 30 days or less a retired employee's disqualification under this section if the public employer certifies in writing, in advance, that the retired employee is recalled to meet an emergency and that no other qualified person is immediately available.~~

~~7. A person who accepts employment or an independent contract with either house of the Legislature or by the Legislative Counsel Bureau is exempt from the provisions of subsections 1 and 2 for the duration of that employment or contract. **(Deleted by amendment.)**~~

Sec. 3. ~~[NRS 286.525 is hereby amended to read as follows:~~

~~286.525 1. A retired employee who accepts employment in a position eligible for membership may enroll in the System as of the effective date of~~

that employment. ~~[As] **Except as otherwise provided in section 1 of this act,**~~
~~as of the date of enrollment:~~

~~(a) He forfeits all retirement allowances for the duration of that employment.~~

~~(b) He is entitled to receive, after the termination of the employment and upon written request, a refund of all contributions made by him during the employment. Except as otherwise required as a result of NRS 286.535 or 286.537, if he does not request the refund and the duration of the employment was at least 6 months, he gains additional service credit for that employment and is entitled to have a separate service retirement allowance calculated based on his compensation and service, effective upon the termination of that employment. If the duration of the employment was:~~

~~(1) Less than 5 years, the additional allowance must be added to his original allowance and must be under the same option and designate the same beneficiary as the original allowance.~~

~~(2) Five years or more, the additional allowance may be under any option and designate any beneficiary in accordance with NRS 286.545.~~

~~2. The original service retirement allowance of such a retired employee must not be recalculated based upon the additional service credit, nor is he entitled to any of the rights of membership that were not in effect at the time of his original retirement. The accrual of service credit pursuant to this section is subject to the limits imposed by:~~

~~(a) NRS 286.551; and~~

~~(b) Section 415 of the Internal Revenue Code, 26 U.S.C. § 415, if the member's effective date of membership is on or after January 1, 1990.~~

~~3. Except as otherwise required as a result of NRS 286.470, 286.535 or 286.537, a retired employee who has been receiving a retirement allowance and who is reemployed and is enrolled in the System for at least 5 years may have his additional credit for service added to his previous credit for service. This additional credit for service must not apply to more than one period of employment after the original retirement.~~

~~4. The survivor of a deceased member who had previously retired and was rehired and enrolled in the System, who qualifies for benefits pursuant to NRS 286.671 to 286.6793, inclusive, is eligible for the benefits based on the service accrued through the second period of employment.] (Deleted by amendment.)~~

Sec. 4. NRS 286.523 is hereby amended to read as follows:

286.523 1. *It is the policy of this State to ensure that the reemployment of a retired public employee pursuant to this section is limited to positions of extreme need. An employer who desires to employ such a retired public employee to fill a position for which there is a critical labor shortage must make the determination of reemployment based upon the appropriate and necessary delivery of services to the public.*

2. The provisions of subsections 1 and 2 of NRS 286.520 do not apply to a retired employee who accepts employment or an independent contract with a public employer under the System if:

(a) He fills a position for which there is a critical labor shortage; and

(b) At the time of his reemployment, he is receiving:

(1) A benefit that is not actuarially reduced pursuant to subsection 6 of NRS 286.510; or

(2) A benefit actuarially reduced pursuant to subsection 6 of NRS 286.510 and has reached the required age at which he could have retired with a benefit that was not actuarially reduced pursuant to subsection 6 of NRS 286.510.

~~2.~~ 3. A retired employee who is reemployed under the circumstances set forth in subsection ~~1.~~ 2 may reenroll in the System as provided in NRS 286.525.

~~3.~~ 4. Positions for which there are critical labor shortages must be determined in an open public meeting held by the designating authority as follows:

(a) Except as otherwise provided in this subsection, the State Board of Examiners shall designate positions in State Government for which there are critical labor shortages.

(b) The Supreme Court shall designate positions in the Judicial Branch of State Government for which there are critical labor shortages.

(c) The Board of Regents shall designate positions in the Nevada System of Higher Education for which there are critical labor shortages.

(d) The ~~Department of Education~~ board of trustees of each school district shall designate positions ~~[with the various school districts]~~ within the school district for which there are critical labor shortages.

(e) Each entity which is authorized to sponsor charter schools pursuant to NRS 386.515 shall designate positions for which there are critical labor shortages for the charter schools that it sponsors.

~~(f)~~ (f) The governing body of a local government shall designate positions with the local government for which there are critical labor shortages.

~~(g)~~ (g) The Board shall designate positions within the System for which there are critical labor shortages.

~~4.~~ 5. In determining whether a position is a position for which there is a critical labor shortage, the designating authority shall ~~give consideration to~~ make findings based upon the criteria set forth in this subsection that support the designation. Before making a designation, the designating authority shall consider all efforts made by the applicable employer to fill the position through other means. The written findings made by the designating authority must include:

(a) The history of the rate of turnover for the position;

(b) The number of openings for the position and the number of qualified candidates for those openings ~~1.~~ after all other efforts of recruitment have been exhausted;

(c) The length of time the position has been vacant; ~~and~~
~~(d) The success of recruiting persons in other states to fill the position.~~

(d) The difficulty in filling the position due to special circumstances, including, without limitation, special educational or experience requirements for the position; and

(e) The history and success of the efforts to recruit for the position, including, without limitation, advertising, recruitment outside of this State and all other efforts made.

6. A designating authority that designates a position as a critical need position shall submit to the System its written findings which support that designation made pursuant to subsection 5 on a form prescribed by the System. The System shall compile the forms received from each designating authority and provide a biennial report on the compilation to the Interim Retirement and Benefits Committee of the Legislature.

~~§ 7.~~ 7. A designating authority shall not designate a position pursuant to subsection ~~§ 4~~ 4 as a position for which there is a critical labor shortage for a period longer than 2 years. To be redesignated as such a position, the designating authority must consider and make new findings in an open public meeting as to whether the position continues to meet the criteria set forth in subsection ~~§ 5~~ 5.

Sec. 5. Section 9 of chapter 490, Statutes of Nevada 2001, as amended by section 2 of chapter 316, Statutes of Nevada 2005, at page 1077, is hereby amended to read as follows:

Sec. 9. ~~§ 4~~ This act becomes effective on July 1, 2001.

~~§ 2. Section 1 of this act expires by limitation on June 30, [2005.] [2009.]~~

Sec. 6. The Public Employees' Retirement Board shall conduct an experience study on the Public Employees' Retirement System of the employment of retired public employees by public employers that participate in the Public Employees' Retirement System pursuant to NRS 286.523, as amended by section 4 of this act, for the period beginning on July 1, 2009, and ending on June 30, 2014. The Public Employees' Retirement Board shall submit a report of the study to the Interim Retirement and Benefits Committee of the Legislature on or before December 31, 2014.

Sec. 7. NRS 286.523 is hereby repealed.

~~§ 4. Sec. 8. [This act becomes effective on July 1, 2009.]~~

1. This section and sections 1 to 6, inclusive, of this act become effective upon passage and approval.

2. Section 7 of this act becomes effective on June 30, 2015.

TEXT OF REPEALED SECTION

286.523 Employment of retired employee: Exception for reemployment of certain retired employees to fill positions for which critical labor shortage exists; determination and designation of such positions; limitation on length of designation of position.

1. It is the policy of this State to ensure that the reemployment of a retired public employee pursuant to this section is limited to positions of extreme need. An employer who desires to employ such a retired public employee to fill a position for which there is a critical labor shortage must make the determination of reemployment based upon the appropriate and necessary delivery of services to the public.

2. The provisions of subsections 1 and 2 of NRS 286.520 do not apply to a retired employee who accepts employment or an independent contract with a public employer under the System if:

- (a) He fills a position for which there is a critical labor shortage; and
- (b) At the time of his reemployment, he is receiving:

(1) A benefit that is not actuarially reduced pursuant to subsection 6 of NRS 286.510; or

(2) A benefit actuarially reduced pursuant to subsection 6 of NRS 286.510 and has reached the required age at which he could have retired with a benefit that was not actuarially reduced pursuant to subsection 6 of NRS 286.510.

3. A retired employee who is reemployed under the circumstances set forth in subsection 2 may reenroll in the System as provided in NRS 286.525.

4. Positions for which there are critical labor shortages must be determined in an open public meeting held by the designating authority as follows:

(a) Except as otherwise provided in this subsection, the State Board of Examiners shall designate positions in State Government for which there are critical labor shortages.

(b) The Supreme Court shall designate positions in the Judicial Branch of State Government for which there are critical labor shortages.

(c) The Board of Regents shall designate positions in the Nevada System of Higher Education for which there are critical labor shortages.

(d) The board of trustees of each school district shall designate positions within the school district for which there are critical labor shortages.

(e) Each entity which is authorized to sponsor charter schools pursuant to NRS 386.515 shall designate positions for which there are critical labor shortages for the charter schools that it sponsors.

(f) The governing body of a local government shall designate positions with the local government for which there are critical labor shortages.

(g) The Board shall designate positions within the System for which there are critical labor shortages.

5. In determining whether a position is a position for which there is a critical labor shortage, the designating authority shall make findings based upon the criteria set forth in this subsection that support the designation. Before making a designation, the designating authority shall consider all efforts made by the applicable employer to fill the position through other means. The written findings made by the designating authority must include:

- (a) The history of the rate of turnover for the position;

(b) The number of openings for the position and the number of qualified candidates for those openings after all other efforts of recruitment have been exhausted;

(c) The length of time the position has been vacant;

(d) The difficulty in filling the position due to special circumstances, including, without limitation, special educational or experience requirements for the position; and

(e) The history and success of the efforts to recruit for the position, including, without limitation, advertising, recruitment outside of this State and all other efforts made.

6. A designating authority that designates a position as a critical need position shall submit to the System its written findings which support that designation made pursuant to subsection 5 on a form prescribed by the System. The System shall compile the forms received from each designating authority and provide a biennial report on the compilation to the Interim Retirement and Benefits Committee of the Legislature.

7. A designating authority shall not designate a position pursuant to subsection 4 as a position for which there is a critical labor shortage for a period longer than 2 years. To be redesignated as such a position, the designating authority must consider and make new findings in an open public meeting as to whether the position continues to meet the criteria set forth in subsection 5.

Assemblywoman Leslie moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 4.

Bill read second time and ordered to third reading.

Senate Bill No. 35.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 624.

AN ACT relating to criminal procedure; providing that an acquittal of an offense in another jurisdiction is admissible in evidence in the trial in this State for the same offense; ~~repealing~~ eliminating the provision that prohibits the prosecution of a person in this State for a crime after the person is convicted or acquitted of the crime in another ~~state, territory or~~ country; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 1 of this bill amends existing law to provide that after a person is acquitted of a crime in another jurisdiction and a criminal prosecution is brought in the courts of this State for the same offense, the acquittal in the other jurisdiction is admissible in evidence in the prosecution in this State. (NRS 193.280)

Section ~~[2]~~ 1.5 of this bill ~~[(1) repeals]~~ revises the provision that prohibits the prosecution of a person in this State for a crime after the person is convicted or acquitted of the crime in another state, territory or country ~~and (2) establishes the “dual sovereignty doctrine” in this State.] by eliminating the prohibition on the prosecution of a person in this State for a crime after the person is convicted or acquitted of the crime in another country. (NRS 171.070) ~~[Under the dual sovereignty doctrine, successive prosecutions by two states, or by a state and the Federal Government, for the same criminal conduct are not barred by the double jeopardy clause of the Fifth Amendment to the United States Constitution. (Heath v. Alabama, 474 U.S. 82 (1985); United States v. Lanza, 260 U.S. 377 (1922))]~~~~

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

Section 1. NRS 193.280 is hereby amended to read as follows:

193.280 Whenever, upon the trial of any person for a crime, it appears that the offense was committed in another state or country, under such circumstances that the courts of this state had jurisdiction thereof, and that the defendant has already been acquitted ~~[or convicted]~~ upon the merits, upon a criminal prosecution under the laws of such state or country, founded upon the act or omission with respect to which he is upon trial, such former acquittal ~~[or conviction is a sufficient defense.]~~ *is admissible in evidence in the trial.*

Sec. 1.5. NRS 171.070 is hereby amended to read as follows:

171.070 When an act charged as a public offense is within the jurisdiction of another state ~~or~~ or territory ~~or country,~~ as well as of this state, a conviction or acquittal thereof in the former is a bar to the prosecution or indictment therefor in this state.

Sec. 2. ~~[NRS 171.070 is hereby repealed.]~~ **(Deleted by amendment.)**

Sec. 3. The amendatory provisions of this act do not apply to offenses committed before July 1, 2009.

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

†

TEXT OF REPEALED SECTION

~~171.070 Conviction or acquittal in another state, territory or country is bar where jurisdiction is concurrent. When an act charged as a public offense is within the jurisdiction of another state, territory or country, as well as of this State, a conviction or acquittal thereof in the former is a bar to the prosecution or indictment therefor in this State.]~~

Assemblyman Segerblom moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Senate Bill No. 37.

Bill read second time and ordered to third reading.

Senate Bill No. 42.

Bill read second time and ordered to third reading.

Senate Bill No. 44.

Bill read second time and ordered to third reading.

Senate Bill No. 54.

Bill read second time.

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

Amendment No. 647.

AN ACT relating to public health; revising provisions governing the State Health Officer; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires the State Health Officer to be a citizen of the United States and to be licensed, or eligible for licensure, as a physician or administrative physician in Nevada. (NRS 439.090) **Section 1** of this bill revises those qualifications by requiring the State Health Officer to be a citizen of the United States, to have not less than 5 years' experience in population-based health care and to be either: (1) licensed or eligible for a license as a physician or administrative physician in Nevada; or (2) a licensed physician or licensed administrative physician ~~who has~~ in another state with a master's or doctoral degree in public health or a related field. **Section 2** of this bill provides that if the State Health Officer is not licensed to practice medicine in this State, he shall not, while carrying out his duties, engage in the practice of medicine. (NRS 439.130)

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

Section 1. NRS 439.090 is hereby amended to read as follows:

439.090 1. The State Health Officer must:

- (a) Be a citizen of the United States ~~[-]~~;
- (b) *Have not less than 5 years' experience in population-based health care; and*
- (c) Be ~~licensed,~~ :
 - (1) *Licensed in good standing* or eligible for ~~licensure,~~ *a license* as a physician or administrative physician in Nevada ~~[-]~~; or
 - (2) ~~[-]~~ *Licensed in good standing as a physician or administrative physician ~~who has~~ by the District of Columbia or any state or territory of the United States and have a master's degree or doctoral degree in public health or a related field.*

2. The Administrator must have 2 years' experience, or the equivalent, in a responsible administrative position in:

- (a) A full-time county or city health facility or department; or
- (b) A major health program at a state or national level.

3. As used in this section, "population-based health care" means the use of various approaches to medical care for specific groups or populations based upon common demographic characteristics, risk factors or diseases.

Sec. 2. NRS 439.130 is hereby amended to read as follows:

439.130 1. The State Health Officer shall:

- (a) Enforce all laws and regulations pertaining to the public health.
- (b) Investigate causes of disease, epidemics, source of mortality, nuisances affecting the public health, and all other matters related to the health and life of the people, and to this end he may enter upon and inspect any public or private property in the State.
- (c) Direct the work of subordinates and may authorize them to act in his place and stead.
- (d) Perform such other duties as the Director may, from time to time, prescribe.

↪ If the State Health Officer is not licensed to practice medicine in this State, he shall not, in carrying out his duties as the State Health Officer, engage in the practice of medicine.

2. The Administrator shall direct the work of the Health Division, administer the Division and perform such other duties as the Director may, from time to time, prescribe.

Sec. 3. Notwithstanding the amendatory provisions of section 1 of this act, any person who, on the effective date of this act, is serving as the State Health Officer and who is otherwise qualified to serve as the State Health Officer on that date may continue to serve in that capacity until his successor is appointed by the Director of the Department of Health and Human Services pursuant to chapter 439 of NRS.

Sec. 4. This act becomes effective upon passage and approval.

Assemblywoman Smith moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Senate Bill No. 68.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 626.

AN ACT relating to real property; establishing the responsibility for the maintenance of certain security walls within certain common-interest communities; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 1 of this bill revises the responsibilities of unit-owners' associations of certain common-interest communities to provide that each such association is responsible for the maintenance, repair, restoration and

replacement of any security wall which is located within the common-interest community. **Section 2** of this bill similarly revises the law with respect to such security walls located in such common-interest communities which are governed by certain limited-purpose associations. (NRS 116.1201)

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

Section 1. Chapter 116 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Except as otherwise provided in NRS 116.31135, the association is responsible for the maintenance, repair, restoration and replacement of any security wall which is located within the common-interest community.

2. ~~The provisions of this section apply only to common interest communities created on or after October 1, 2009.~~

~~2.1~~ **As used in this section, “security wall” means any wall composed of stone, brick, concrete, concrete blocks, masonry or similar building material, including, without limitation, ornamental iron or other fencing material, together with footings, pilasters, outriggers, grillwork, gates and other appurtenances, constructed around the perimeter of a residential subdivision with respect to which a final map has been recorded pursuant to NRS 278.360 to 278.460, inclusive, to protect the several tracts in the subdivision and their occupants from vandalism.**

Sec. 2. NRS 116.1201 is hereby amended to read as follows:

116.1201 1. Except as otherwise provided in this section and NRS 116.1203, this chapter applies to all common-interest communities created within this State.

2. This chapter does not apply to:

(a) A limited-purpose association, except that a limited-purpose association:

- (1) Shall pay the fees required pursuant to NRS 116.31155;
- (2) Shall register with the Ombudsman pursuant to NRS 116.31158;
- (3) Shall comply with the provisions of:

(I) NRS 116.31038, 116.31083 and 116.31152; ~~and~~

(II) **Section 1 of this act, if the limited-purpose association is created for maintaining the landscape of the common elements of the common-interest community; and**

(III) NRS 116.31075, if the limited-purpose association is created for a rural agricultural residential common-interest community;

(4) Shall comply with the provisions of NRS 116.4101 to 116.412, inclusive, as required by the regulations adopted by the Commission pursuant to paragraph (b) of subsection 5; and

(5) Shall not enforce any restrictions concerning the use of units by the units' owners, unless the limited-purpose association is created for a rural agricultural residential common-interest community.

(b) A planned community in which all units are restricted exclusively to nonresidential use unless the declaration provides that this chapter does apply to that planned community. This chapter applies to a planned community containing both units that are restricted exclusively to nonresidential use and other units that are not so restricted only if the declaration so provides or if the real estate comprising the units that may be used for residential purposes would be a planned community in the absence of the units that may not be used for residential purposes.

(c) Common-interest communities or units located outside of this State, but the provisions of NRS 116.4102 to 116.4108, inclusive, apply to all contracts for the disposition thereof signed in this State by any party unless exempt under subsection 2 of NRS 116.4101.

(d) A common-interest community that was created before January 1, 1992, is located in a county whose population is less than 50,000, and has less than 50 percent of the units within the community put to residential use, unless a majority of the units' owners otherwise elect in writing.

(e) Except as otherwise provided in this chapter, time shares governed by the provisions of chapter 119A of NRS.

3. The provisions of this chapter do not:

(a) Prohibit a common-interest community created before January 1, 1992, from providing for separate classes of voting for the units' owners;

(b) Require a common-interest community created before January 1, 1992, to comply with the provisions of NRS 116.2101 to 116.2122, inclusive;

(c) Invalidate any assessments that were imposed on or before October 1, 1999, by a common-interest community created before January 1, 1992; or

(d) Prohibit a common-interest community created before January 1, 1992, or a common-interest community described in NRS 116.31105 from providing for a representative form of government.

4. The provisions of chapters 117 and 278A of NRS do not apply to common-interest communities.

5. The Commission shall establish, by regulation:

(a) The criteria for determining whether an association, a limited-purpose association or a common-interest community satisfies the requirements for an exemption or limited exemption from any provision of this chapter; and

(b) The extent to which a limited-purpose association must comply with the provisions of NRS 116.4101 to 116.412, inclusive.

6. As used in this section, "limited-purpose association" means an association that:

(a) Is created for the limited purpose of maintaining:

(1) The landscape of the common elements of a common-interest community;

(2) Facilities for flood control; or

(3) A rural agricultural residential common-interest community; and

(b) Is not authorized by its governing documents to enforce any restrictions concerning the use of units by units' owners, unless the limited-

purpose association is created for a rural agricultural residential common-interest community.

Sec. 3. NRS 116.1203 is hereby amended to read as follows:

116.1203 1. Except as otherwise provided in subsection 2, if a planned community contains no more than 12 units and is not subject to any developmental rights, it is subject only to NRS 116.1106 and 116.1107 unless the declaration provides that this entire chapter is applicable.

2. Except for NRS 116.3104, 116.31043, 116.31046 and 116.31138, the provisions of NRS 116.3101 to 116.350, inclusive, *and section 1 of this act*, and the definitions set forth in NRS 116.005 to 116.095, inclusive, to the extent that such definitions are necessary in construing any of those provisions, apply to a residential planned community containing more than six units.

Sec. 4. (Deleted by amendment.)

Sec. 5. (Deleted by amendment.)

Assemblyman Segerblom moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Senate Bill No. 77.

Bill read second time.

The following amendment was proposed by the Committee on Education:

Amendment No. 614.

AN ACT relating to education; authorizing the board of trustees of each school district to adopt a policy for a program of teen mentoring for public high schools within the school district; authorizing the principal of each public high school to establish a program of teen mentoring in accordance with the policy or a plan approved by the board of trustees of the school district; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

This bill provides for the establishment of programs for teen mentoring in public high schools in this State. Specifically, this bill: (1) authorizes the board of trustees of each school district to establish a policy for a program of teen mentoring in the public high schools within the school district; (2) sets forth certain provisions that the policy for teen mentoring must include; (3) authorizes the principal of each public high school to establish such a program of teen mentoring in accordance with the policy or a plan approved by the board of trustees; (4) authorizes each board of trustees and public high school to accept gifts, grants and donations to carry out a program of teen mentoring; and (5) specifies that the provisions of this bill do not prevent a public high school from continuing to provide any similar program of teen mentoring that exists on the effective date of this bill.

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

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

1. *The board of trustees of each school district may adopt a policy for the public high schools in the district to provide a program of teen mentoring, which may include a component of adult mentoring, designed to ~~increase~~ :*

(a) Increase pupil participation in school activities, community activities and all levels of government ~~+~~ ; or

(b) Increase the ability of ninth grade pupils enrolled in high school to successfully make the transition from middle school or junior high school to high school,

↪ or both.

2. Any such policy must include, without limitation:

(a) Guidelines for establishing:

(1) Eligibility requirements for pupils who participate in the program as mentors or mentees, including, without limitation, any minimum grade level for pupils who serve as mentors and any minimum grade point average that must be maintained by pupils who serve as mentors. The guidelines may not require a pupil who participates in the program to maintain a grade point average that is higher than the grade point average required for a pupil to participate in sports at the high school the pupil attends.

(2) Training requirements for pupils who serve as mentors.

(3) Incentives for pupils who serve as mentors.

(b) A requirement that each public high school which establishes a program for teen mentoring must also establish a committee to select each pupil mentor who participates in the program. The policy must provide that the committee may select a pupil who does not meet the general eligibility requirements for mentors if the members of the committee determine that the pupil is otherwise qualified to serve as a mentor.

(c) Any other provisions that the board of trustees deems appropriate.

~~2.~~ **3. If the board of trustees of a school district has adopted a policy pursuant to subsection 1, the principal of each public high school in the district may:**

(a) Carry out a program of teen mentoring in accordance with the policy prescribed by the board of trustees pursuant to subsection 1;

(b) Adopt other policies for the program of teen mentoring that are consistent with this section and the policy prescribed by the board of trustees pursuant to subsection 1; and

(c) On a date prescribed by the board of trustees, submit an annual report to the board of trustees and the Legislature that sets forth a summary of:

(1) The specific activities of the program of teen mentoring; and

(2) The effectiveness of the program in increasing pupil

participation in school activities, community activities and all levels of government. ~~¶~~ or in increasing the ability of ninth grade pupils to successfully make the transition from middle school or junior high school to high school, as applicable to the type of program in effect at the school.

~~¶~~ 4. *If the board of trustees of a school district has not adopted a policy pursuant to subsection 1, the principal of a public high school in the district may carry out a program of teen mentoring and take any action described in paragraph (b) or (c) of subsection ~~¶~~ 3 if:*

(a) The principal submits to the board of trustees for its approval a plan for such a program of teen mentoring that is consistent with the provisions of this section; and

(b) The board of trustees approves the plan.

~~¶~~ 5. *A plan submitted to a board of trustees of a school district pursuant to subsection ~~¶~~ 4 shall be deemed approved if the board of trustees does not act upon the plan within 60 days after the date on which the board of trustees receives the plan.*

~~¶~~ 6. *The board of trustees of each school district and each public high school may apply for and accept gifts, grants and donations from any source for the support of the board of trustees or a public high school in carrying out a program of teen mentoring pursuant to the provisions of this section. Any money received pursuant to this subsection may be used only for purposes of carrying out a program of teen mentoring pursuant to the provisions of this section.*

~~¶~~ 7. *This section does not preclude a board of trustees of a school district or a public high school from continuing any other similar program of teen mentoring that exists on the effective date of this act.*

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

Assemblywoman Parnell moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 100.

Bill read second time.

The following amendment was proposed by the Committee on Transportation:

Amendment No. 633.

AN ACT relating to driving under the influence; revising the provisions governing the period of revocation of a driver's license upon conviction of certain offenses involving driving under the influence; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, the driver's license of a person convicted of driving under the influence is revoked for a certain period depending upon whether the violation is punishable as a first, second or third or subsequent violation that occurs within a period of 7 years. (NRS 483.460) This bill provides that

the period of revocation of the driver's license of such a person must be based upon the total number of previous violations within a period of 7 years, regardless of how the violation is treated for sentencing purposes.

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

Section 1. NRS 483.460 is hereby amended to read as follows:

483.460 1. Except as otherwise provided by specific statute, the Department shall revoke the license, permit or privilege of any driver upon receiving a record of his conviction of any of the following offenses, when that conviction has become final, and the driver is not eligible for a license, permit or privilege to drive for the period indicated:

(a) For a period of 3 years if the offense is:

(1) A violation of subsection 5 of NRS 484.377.

(2) A *third or subsequent* violation *within 7 years* of NRS 484.379 or 484.379778. ~~[that is punishable as]~~

(3) A *violation of NRS 484.379 or 484.379778 resulting in* a felony *conviction* pursuant to NRS 484.3792.

~~[(3)]~~ (4) A violation of NRS 484.3795 or 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.

↪ The period during which such a driver is not eligible for a license, permit or privilege to drive must be set aside during any period of imprisonment and the period of revocation must resume when the Department is notified pursuant to NRS 209.517 or 213.12185 that the person has completed the period of imprisonment or that the person has been placed on residential confinement or parole.

(b) For a period of 1 year if the offense is:

(1) Any other manslaughter, including vehicular manslaughter as described in NRS 484.3775, resulting from the driving of a motor vehicle or felony in the commission of which a motor vehicle is used, including the unlawful taking of a motor vehicle.

(2) Failure to stop and render aid as required pursuant to the laws of this State in the event of a motor vehicle accident resulting in the death or bodily injury of another.

(3) Perjury or the making of a false affidavit or statement under oath to the Department pursuant to NRS 483.010 to 483.630, inclusive, or pursuant to any other law relating to the ownership or driving of motor vehicles.

(4) Conviction, or forfeiture of bail not vacated, upon three charges of reckless driving committed within a period of 12 months.

(5) A *second* violation *within 7 years* of NRS 484.379 or 484.379778 ~~[that is punishable pursuant to paragraph (b) of subsection 1 of NRS 484.3792]~~ and the driver is not eligible for a restricted license during any of that period.

(6) A violation of NRS 484.348.

(c) For a period of 90 days, if the offense is a *first* violation *within 7 years* of NRS 484.379 or 484.379778. ~~[that is punishable pursuant to paragraph (a) of subsection 1 of NRS 484.3792.]~~

2. The Department shall revoke the license, permit or privilege of a driver convicted of violating NRS 484.379 or 484.379778 who fails to complete the educational course on the use of alcohol and controlled substances within the time ordered by the court and shall add a period of 90 days during which the driver is not eligible for a license, permit or privilege to drive.

3. When the Department is notified by a court that a person who has been convicted of a *first* violation *within 7 years* of NRS 484.379 ~~[that is punishable pursuant to paragraph (a) of subsection 1 of NRS 484.3792]~~ has been permitted to enter a program of treatment pursuant to NRS 484.37937, the Department shall reduce by one-half the period during which he is not eligible for a license, permit or privilege to drive, but shall restore that reduction in time if notified that he was not accepted for or failed to complete the treatment.

4. The Department shall revoke the license, permit or privilege to drive of a person who is required to install a device pursuant to NRS 484.3943 but who operates a motor vehicle without such a device:

(a) For 3 years, if it is his first such offense during the period of required use of the device.

(b) For 5 years, if it is his second such offense during the period of required use of the device.

5. A driver whose license, permit or privilege is revoked pursuant to subsection 4 is not eligible for a restricted license during the period set forth in paragraph (a) or (b) of that subsection, whichever applies.

6. In addition to any other requirements set forth by specific statute, if the Department is notified that a court has ordered the revocation, suspension or delay in the issuance of a license pursuant to title 5 of NRS, NRS 176.064 or 206.330, chapter 484 of NRS or any other provision of law, the Department shall take such actions as are necessary to carry out the court's order.

7. As used in this section, "device" has the meaning ascribed to it in NRS 484.3941.

Sec. 2. NRS 483.490 is hereby amended to read as follows:

483.490 1. Except as otherwise provided in this section, after a driver's license has been suspended or revoked for an offense other than a *second* violation *within 7 years* of NRS 484.379, ~~[that is punishable pursuant to paragraph (b) of subsection 1 of NRS 484.3792.]~~ and one-half of the period during which the driver is not eligible for a license has expired, the Department may, unless the statute authorizing the suspension prohibits the issuance of a restricted license, issue a restricted driver's license to an applicant permitting the applicant to drive a motor vehicle:

- (a) To and from work or in the course of his work, or both; or
- (b) To acquire supplies of medicine or food or receive regularly scheduled medical care for himself or a member of his immediate family.

↪ Before a restricted license may be issued, the applicant must submit sufficient documentary evidence to satisfy the Department that a severe hardship exists because the applicant has no alternative means of transportation and that the severe hardship outweighs the risk to the public if he is issued a restricted license.

2. A person who has been ordered to install a device in a motor vehicle pursuant to NRS 484.3943:

(a) Shall install the device not later than 21 days after the date on which the order was issued; and

(b) May not receive a restricted license pursuant to this section until:

(1) After at least 1 year of the period during which he is not eligible for a license, if he was convicted of:

(I) A violation of NRS 484.3795 or 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; or

(II) A violation of NRS 484.379 that is punishable as a felony pursuant to NRS 484.3792;

(2) After at least 180 days of the period during which he is not eligible for a license, if he was convicted of a violation of subsection 5 of NRS 484.377; or

(3) After at least 45 days of the period during which he is not eligible for a license, if he was convicted of a **first** violation **within 7 years** of NRS 484.379 . ~~[that is punishable pursuant to paragraph (a) of subsection 1 of NRS 484.3792.]~~

3. If the Department has received a copy of an order requiring a person to install a device in a motor vehicle pursuant to NRS 484.3943, the Department shall not issue a restricted driver's license to such a person pursuant to this section unless the applicant has submitted proof of compliance with the order and subsection 2.

4. After a driver's license has been revoked or suspended pursuant to title 5 of NRS, the Department may issue a restricted driver's license to an applicant permitting the applicant to drive a motor vehicle:

- (a) If applicable, to and from work or in the course of his work, or both; or
- (b) If applicable, to and from school.

5. After a driver's license has been suspended pursuant to NRS 483.443, the Department may issue a restricted driver's license to an applicant permitting the applicant to drive a motor vehicle:

- (a) If applicable, to and from work or in the course of his work, or both;
- (b) To receive regularly scheduled medical care for himself or a member of his immediate family; or

(c) If applicable, as necessary to exercise a court-ordered right to visit a child.

6. A driver who violates a condition of a restricted license issued pursuant to subsection 1 or by another jurisdiction is guilty of a misdemeanor and, if the license of the driver was suspended or revoked for:

(a) A violation of NRS 484.379, 484.3795 or 484.384;

(b) 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; or

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

↳ the driver shall be punished in the manner provided pursuant to subsection 2 of NRS 483.560.

7. The periods of suspensions and revocations required pursuant to this chapter and NRS 484.384 must run consecutively, except as otherwise provided in NRS 483.465 and 483.475, when the suspensions must run concurrently.

8. Whenever the Department suspends or revokes a license, the period of suspension, or of ineligibility for a license after the revocation, begins upon the effective date of the revocation or suspension as contained in the notice thereof.

Sec. 3. In determining the number of violations committed by a person for the purposes of NRS 483.460 and 483.490, as amended by this act, the amendatory provisions of this act apply to offenses committed before, on or after ~~July 1, 2009~~ **the effective date of this act.**

Sec. 4. This act becomes effective ~~on July 1, 2009~~ **upon passage and approval.**

Assemblyman Atkinson moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 101.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 625.

AN ACT relating to securities; revising the provisions governing the examination of certain records by the Administrator of the Securities Division of the Office of the Secretary of State; increasing the amount of certain civil penalties for certain violations relating to securities; revising the provisions governing recovery of the costs of investigation and prosecution of certain violations; authorizing the Department of Motor Vehicles to issue a driver's license to a criminal investigator employed by the Secretary of State who is engaged in an undercover investigation; making various other changes relating to securities; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 2 of this bill: (1) changes the name of the entity that administers examinations for a sales representative from the National Association of Securities Dealers to the Financial Industry Regulatory Authority; and (2) requires a sales representative to pass either the Uniform Investment Adviser Law Examination or the Uniform Combined State Law Examination and the General Securities Registered Representative Examination. (NRS 90.340)

Sections 3 and 4 of this bill make technical changes to include references to the Investment Adviser Registration Depository and the Financial Industry Regulatory Authority. (NRS 90.350)

Section 5 of this bill removes the requirement in existing law that the Administrator of the Securities Division of the Office of the Secretary of State must obtain authorization from the Attorney General or his designee to examine the records of a person issuing securities who is not licensed but is required to be licensed. (NRS 90.410)

Section 7 of this bill increases the civil penalty that the Administrator may impose for a willful violation of chapter 90 of NRS from \$2,500 for a single violation and \$100,000 for multiple violations to \$25,000 for each violation. (NRS 90.630) **Section 7** also authorizes the Administrator to order reimbursement for the costs of a proceeding to impose sanctions, including investigative costs and attorney's fees, rather than applying to a court for an order for reimbursement of such costs.

Section 7.5 of this bill increases the civil penalty that a district court may impose for a violation of chapter 90 of NRS from \$2,500 for a single violation and \$100,000 for multiple violations to \$25,000 for each violation. (NRS 90.640)

Section 8 of this bill provides that a court may order a person who is convicted of a willful violation of a statute, a regulation or an order of the Administrator to pay the costs of investigation and prosecution incurred by the Division and the Office of the Attorney General. (NRS 90.650)

Section 9 of this bill provides that chapter 239A of NRS, which contains provisions regarding disclosure of financial records to governmental agencies, does not ~~apply to a subpoena issued pursuant to chapter 90 of NRS.~~ prohibit the Administrator from requesting of a financial institution, and the institution from responding to the request, as to whether a person has an account or accounts with that financial institution and, if so, any identifying numbers of the account or accounts. (NRS 239A.070)

Section 9.5 of this bill increases: (1) the period that the court may delay the notification of a customer that a subpoena for the financial records of the customer has been issued from 60 days to 120 days; and (2) the period for any additional extension of such a delayed notification from 30 days to 60 days. (NRS 239A.100)

Sections 10 and 11 of this bill authorize the Department of Motor Vehicles to issue a driver's license for purposes of identification only to a

criminal investigator employed by the Secretary of State who is engaged in an undercover investigation. (NRS 483.340)

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

Section 1. (Deleted by amendment.)

Sec. 2. NRS 90.340 is hereby amended to read as follows:

90.340 1. The following persons are exempt from licensing under NRS 90.330:

(a) An investment adviser who is registered or is not required to be registered as an investment adviser under the Investment Advisers Act of 1940 if:

(1) Its only clients in this State are other investment advisers, broker-dealers or financial or institutional investors;

(2) The investment adviser has no place of business in this State and directs business communications in this State to a person who is an existing client of the investment adviser and whose principal place of residence is not in this State; or

(3) The investment adviser has no place of business in this State and during any 12 consecutive months it does not direct business communications in this State to more than five present or prospective clients other than those specified in subparagraph (1), whether or not the person or client to whom the communication is directed is present in this State;

(b) A representative of an investment adviser who is employed by an investment adviser who is exempt from licensing pursuant to paragraph (a);

(c) A sales representative licensed pursuant to NRS 90.310 who:

(1) Has passed ~~one of~~ the following examinations administered by the ~~National Association of Securities Dealers, Inc.:~~ **Financial Industry Regulatory Authority:**

(I) The Uniform Investment Adviser Law Examination, designated as the Series 65 examination; or

(II) The ~~examination~~ **Uniform Combined State Law Examination** designated as the Series 66 examination ~~;~~ **and the General Securities Registered Representative Examination, designated as the Series 7 examination;** or

(2) On January 1, 1996, has been continuously licensed in this State as a sales representative for 5 years or more; and

(d) Other investment advisers and representatives of investment advisers the Administrator by regulation or order exempts.

2. The Administrator may, by order or rule, waive the ~~examination~~ **examinations** required by subparagraph (1) of paragraph (c) of subsection 1 for an applicant or a class of applicants if the Administrator determines that the examination is not necessary for the protection of investors because of the training and experience of the applicant or class of applicants.

Sec. 3. NRS 90.350 is hereby amended to read as follows:

90.350 1. Except as otherwise provided in subsection 3, an applicant for licensing as a broker-dealer, sales representative, investment adviser, representative of an investment adviser or transfer agent must file with the Administrator an application for licensing and a consent to service of process pursuant to NRS 90.770 and pay the fee required by NRS 90.360. The application for licensing must contain the social security number of the applicant and any other information the Administrator determines by regulation to be necessary and appropriate to facilitate the administration of this chapter.

2. The requirements of subsection 1 are satisfied by an applicant who has filed and maintains a completed and current registration with the Securities and Exchange Commission or a self-regulatory organization if the information contained in that registration is readily available to the Administrator through the *Investment Adviser Registration Depository, the Central Registration Depository* or another depository for registrations that has been approved by the Administrator by regulation or order. Except as otherwise provided in subsection 3, such an applicant must also file a notice with the Administrator in the form and content determined by the Administrator by regulation and a consent to service of process pursuant to NRS 90.770 and the fee required by NRS 90.360. The Administrator, by order, may require the submission of additional information by an applicant.

3. An applicant for licensing as a transfer agent is not required to pay the fee required by NRS 90.360.

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

(a) "Central Registration Depository" means the Central Registration Depository of the ~~[National Association of Securities Dealers, Inc.]~~ **Financial Industry Regulatory Authority**, or its successor, and the North American Securities Administrators Association or its successor.

(b) "**Investment Adviser Registration Depository**" means the **Investment Adviser Registration Depository of the Financial Industry Regulatory Authority, or its successor, and the North American Securities Administrators Association or its successor.**

Sec. 4. NRS 90.350 is hereby amended to read as follows:

90.350 1. Except as otherwise provided in subsection 3, an applicant for licensing as a broker-dealer, sales representative, investment adviser, representative of an investment adviser or transfer agent must file with the Administrator an application for licensing and a consent to service of process pursuant to NRS 90.770 and pay the fee required by NRS 90.360. The application for licensing must contain the information the Administrator determines by regulation to be necessary and appropriate to facilitate the administration of this chapter.

2. The requirements of subsection 1 are satisfied by an applicant who has filed and maintains a completed and current registration with the Securities and Exchange Commission or a self-regulatory organization if the information contained in that registration is readily available to the

Administrator through the *Investment Adviser Registration Depository, the Central Registration Depository* or another depository for registrations that has been approved by the Administrator by regulation or order. Except as otherwise provided in subsection 3, such an applicant must also file a notice with the Administrator in the form and content determined by the Administrator by regulation and a consent to service of process pursuant to NRS 90.770 and the fee required by NRS 90.360. The Administrator, by order, may require the submission of additional information by an applicant.

3. An applicant for licensing as a transfer agent is not required to pay the fee required by NRS 90.360.

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

(a) "Central Registration Depository" means the Central Registration Depository of the ~~[National Association of Securities Dealers, Inc.]~~ *Financial Industry Regulatory Authority*, or its successor, and the North American Securities Administrators Association or its successor.

(b) "*Investment Adviser Registration Depository*" means the *Investment Adviser Registration Depository of the Financial Industry Regulatory Authority, or its successor, and the North American Securities Administrators Association or its successor.*

Sec. 5. NRS 90.410 is hereby amended to read as follows:

90.410 1. The Administrator, without previous notice, may examine in a manner reasonable under the circumstances the records, within or without this State, of a licensed broker-dealer, sales representative, investment adviser or representative of an investment adviser ~~[or any person issuing securities who would otherwise be required to be licensed pursuant to NRS 90.310 upon authorization by the Attorney General or his designee, in order]~~ to determine compliance with this chapter. ~~[Broker-dealers.]~~ **Licensed broker-dealers**, sales representatives, investment advisers and representatives of investment advisers shall make their records available to the Administrator in legible form.

2. *The Administrator, without previous notice, may examine, in a manner reasonable under the circumstances and as the Administrator considers necessary or appropriate in the public interest and for the protection of investors, the records, within or without this State, of any person who would otherwise be required to be licensed pursuant to NRS 90.310 or 90.330. Such persons shall make their records available to the Administrator in legible form.*

3. Except as otherwise provided in subsection ~~[3,] 4~~, the Administrator may copy records or require a licensed person to copy records and provide the copies to the Administrator to the extent and in a manner reasonable under the circumstances.

~~[3,] 4~~. The Administrator may inspect and copy records or require a transfer agent to copy records and provide the copies to the Administrator to the extent such records relate to information concerning principals, corporate officers or stockholders of any publicly traded company based in this State.

~~4-]~~ 5. The Administrator by regulation may impose a reasonable fee for the expense of conducting an examination under this section.

Sec. 6. NRS 90.520 is hereby amended to read as follows:

90.520 1. As used in this section:

(a) "Guaranteed" means guaranteed as to payment of all or substantially all of principal and interest or dividends.

(b) "Insured" means insured as to payment of all or substantially all of principal and interest or dividends.

2. Except as otherwise provided in subsections 4 and 5, the following securities are exempt from NRS 90.460 and 90.560:

(a) A security, including a revenue obligation, issued, insured or guaranteed by the United States, an agency or corporate or other instrumentality of the United States, an international agency or corporate or other instrumentality of which the United States and one or more foreign governments are members, a state, a political subdivision of a state, or an agency or corporate or other instrumentality of one or more states or their political subdivisions, or a certificate of deposit ~~]~~ for any of the foregoing, but this exemption does not include a security payable solely from revenues to be received from an enterprise unless the:

(1) Payments are insured or guaranteed by the United States, an agency or corporate or other instrumentality of the United States, an international agency or corporate or other instrumentality of which the United States and one or more foreign governments are members, a state, a political subdivision of a state, or an agency or corporate or other instrumentality of one or more states or their political subdivisions, or by a person whose securities are exempt from registration pursuant to paragraphs (b) to (e), inclusive, or (g), or the revenues from which the payments are to be made are a direct obligation of such a person;

(2) Security is issued by this State or an agency, instrumentality or political subdivision of this State; or

(3) Payments are insured or guaranteed by a person who, within the 12 months next preceding the date on which the securities are issued, has received a rating within one of the top four rating categories of either Moody's Investors Service, Inc., or Standard and Poor's Ratings Services.

(b) A security issued, insured or guaranteed by Canada, a Canadian province or territory, a political subdivision of Canada or of a Canadian province or territory, an agency or corporate or other instrumentality of one or more of the foregoing, or any other foreign government or governmental combination or entity with which the United States maintains diplomatic relations, if the security is recognized as a valid obligation by the issuer, insurer or guarantor.

(c) A security issued by and representing an interest in or a direct obligation of a depository institution if the deposit or share accounts of the depository institution are insured by the Federal Deposit Insurance

Corporation, the National Credit Union Share Insurance Fund or a successor to an applicable agency authorized by federal law.

(d) A security issued by and representing an interest in or a direct obligation of, or insured or guaranteed by, an insurance company organized under the laws of any state and authorized to do business in this State.

(e) A security issued or guaranteed by a railroad, other common carrier, public utility or holding company that is:

(1) Subject to the jurisdiction of the Surface Transportation Board;

(2) A registered holding company under the Public Utility Holding Company Act of 1935 or a subsidiary of a registered holding company within the meaning of that act;

(3) Regulated in respect to its rates and charges by a governmental authority of the United States or a state; or

(4) Regulated in respect to the issuance or guarantee of the security by a governmental authority of the United States, a state, Canada, or a Canadian province or territory.

(f) Equipment trust certificates in respect to equipment leased or conditionally sold to a person, if securities issued by the person would be exempt pursuant to this section.

(g) A security listed or approved for listing upon notice of issuance on the New York Stock Exchange, the American Stock Exchange, the Chicago Stock Exchange, the Pacific Stock Exchange or other exchange designated by the Administrator, any other security of the same issuer which is of senior or substantially equal rank, a security called for by subscription right or warrant so listed or approved, or a warrant or right to purchase or subscribe to any of the foregoing.

(h) A security designated or approved for designation upon issuance or notice of issuance for inclusion in the national market system by the ~~[National Association of Securities Dealers, Inc.]~~ **Financial Industry Regulatory Authority**, any other security of the same issuer which is of senior or substantially equal rank, a security called for by subscription right or warrant so designated, or a warrant or a right to purchase or subscribe to any of the foregoing.

(i) An option issued by a clearing agency registered under the Securities Exchange Act of 1934, other than an off-exchange futures contract or substantially similar arrangement, if the security, currency, commodity or other interest underlying the option is:

(1) Registered under NRS 90.470, 90.480 or 90.490;

(2) Exempt pursuant to this section; or

(3) Not otherwise required to be registered under this chapter.

(j) A security issued by a person organized and operated not for private profit but exclusively for a religious, educational, benevolent, charitable, fraternal, social, athletic or reformatory purpose, or as a chamber of commerce, or trade or professional association if at least 10 days before the sale of the security the issuer has filed with the Administrator a notice setting

forth the material terms of the proposed sale and copies of any sales and advertising literature to be used and the Administrator by order does not disallow the exemption within the next 5 full business days.

(k) A promissory note, draft, bill of exchange or banker's acceptance that evidences an obligation to pay cash within 9 months after the date of issuance, exclusive of days of grace, is issued in denominations of at least \$50,000 and receives a rating in one of the three highest rating categories from a nationally recognized statistical rating organization, or a renewal of such an obligation that is likewise limited, or a guarantee of such an obligation or of a renewal.

(l) A security issued in connection with an employees' stock purchase, savings, option, profit-sharing, pension or similar employees' benefit plan.

(m) A membership or equity interest in, or a retention certificate or like security given in lieu of a cash patronage dividend issued by, a cooperative organized and operated as a nonprofit membership cooperative under the cooperative laws of any state if not traded to the general public.

(n) A security issued by an issuer registered as an open-end management investment company or unit investment trust under section 8 of the Investment Company Act of 1940 if:

(1) The issuer is advised by an investment adviser that is a depository institution exempt from registration under the Investment Advisers Act of 1940 or that is currently registered as an investment adviser, and has been registered, or is affiliated with an adviser that has been registered, as an investment adviser under the Investment Advisers Act of 1940 for at least 3 years next preceding an offer or sale of a security claimed to be exempt pursuant to this paragraph, and the issuer has acted, or is affiliated with an investment adviser that has acted, as investment adviser to one or more registered investment companies or unit investment trusts for at least 3 years next preceding an offer or sale of a security claimed to be exempt under this paragraph; or

(2) The issuer has a sponsor that has at all times throughout the 3 years before an offer or sale of a security claimed to be exempt pursuant to this paragraph sponsored one or more registered investment companies or unit investment trusts the aggregate total assets of which have exceeded \$100,000,000.

3. For the purpose of paragraph (n) of subsection 2, an investment adviser is affiliated with another investment adviser if it controls, is controlled by, or is under common control with the other investment adviser.

4. The exemption provided by paragraph (n) of subsection 2 is available only if the person claiming the exemption files with the Administrator a notice of intention to sell which sets forth the name and address of the issuer and the securities to be offered in this State and pays a fee:

(a) Of \$500 for the initial claim of exemption and the same amount at the beginning of each fiscal year thereafter in which securities are to be offered in this State, in the case of an open-end management company; or

(b) Of \$300 for the initial claim of exemption in the case of a unit investment trust.

5. An exemption provided by paragraph (c), (e), (f), (i) or (k) of subsection 2 is available only if, within the 12 months immediately preceding the use of the exemption, a notice of claim of exemption has been filed with the Administrator and a nonrefundable fee of \$300 has been paid.

Sec. 7. NRS 90.630 is hereby amended to read as follows:

90.630 1. If the Administrator reasonably believes, whether or not based upon an investigation conducted under NRS 90.620, that:

(a) The sale of a security is subject to registration under this chapter and the security is being offered or has been offered or sold by the issuer or another person in violation of NRS 90.460; or

(b) A person is acting as a broker-dealer or investment adviser in violation of NRS 90.310 or 90.330,

↪ the Administrator, in addition to any specific power granted under this chapter and subject to compliance with the requirements of NRS 90.820, may issue, without a prior hearing, a summary order against the person engaged in the prohibited activities, directing him to desist and refrain from further activity until the security is registered or he is licensed under this chapter. The summary order to cease and desist must state the section of this chapter or regulation or order of the Administrator under this chapter which the Administrator reasonably believes has been or is being violated.

2. If the Administrator reasonably believes, whether or not based upon an investigation conducted under NRS 90.620, that a person has violated this chapter or a regulation or order of the Administrator under this chapter, the Administrator, in addition to any specific power granted under this chapter, after giving notice by registered or certified mail and conducting a hearing in an administrative proceeding, unless the right to notice and hearing is waived by the person against whom the sanction is imposed, may:

(a) Issue an order against him to cease and desist;

(b) Censure him if he is a licensed broker-dealer, sales representative, investment adviser or representative of an investment adviser;

(c) Bar or suspend him from association with a licensed broker-dealer or investment adviser in this State;

(d) Issue an order against an applicant, licensed person or other person who willfully violates this chapter, imposing a civil penalty of not more than ~~[\$2,500]~~ \$25,000 for ~~[a single]~~ *each* violation ; or ~~[\$100,000 for multiple violations in a single proceeding or a series of related proceedings; or]~~

(e) Initiate one or more of the actions specified in NRS 90.640.

3. If the person to whom the notice is addressed pursuant to subsection 2 does not request a hearing within 45 days after receipt of the notice, he waives his right to a hearing and the Administrator shall issue a permanent order. If a hearing is requested, the Administrator shall set the matter for hearing not less than 15 days nor more than 60 days after he receives the

request for a hearing. The Administrator shall promptly notify the parties by registered or certified mail of the time and place set for the hearing.

4. Imposition of the sanctions under this section is limited as follows:

(a) If the Administrator revokes the license of a broker-dealer, sales representative, investment adviser or representative of an investment adviser or bars a person from association with a licensed broker-dealer or investment adviser under this section or NRS 90.420, the imposition of that sanction precludes imposition of a civil penalty under subsection 2; and

(b) The imposition by the Administrator of one or more sanctions under subsection 2 with respect to a specific violation precludes him from later imposing any other sanctions under paragraphs (a) to (d), inclusive, of subsection 2 with respect to the violation.

5. For the purposes of determining any sanction to be imposed pursuant to paragraphs (a) to (d), inclusive, of subsection 2, the Administrator shall consider, among other factors, the frequency and persistence of the conduct constituting a violation of this chapter, or a regulation or order of the Administrator under this chapter, the number of persons adversely affected by the conduct and the resources of the person committing the violation.

6. If a sanction is imposed pursuant to this section, *reimbursement for* the costs of the proceeding, including investigative costs and attorney's fees ~~is~~ *incurred*, may be *ordered and* recovered by the Administrator. *Money recovered for reimbursement of the investigative costs and attorney's fees must be deposited in the State General Fund for credit to the Revolving Account for Investigation, Enforcement and Education created by NRS 90.851.*

Sec. 7.5. NRS 90.640 is hereby amended to read as follows:

90.640 1. Upon a showing by the Administrator that a person has violated or is about to violate this chapter, or a regulation or order of the Administrator under this chapter, the appropriate district court may grant or impose one or more of the following appropriate legal or equitable remedies:

(a) Upon a showing that a person has violated this chapter, or a regulation or order of the Administrator under this chapter, the court may singly or in combination:

(1) Issue a temporary restraining order, permanent or temporary prohibitory or mandatory injunction or a writ of prohibition or mandamus;

(2) Impose a civil penalty of not more than ~~[\$2,500]~~ *\$25,000* for ~~[a single]~~ *each* violation ; ~~[for \$100,000 for multiple violations in a single proceeding or a series of related proceedings;]~~

(3) Issue a declaratory judgment;

(4) Order restitution to investors;

(5) Provide for the appointment of a receiver or conservator for the defendant or the defendant's assets;

(6) Order payment of the Division's investigative costs; or

(7) Order such other relief as the court deems just.

(b) Upon a showing that a person is about to violate this chapter, or a regulation or order of the Administrator under this chapter, a court may issue:

- (1) A temporary restraining order;
- (2) A temporary or permanent injunction; or
- (3) A writ of prohibition or mandamus.

2. In determining the appropriate relief to grant, the court shall consider enforcement actions taken and sanctions imposed by the Administrator under NRS 90.630 in connection with the transactions constituting violations of this chapter or a regulation or order of the Administrator under this chapter. If a remedial action is imposed pursuant to this section, the costs of the proceeding, including investigative costs and attorney's fees, may be recovered by the Administrator.

3. The court shall not require the Administrator to post a bond in an action under this section.

4. Upon a showing by the administrator or securities agency of another state that a person has violated the securities act of that state or a regulation or order of the administrator or securities agency of that state, the appropriate district court may grant, in addition to any other legal or equitable remedies, one or more of the following remedies:

(a) Appointment of a receiver, conservator or ancillary receiver or conservator for the defendant or the defendant's assets located in this State; or

(b) Other relief as the court deems just.

Sec. 8. NRS 90.650 is hereby amended to read as follows:

90.650 1. A person who willfully violates:

(a) A provision of this chapter, except NRS 90.600, or who violates NRS 90.600 knowing that the statement made is false or misleading in any material respect;

(b) A regulation adopted pursuant to this chapter; or

(c) An order denying, suspending or revoking the effectiveness of registration or an order to cease and desist issued by the Administrator pursuant to this chapter,

↪ is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 20 years, or by a fine of not more than \$500,000, or by both fine and imprisonment, for each violation. In addition to any other penalty, the court shall order the person to pay restitution ~~[-]~~ **and may order the person to repay the costs of investigation and prosecution incurred by the Division and the Office of the Attorney General. Money recovered for reimbursement of the costs of investigation and prosecution must be deposited in the State General Fund for credit to the Revolving Account for Investigation, Enforcement and Education created by NRS 90.851.**

2. A person convicted of violating a regulation or order under this chapter may be fined, but must not be imprisoned, if the person proves lack of knowledge of the regulation or order.

3. This chapter does not limit the power of the State to punish a person for conduct which constitutes a crime under other law.

Sec. 9. NRS 239A.070 is hereby amended to read as follows:

239A.070 This chapter does not apply to any subpoena issued pursuant to title 14 or chapters ~~90 or~~ 616A to 617, inclusive, of NRS or prohibit:

1. Dissemination of any financial information which is not identified with or identifiable as being derived from the financial records of a particular customer.

2. The Attorney General, district attorney, Department of Taxation, Director of the Department of Health and Human Services, Administrator of the Securities Division of the Office of the Secretary of State, public administrator, sheriff or a police department from requesting of a financial institution, and the institution from responding to the request, as to whether a person has an account or accounts with that financial institution and, if so, any identifying numbers of the account or accounts.

3. A financial institution, in its discretion, from initiating contact with and thereafter communicating with and disclosing the financial records of a customer to appropriate governmental agencies concerning a suspected violation of any law.

4. Disclosure of the financial records of a customer incidental to a transaction in the normal course of business of the financial institution if the director, officer, employee or agent of the financial institution who makes or authorizes the disclosure has no reasonable cause to believe that such records will be used by a governmental agency in connection with an investigation of the customer.

5. A financial institution from notifying a customer of the receipt of a subpoena or a search warrant to obtain his financial records, except when ordered by a court to withhold such notification.

6. The examination by or disclosure to any governmental regulatory agency of financial records which relate solely to the exercise of its regulatory function if the agency is specifically authorized by law to examine, audit or require reports of financial records of financial institutions.

7. The disclosure to any governmental agency of any financial information or records whose disclosure to that particular agency is required by the tax laws of this State.

8. The disclosure of any information pursuant to NRS 425.393, 425.400 or 425.460.

9. A governmental agency from obtaining a credit report or consumer credit report from anyone other than a financial institution.

Sec. 9.5. NRS 239A.100 is hereby amended to read as follows:

239A.100 1. Except as provided in subsection 2, a subpoena authorizing a governmental agency to obtain financial records may be served upon a financial institution only if:

(a) A copy of the subpoena is served upon the customer in the manner provided by law for the service of subpoenas, except that the copy may be served by an employee of the governmental agency;

(b) The subpoena includes the name of the agency in whose name it is issued and the statutory purpose for which the information is to be obtained; and

(c) The customer has not moved to quash the subpoena within 10 days after service of the copy of the subpoena upon the customer.

2. A governmental agency issuing or seeking a subpoena to obtain financial records may petition a court of competent jurisdiction to order that service upon the customer or the 10-day period provided in subsection 1 be waived or shortened. The court may issue the order upon a showing that the agency can reasonably infer from facts relevant to its investigation of the customer that a law subject to the agency's jurisdiction has been or is about to be violated. In granting a petition to waive service upon the customer, the court shall also order the agency to notify the customer in writing within a period determined by the court, but not to exceed ~~60~~ 120 days. The notice shall specify the name of the agency in whose name the subpoena was issued, the financial records which were examined under the subpoena and the statutory purpose for which the information was obtained. The time of notification may be extended for additional ~~30-day~~ 60-day periods upon petition and good cause shown.

3. A court may order a financial institution to withhold notification to a customer of the receipt of the subpoena when the court issues an order under subsection 2 and if it finds that the notification would impede the investigation.

4. If a customer files a motion to quash the subpoena, the proceedings on the motion shall be afforded priority on the court calendar and the matter shall be heard within 10 days after the filing of the motion.

Sec. 10. NRS 483.340 is hereby amended to read as follows:

483.340 1. The Department shall, upon payment of the required fee, issue to every qualified applicant a driver's license indicating the type or class of vehicles the licensee may drive. The license must bear a unique number assigned to the licensee pursuant to NRS 483.345, the licensee's social security number, if he has one, unless he requests that it not appear on the license, the name, date of birth, mailing address and a brief description of the licensee, and a space upon which the licensee shall write his usual signature in ink immediately upon receipt of the license. A license is not valid until it has been so signed by the licensee.

2. The Department may issue a driver's license for purposes of identification only for use by officers of local police and sheriffs' departments, agents of the Investigation Division of the Department of Public Safety while engaged in special undercover investigations relating to narcotics or prostitution or for other undercover investigations requiring the establishment of a fictitious identity, federal agents while engaged in

undercover investigations, investigators employed by the Attorney General while engaged in undercover investigations , *criminal investigators employed by the Secretary of State while engaged in undercover investigations* and agents of the State Gaming Control Board while engaged in investigations pursuant to NRS 463.140. An application for such a license must be made through the head of the police or sheriff's department, the Chief of the Investigation Division of the Department of Public Safety, the director of the appropriate federal agency, the Attorney General , *the Secretary of State or his designee* or the Chairman of the State Gaming Control Board. Such a license is exempt from the fees required by NRS 483.410. The Department, by regulation, shall provide for the cancellation of any such driver's license upon the completion of the special investigation for which it was issued.

3. Except as otherwise provided in NRS 239.0115, information pertaining to the issuance of a driver's license pursuant to subsection 2 is confidential.

4. It is unlawful for any person to use a driver's license issued pursuant to subsection 2 for any purpose other than the special investigation for which it was issued.

5. At the time of the issuance or renewal of the driver's license, the Department shall:

(a) Give the holder the opportunity to have indicated on his driver's license that he wishes to be a donor of all or part of his body pursuant to NRS 451.500 to 451.598, inclusive, or to refuse to make an anatomical gift of his body or part of his body.

(b) Give the holder the opportunity to have indicated whether he wishes to donate \$1 or more to the Anatomical Gift Account created by NRS 460.150.

(c) Provide to each holder who is interested in becoming a donor information relating to anatomical gifts, including the procedure for registering as a donor with the donor registry with which the Department has entered into a contract pursuant to this paragraph. To carry out this paragraph, the Department shall, on such terms as it deems appropriate, enter into a contract with a donor registry that is in compliance with the provisions of NRS 451.500 to 451.598, inclusive.

(d) If the Department has established a program for imprinting a symbol or other indicator of a medical condition on a driver's license pursuant to NRS 483.3485, give the holder the opportunity to have a symbol or other indicator of a medical condition imprinted on his driver's license.

6. If the holder wishes to make a donation to the Anatomical Gift Account, the Department shall collect the donation and deposit the money collected in the State Treasury for credit to the Anatomical Gift Account.

7. The Department shall submit to the donor registry with which the Department has entered into a contract pursuant to paragraph (c) of subsection 5 information from the records of the Department relating to persons who have drivers' licenses that indicate the intention of those

persons to make an anatomical gift. The Department shall adopt regulations to carry out the provisions of this subsection.

Sec. 11. NRS 483.340 is hereby amended to read as follows:

483.340 1. The Department shall, upon payment of the required fee, issue to every qualified applicant a driver's license indicating the type or class of vehicles the licensee may drive.

2. The Department shall adopt regulations prescribing the information that must be contained on a driver's license.

3. The Department may issue a driver's license for purposes of identification only for use by officers of local police and sheriffs' departments, agents of the Investigation Division of the Department of Public Safety while engaged in special undercover investigations relating to narcotics or prostitution or for other undercover investigations requiring the establishment of a fictitious identity, federal agents while engaged in undercover investigations, investigators employed by the Attorney General while engaged in undercover investigations , *criminal investigators employed by the Secretary of State while engaged in undercover investigations* and agents of the State Gaming Control Board while engaged in investigations pursuant to NRS 463.140. An application for such a license must be made through the head of the police or sheriff's department, the Chief of the Investigation Division of the Department of Public Safety, the director of the appropriate federal agency, the Attorney General , *the Secretary of State or his designee* or the Chairman of the State Gaming Control Board. Such a license is exempt from the fees required by NRS 483.410. The Department, by regulation, shall provide for the cancellation of any such driver's license upon the completion of the special investigation for which it was issued.

4. Except as otherwise provided in NRS 239.0115, information pertaining to the issuance of a driver's license pursuant to subsection 3 is confidential.

5. It is unlawful for any person to use a driver's license issued pursuant to subsection 3 for any purpose other than the special investigation for which it was issued.

6. At the time of the issuance or renewal of the driver's license, the Department shall:

(a) Give the holder the opportunity to have indicated on his driver's license that he wishes to be a donor of all or part of his body pursuant to NRS 451.500 to 451.598, inclusive, or to refuse to make an anatomical gift of his body or part of his body.

(b) Give the holder the opportunity to have indicated whether he wishes to donate \$1 or more to the Anatomical Gift Account created by NRS 460.150.

(c) Provide to each holder who is interested in becoming a donor information relating to anatomical gifts, including the procedure for registering as a donor with the donor registry with which the Department has entered into a contract pursuant to this paragraph. To carry out this

paragraph, the Department shall, on such terms as it deems appropriate, enter into a contract with a donor registry that is in compliance with the provisions of NRS 451.500 to 451.598, inclusive.

(d) If the Department has established a program for imprinting a symbol or other indicator of a medical condition on a driver's license pursuant to NRS 483.3485, give the holder the opportunity to have a symbol or other indicator of a medical condition imprinted on his driver's license.

7. If the holder wishes to make a donation to the Anatomical Gift Account, the Department shall collect the donation and deposit the money collected in the State Treasury for credit to the Anatomical Gift Account.

8. The Department shall submit to the donor registry with which the Department has entered into a contract pursuant to paragraph (c) of subsection 6 information from the records of the Department relating to persons who have drivers' licenses that indicate the intention of those persons to make an anatomical gift. The Department shall adopt regulations to carry out the provisions of this subsection.

Sec. 12. 1. This section and sections 1, 2, 3 and 5 to 10, inclusive, of this act become effective on July 1, 2009.

2. Section 4 of this act becomes effective on the date on which the provisions of 42 U.S.C. § 666 requiring each state to establish procedures under which the state has authority to withhold or suspend, or to restrict the use of professional, occupational and recreational licenses of persons who:

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

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

3. Section 11 of this act becomes effective upon the later of:

(a) The effective date of the regulations issued by the Secretary of Homeland Security to implement the provisions of the Real ID Act of 2005; or

(b) The expiration of any extension of time granted to this State by the Secretary of Homeland Security to comply with the provisions of the Real ID Act of 2005.

Assemblyman Segerblom moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Senate Bill No. 105.

Bill read second time and ordered to third reading.

Senate Bill No. 111.

Bill read second time and ordered to third reading.

Senate Bill No. 125.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:
Amendment No. 645.

AN ACT relating to crimes; prohibiting certain acts relating to radio frequency identification documents; revising the provisions relating to certain offenses involving the possession or use of personal identifying information; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 1 of this bill prohibits a person from knowingly, intentionally and for the purpose of committing fraud, identity theft or any other unlawful act: (1) capturing, storing or reading information from the radio frequency identification document of another person without the knowledge and consent of the other person; or (2) retaining, using or disclosing information that the person knows to have been obtained from the radio frequency identification document of another person without the knowledge and consent of the other person. This new crime is punishable as a category C felony.

Existing law establishes an exception to the statutory prohibitions relating to the possession or use of the personal identifying information of another person by providing that those prohibitions do not apply to a person who, without the intent to defraud or commit an unlawful act, possesses or uses the personal identifying information of another person pursuant to a financial transaction entered into with an authorized user of a payment card who has given permission for the financial transaction. (NRS 205.4655) **Section 5** of this bill deletes from this exception the requirement that such an authorized user of a payment card must have given permission for the financial transaction.

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

Section 1. Chapter 205 of NRS is hereby amended by adding thereto a new section to read as follows:

1. ~~Except as otherwise provided in this section, a~~ **A person shall not knowingly, intentionally and for the purpose of committing fraud, identity theft or any other unlawful act:**

(a) Capture, store or read information from the radio frequency identification document of another person without the other person's knowledge and prior consent; or

(b) Retain, use or disclose information that the person knows to have been obtained from the radio frequency identification document of another person without the other person's knowledge and prior consent.

2. **A person who violates this section is guilty of a category C felony and shall be punished as provided in NRS 193.130.**

3. ~~The provisions of this section do not apply to the capture, storage or reading of information from the radio frequency identification document of another person or the retention, use or disclosure of information known to~~

~~have been obtained from the radio frequency identification document of another person by officers of local police, sheriff and metropolitan police departments and by agents of the Investigation Division of the Department of Public Safety pursuant to a court order.~~

~~4. The provisions of this section do not apply to the capture, storage or reading of information from the radio frequency identification document of another person or the retention, use or disclosure of information known to have been obtained from the radio frequency identification document of another person by a health care professional or law enforcement personnel for the purpose of:~~

~~(a) Locating a person or providing triage or medical care during a disaster; or~~

~~(b) Providing emergency medical treatment to a person who is unable to give consent because of incapacitation or acute medical distress.~~

~~5. Except as otherwise provided in this subsection, the provisions of this section do not apply to the capture, storage or reading of information from the radio frequency identification document of another person or the retention, use or disclosure of information known to have been obtained from the radio frequency identification document of another person, or information derived therefrom, in the course of an act of security research, security experimentation or scientific inquiry regarding security that is pursued in good faith to increase the security and privacy of information stored on radio frequency identification documents, including, without limitation, an act that is useful in identifying and analyzing security flaws and vulnerabilities. The provisions of this subsection do not authorize:~~

~~(a) The disclosure of information from the radio frequency identification document of another person without his consent to any other person; or~~

~~(b) The sale or use of information from the radio frequency identification document of another person for any purpose that is not related to bona fide research, experimentation or scientific inquiry designed to increase security.~~

~~6. As used in this section:~~

~~(a) "Identity theft" means a violation of the provisions of NRS 205.463, 205.464 or 205.465.~~

~~(b) "Radio frequency identification" means the use of electromagnetic radiating waves or reactive field coupling in the radio frequency portion of the spectrum to read or communicate personal identifying information to or from a radio frequency identification document through a variety of modulation and encoding schemes.~~

~~(c) "Radio frequency identification document" means any document containing data which is issued to an individual and which that individual, and only that individual, uses alone or in conjunction with any other information for the primary purpose of establishing his identity.~~

~~Sec. 2. NRS 205.461 is hereby amended to read as follows:~~

~~205.461 As used in NRS 205.461 to 205.4657, inclusive, and section 1 of this act, unless the context otherwise requires, the words and terms~~

defined in NRS 205.4611 to 205.4629, inclusive, have the meanings ascribed to them in those sections.

Sec. 3. NRS 205.46517 is hereby amended to read as follows:

205.46517 In any case in which a person is convicted of violating any provision of NRS 205.461 to 205.4657, inclusive, **and section 1 of this act**, the court records must clearly reflect that the violation was committed by the person convicted of the violation and not by the person whose personal identifying information forms a part of the violation.

Sec. 4. NRS 205.4653 is hereby amended to read as follows:

205.4653 A person who violates any provision of NRS 205.461 to 205.4657, inclusive, **and section 1 of this act** may be prosecuted for the violation whether or not the person whose personal identifying information forms a part of the violation:

1. Is living or deceased during the course of the violation or the prosecution.
2. Is an artificial person.
3. Suffers financial loss or injury as the result of the violation.

Sec. 5. NRS 205.4655 is hereby amended to read as follows:

205.4655 The provisions of NRS 205.461 to 205.4657, inclusive, **and section 1 of this act** do not apply to any person who, without the intent to defraud or commit an unlawful act, possesses or uses any personal identifying information of another person:

1. In the ordinary course of his business or employment; or
2. Pursuant to a financial transaction entered into with an authorized user of a payment card. ~~[who has given permission for the financial transaction.]~~

Sec. 6. NRS 205.4657 is hereby amended to read as follows:

205.4657 1. In any prosecution for a violation of any provision of NRS 205.461 to 205.4657, inclusive, **and section 1 of this act**, the State is not required to establish and it is no defense that:

- (a) An accessory has not been convicted, apprehended or identified; or
- (b) Some of the acts constituting elements of the crime did not occur in this State or that where such acts did occur they were not a crime or elements of a crime.

2. In any prosecution for a violation of any provision of NRS 205.461 to 205.4657, inclusive, **and section 1 of this act**, the violation shall be deemed to have been committed and may be prosecuted in any jurisdiction in this State in which:

- (a) The person whose personal identifying information forms a part of the violation currently resides or is found; or
- (b) Any act constituting an element of the crime occurred, regardless of whether the defendant was ever physically present in that jurisdiction.

Assemblyman Segerblom moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Senate Bill No. 130.

Bill read second time and ordered to third reading.

Senate Bill No. 147.

Bill read second time and ordered to third reading.

Senate Bill No. 163.

Bill read second time.

The following amendment was proposed by the Committee on Education:

Amendment No. 613.

SUMMARY—Revises provisions governing safe and respectful learning environments in public schools to prohibit **bullying and** cyber-bullying. (BDR 34-28)

AN ACT relating to education; revising provisions governing safe and respectful learning environments in public schools to include a prohibition on **bullying and** cyber-bullying; requiring the standards of content and performance for courses of study in computer education and technology established by the Council to Establish Academic Standards for Public Schools to include a policy for the ethical, safe and secure use of computers and other electronic devices; revising certain prohibited acts to specifically include cyber-bullying; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

The Department of Education is required to prescribe a policy for all school districts and public schools to provide a safe and respectful learning environment that is free of harassment and intimidation, including the provision of training to school personnel and requirements for reporting violations of the policy. (NRS 388.121-388.139) **Sections 1-9** of this bill revise the provisions governing safe and respectful learning environments to include a prohibition on **bullying and** cyber-bullying. (NRS 388.132, 388.133, 388.134, 388.135, 388.139)

Existing law requires the Council to Establish Academic Standards for Public Schools to establish the standards of content and performance for courses of study, including courses of study in computer education and technology. (NRS 389.520) **Section 10** of this bill requires the standards of content and performance for courses in computer education and technology to include a policy for the ethical, safe and secure use of computers and other electronic devices. **Section 7** of this bill requires each school district to adopt the policy for inclusion in its policy on the provision of a safe and respectful learning environment.

Existing law prohibits a person from using any means of oral, written or electronic communication to knowingly threaten to cause bodily harm or death to a pupil or school employee with the intent to: (1) intimidate, frighten, alarm or distress the pupil or school employee; (2) cause panic or civil unrest; or (3) interfere with the operation of a public school. **Section 11** of this bill specifically includes the use of cyber-bullying in these prohibited acts. (NRS 392.915)

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

Section 1. Chapter 388 of NRS is hereby amended by adding thereto the provisions set forth as sections ~~1.5~~, 2 and 3 of this act.

Sec. 1.5. "Bullying" means a willful act or course of conduct on the part of one or more pupils which is not authorized by law and which exposes a pupil repeatedly and over time to one or more negative actions which is highly offensive to a reasonable person and is intended to cause and actually causes the pupil to suffer harm or serious emotional distress.

Sec. 2. "Cyber-bullying" means ~~harassment or intimidation~~ bullying through the use of electronic communication.

Sec. 3. "Electronic communication" means the communication of any written, verbal or pictorial information through the use of an electronic device, including, without limitation, a telephone, a cellular phone, a computer or any similar means of communication.

Sec. 4. NRS 388.121 is hereby amended to read as follows:

388.121 As used in NRS 388.121 to 388.139, inclusive, ***and sections 1.5, 2 and 3 of this act***, unless the context otherwise requires, the words and terms defined in NRS 388.125 and 388.129 ***and sections 1.5, 2 and 3 of this act*** have the meanings ascribed to them in those sections.

Sec. 5. NRS 388.132 is hereby amended to read as follows:

388.132 The Legislature declares that:

1. A learning environment that is safe and respectful is essential for the pupils enrolled in the public schools in this State to achieve academic success and meet this State's high academic standards;

2. Any form of ***bullying, cyber-bullying***, harassment or intimidation in public schools seriously interferes with the ability of teachers to teach in the classroom and the ability of pupils to learn;

3. ***The use of the Internet by pupils in a manner that is ethical, safe and secure is essential to a safe and respectful learning environment and is essential for the successful use of technology;***

4. The intended goal of the Legislature is to ensure that:

(a) The public schools in this State provide a safe and respectful learning environment in which persons of differing beliefs, characteristics and backgrounds can realize their full academic and personal potential;

(b) All administrators, principals, teachers and other personnel of the school districts and public schools in this State demonstrate appropriate behavior on the premises of any public school by treating other persons, including, without limitation, pupils, with civility and respect and by refusing to tolerate ***bullying, cyber-bullying***, harassment or intimidation; and

(c) All persons in public schools are entitled to maintain their own beliefs and to respectfully disagree without resorting to ***bullying, cyber-bullying***, violence, harassment or intimidation; and

~~4.~~ 5. By declaring its goal that the public schools in this State provide a safe and respectful learning environment, the Legislature is not advocating or

requiring the acceptance of differing beliefs in a manner that would inhibit the freedom of expression, but is requiring that pupils with differing beliefs be free from abuse and harassment.

Sec. 6. NRS 388.133 is hereby amended to read as follows:

388.133 1. The Department shall, in consultation with the boards of trustees of school districts, educational personnel, local associations and organizations of parents whose children are enrolled in public schools throughout this State, and individual parents and legal guardians whose children are enrolled in public schools throughout this State, prescribe by regulation a policy for all school districts and public schools to provide a safe and respectful learning environment that is free of ***bullying, cyber-bullying***, harassment and intimidation.

2. The policy must include, without limitation:

(a) Requirements and methods for reporting violations of NRS 388.135; and

(b) A policy for use by school districts to train administrators, principals, teachers and all other personnel employed by the board of trustees of a school district. The policy must include, without limitation:

(1) Training in the appropriate methods to facilitate positive human relations among pupils without the use of ***bullying, cyber-bullying***, harassment and intimidation so that pupils may realize their full academic and personal potential;

(2) Methods to improve the school environment in a manner that will facilitate positive human relations among pupils; and

(3) Methods to teach skills to pupils so that the pupils are able to replace inappropriate behavior with positive behavior.

Sec. 7. NRS 388.134 is hereby amended to read as follows:

388.134 The board of trustees of each school district shall:

1. Adopt the policy prescribed ~~[by the Department]~~ pursuant to NRS 388.133 ~~[]~~ ***and the policy prescribed pursuant to subsection 2 of NRS 389.520.*** The board of trustees may adopt an expanded policy ***for one or both of the policies*** if ~~[the]~~ ***each*** expanded policy complies with the policy prescribed ~~[by the Department.]~~ ***pursuant to NRS 388.133 or pursuant to subsection 2 of NRS 389.520, as applicable.***

2. Provide for the appropriate training of all administrators, principals, teachers and all other personnel employed by the board of trustees in accordance with the ~~[policy]~~ ***policies*** prescribed ~~[by the Department]~~ pursuant to NRS 388.133 ~~[]~~ ***and pursuant to subsection 2 of NRS 389.520.***

3. On or before September 1 of each year, submit a report to the Superintendent of Public Instruction that includes a description of each violation of NRS 388.135 occurring in the immediately preceding school year that resulted in personnel action against an employee or suspension or expulsion of a pupil, if any.

Sec. 8. NRS 388.135 is hereby amended to read as follows:

388.135 A member of the board of trustees of a school district, any employee of the board of trustees, including, without limitation, an administrator, principal, teacher or other staff member, or any pupil shall not engage in **bullying, cyber-bullying**, harassment or intimidation on the premises of any public school, at an activity sponsored by a public school or on any school bus.

Sec. 9. NRS 388.139 is hereby amended to read as follows:

388.139 Each school district shall include the text of the provisions of NRS 388.125 to 388.135, inclusive, and the ~~policy~~ **policies** adopted by the board of trustees of the school district pursuant to NRS 388.134 under the heading ~~["Harassment"]~~ **"Bullying, Cyber-Bullying, Harassment and Intimidation Is Prohibited in Public Schools,"** within each copy of the rules of behavior for pupils that the school district provides to pupils pursuant to NRS 392.463.

Sec. 10. NRS 389.520 is hereby amended to read as follows:

389.520 1. The Council shall:

(a) Establish standards of content and performance, including, without limitation, a prescription of the resulting level of achievement, for the grade levels set forth in subsection ~~{2,}~~ **3**, based upon the content of each course, that is expected of pupils for the following courses of study:

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

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

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

2. ***The standards for computer education and technology must include a policy for the ethical, safe and secure use of computers and other electronic devices. The policy must include, without limitation:***

(a) The ethical use of computers and other electronic devices, including, without limitation:

(1) Rules of conduct for the acceptable use of the Internet and other electronic devices; and

(2) Methods to ensure the prevention of:

(I) Cyber-bullying;

(II) Plagiarism; and

(III) The theft of information or data in an electronic form;

(b) The safe use of computers and other electronic devices, including, without limitation, methods to:

(1) Avoid harassment, cyber-bullying and other unwanted electronic communication, including, without limitation, communication with on-line predators;

(2) Recognize when an on-line electronic communication is dangerous or potentially dangerous; and

(3) Report a dangerous or potentially dangerous on-line electronic communication to the appropriate school personnel;

(c) The secure use of computers and other electronic devices, including, without limitation:

(1) Methods to maintain the security of personal identifying information and financial information, including, without limitation, identifying unsolicited electronic communication which is sent for the purpose of obtaining such personal and financial information for an unlawful purpose;

(2) The necessity for secure passwords or other unique identifiers;

(3) The effects of a computer contaminant;

(4) Methods to identify unsolicited commercial material; and

(5) The dangers associated with social networking Internet sites; and

(d) A designation of the level of detail of instruction as appropriate for the grade level of pupils who receive the instruction.

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

~~{3-}~~ 4. The Council shall forward to the State Board the standards of content and performance established by the Council for each course of study. The State Board shall:

(a) Adopt the standards for each course of study, as submitted by the Council; or

(b) If the State Board objects to the standards for a course of study or a particular grade level for a course of study, return those standards to the Council with a written explanation setting forth the reason for the objection.

~~{4-}~~ 5. If the State Board returns to the Council the standards of content and performance for a course of study or a grade level, the Council shall:

(a) Consider the objection provided by the State Board and determine whether to revise the standards based upon the objection; and

(b) Return the standards or the revised standards, as applicable, to the State Board.

↪ The State Board shall adopt the standards of content and performance or the revised standards, as applicable.

~~5.~~ 6. The Council shall work in cooperation with the State Board to prescribe the examinations required by NRS 389.550.

7. *As used in this section:*

(a) *"Computer contaminant" has the meaning ascribed to it in NRS 205.4737.*

(b) *"Cyber-bullying" has the meaning ascribed to it in section 2 of this act.*

(c) *"Electronic communication" has the meaning ascribed to it in section 3 of this act.*

Sec. 11. NRS 392.915 is hereby amended to read as follows:

392.915 1. A person shall not, through the use of any means of oral, written or electronic communication, ***including, without limitation, through the use of cyber-bullying***, knowingly threaten to cause bodily harm or death to a pupil or employee of a school district or charter school with the intent to:

(a) Intimidate, ***harass***, frighten, alarm or distress a pupil or employee of a school district or charter school;

(b) Cause panic or civil unrest; or

(c) Interfere with the operation of a public school, including, without limitation, a charter school.

2. Unless a greater penalty is provided by specific statute, a person who violates the provisions of subsection 1 is guilty of:

(a) A misdemeanor, unless the provisions of paragraph (b) apply to the circumstances.

(b) A gross misdemeanor, if the threat causes:

(1) Any pupil or employee of a school district or charter school who is the subject of the threat to be intimidated, ***harassed***, frightened, alarmed or distressed;

(2) Panic or civil unrest; or

(3) Interference with the operation of a public school, including, without limitation, a charter school.

3. As used in this section ~~["oral"]~~:

(a) *"Cyber-bullying" has the meaning ascribed to it in section 2 of this act.*

(b) *"Oral, written or electronic communication" includes, without limitation, any of the following:*

~~(a)~~ (1) A letter, note or any other type of written correspondence.

~~(b)~~ (2) An item of mail or a package delivered by any person or postal or delivery service.

~~(c)~~ (3) A telegraph or wire service, or any other similar means of communication.

~~(d)~~ (4) A telephone, cellular phone, satellite phone, page or facsimile machine, or any other similar means of communication.

~~(e)~~ (5) A radio, television, cable, closed-circuit, wire, wireless, satellite or other audio or video broadcast or transmission, or any other similar means of communication.

~~[(6)]~~ (6) An audio or video recording or reproduction, or any other similar means of communication.

~~[(7)]~~ (7) An item of electronic mail, a modem or computer network, or the Internet, or any other similar means of communication.

Sec. 12. 1. On or before January 1, 2010, the Council to Establish Academic Standards for Public Schools shall establish the policy required by subsection 2 of NRS 389.520, as amended by section 10 of this act. In establishing the policy, the Council shall consider policies currently in use by school districts in this State.

2. On or before July 1, 2010, the board of trustees of each school district shall adopt the policy regarding the ethical, safe and secure use of computers and other electronic devices pursuant to NRS 388.134, as amended by section 7 of this act.

Sec. 13. ~~[(This act becomes)]~~

1. This section and sections 6, 10 and 12 of this act become effective on July 1, 2009, ~~for~~, for the purpose of adopting policies and on July 1, 2010, for all other purposes.

2. Sections 1 to 5, inclusive, 7, 8, 9 and 11 of this act become effective on July 1, 2010.

Assemblywoman Parnell moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 169.

Bill read second time and ordered to third reading.

Senate Bill No. 175.

Bill read second time and ordered to third reading.

Senate Bill No. 185.

Bill read second time and ordered to third reading.

Senate Bill No. 194.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 590.

AN ACT relating to certain public officials; making the district attorney of Humboldt County the ex officio public administrator of Humboldt County; revising certain provisions regarding the administration of certain estates; revising certain provisions regarding the appointment of public guardians; repealing certain provisions relating to public administrators; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

This bill amends a number of provisions governing public administrators who are public officials that administer the estates of decedents having no qualified person willing and able to do so. **Sections 2 and 9** of this bill

provide for the district attorney of Humboldt County to serve, ex officio, as the public administrator of the county, as the district attorneys for Lander, Lincoln and White Pine counties do currently. (NRS 253.010, 253.050) **Section 2** also authorizes the board of county commissioners in any county with an elected public administrator to appoint the public administrator if the office becomes vacant.

Under existing law, a public administrator may secure the property of a decedent if the public administrator finds that the decedent has no relatives able to protect the property and that failure to do so could endanger the property. (NRS 253.0405) **Section 3** of this bill authorizes a public administrator to secure the property of a decedent if either, not both, of those conditions exist. **Section 4** of this bill revises the notice requirements before a public administrator may donate or destroy certain property. (NRS 253.0407) **Sections 5 and 6** of this bill require and authorize a public administrator to conduct certain investigations. (NRS 253.0415, 253.042) **Section 7** of this bill increases the maximum value of an estate that may be set aside without administration. (NRS 253.0425)

Under existing law, certain powers and duties of public administrators are limited so as to be applicable only to public administrators in counties whose population is 100,000 or more (currently Clark and Washoe Counties). (NRS 253.041, 253.0415-253.0435) **Section 14** of this bill repeals NRS 253.041 so that the powers and duties set forth in NRS 253.0415 to 253.0435, inclusive, apply to public administrators in all counties. Conversely, existing law also sets forth that certain powers and duties of public administrators are limited so as to be applicable only to public administrators in counties whose population is less than 100,000 (currently counties other than Clark and Washoe Counties). (NRS 253.044, 253.0445, 253.045) **Section 14** repeals those provisions.

This bill also amends provisions governing public guardians. **Section 10** of this bill requires a public guardian to retain records relating to guardianships for at least 7 years. (NRS 253.190) **Section 11** of this bill ~~adds to~~ **revises** the requirements for a resident of Nevada to be eligible to have a county public guardian appointed as his permanent or general individual guardian. **Further, section 11 provides that a county is not liable on any written or oral contract entered into by a public guardian of the county for or on behalf of the ward.** (NRS 253.200)

Currently, a public guardian may demand certain information from a proposed ward—a person for whom proceedings for the appointment of a guardian have begun—or from the spouse, parent, child or other kindred of a proposed ward, but not from a person for whom a guardian has been appointed. (NRS 253.220) **Section 12** of this bill revises that provision so that the information can be demanded from or about a ward but not a proposed ward.

Finally, section 12.5 of this bill authorizes a court to terminate the appointment of a public guardian as an individual guardian of a person

or estate if the public guardian, after exercising due diligence, is unable to identify a source to pay for the care of the ward.

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

Section 1. NRS 250.160 is hereby amended to read as follows:

250.160 1. A county assessor may provide confidential information for use:

(a) By any governmental entity, including, without limitation, any court or law enforcement agency, in carrying out its functions, or any person acting on behalf of a federal, state or local governmental agency in carrying out its functions.

(b) In connection with any civil, criminal, administrative or arbitration proceeding before any federal or state court, regulatory body, board, commission or agency, including, without limitation, use for service of process, investigation in anticipation of litigation, and execution or enforcement of judgments and orders or pursuant to an order of a federal or state court.

(c) By a private investigator, private patrolman or security consultant who is licensed pursuant to chapter 648 of NRS, for any use authorized pursuant to this section.

(d) In connection with an investigation conducted pursuant to NRS 253.0415 ~~[-253.044]~~ or 253.220.

(e) In activities relating to research and the production of statistical reports, if the address or information will not be published or otherwise disclosed or used to contact any person.

(f) In the bulk distribution of surveys, marketing material or solicitations, if the assessor has adopted policies and procedures to ensure that the information will be used or sold only for use in the bulk distribution of surveys, marketing material or solicitations.

(g) By a reporter or editorial employee who is employed by or affiliated with any newspaper, press association or commercially operated, federally licensed radio or television station.

2. Except for a reporter or editorial employee described in paragraph (g) of subsection 1, a person who obtains information pursuant to this section and sells or discloses that information shall keep and maintain for at least 5 years a record of:

(a) Each person to whom the information is sold or disclosed; and

(b) The purpose for which that person will use the information.

Sec. 2. NRS 253.010 is hereby amended to read as follows:

253.010 1. Except as otherwise provided in ~~subsection 4,~~ **subsections 4 and 5**, public administrators must be elected by the qualified electors of their respective counties.

2. Public administrators must be chosen by the electors of their respective counties at the general election in 1922 and at the general election

every 4 years thereafter, and shall enter upon the duties of their office on the first Monday of January after their election.

3. The public administrator of a county must:

- (a) Be a qualified elector of the county;
- (b) Be at least 21 years of age on the date he will take office;
- (c) Not have been convicted of a felony for which his civil rights have not been restored by a court of competent jurisdiction; and
- (d) Not have been found liable in a civil action involving a finding of fraud, misrepresentation, material omission, misappropriation, theft or conversion.

4. The district attorneys of *Humboldt*, Lander, Lincoln and White Pine Counties are ex officio public administrators of *Humboldt County*, Lander County, Lincoln County and White Pine County, respectively. The Clerk of Carson City shall serve as Public Administrator of Carson City.

5. In a county other than Carson City and Humboldt, Lander, Lincoln and White Pine Counties, if, for any reason, the office of public administrator becomes vacant, the board of county commissioners may appoint a public administrator for the remainder of the unexpired term.

Sec. 3. NRS 253.0405 is hereby amended to read as follows:

253.0405 Before the issuance of the letters of administration for an estate, before filing an affidavit to administer an estate pursuant to NRS 253.0403 or before petitioning to have an estate set aside pursuant to NRS 253.0425, the public administrator may secure the property of a deceased person if he finds that:

1. There are no relatives of the deceased who are able to protect the property; ~~and~~ *or*

2. Failure to do so could endanger the property.

Sec. 4. NRS 253.0407 is hereby amended to read as follows:

253.0407 1. Except as otherwise provided in subsection 2, a public administrator, with regard to the personal property of the estate of ~~a ward or~~ a decedent, may donate property that has a value of less than \$250 to a nonprofit organization, or destroy property that has a value of less than \$100, if ~~it~~:

~~(a) The property, if that of a ward, is not necessary for the care or comfort of the ward; and~~

~~(b) A notice of intent to donate or destroy the property is ~~it~~~~

~~(1) Mailed~~ *mailed* by certified mail *or delivered personally* to the ~~ward's or~~ decedent's next of kin ~~at his last known home address; or~~

~~(2) Personally delivered to him,~~
~~and that person fails to claim] and the property is not claimed~~ within 15 days.

2. A public administrator may authorize the immediate destruction of the property of a ~~ward or~~ decedent, without giving notice to the next of kin, if:

(a) The administrator determines that the property has been contaminated by vermin or biological or chemical agents;

(b) The expenses related to the decontamination of the property cause salvage to be impractical;

(c) The property constitutes an immediate threat to public health or safety;

(d) The handling, transfer or storage of the property may endanger public health or safety or exacerbate contamination; and

(e) The value of the property is less than \$100 or, if the value of the property is \$100 or more, a state or local health officer has endorsed the destruction of the property.

Sec. 5. NRS 253.0415 is hereby amended to read as follows:

253.0415 1. The public administrator shall:

(a) Investigate:

(1) The financial status of any decedent for whom he has been requested to serve as administrator to determine the assets and liabilities of the estate.

(2) Whether there is any qualified person who is willing and able to serve as administrator of the estate of an intestate decedent to determine whether he is eligible to serve in that capacity.

(3) *Whether there are beneficiaries named on any asset of the estate or whether any deed upon death executed pursuant to NRS 111.109 is on file with the county recorder.*

(b) Except as otherwise provided in NRS 253.0403 and 253.0425, petition the court for letters of administration of the estate of ~~fa person dying~~ **an intestate decedent** if, after investigation, the public administrator finds that there is no other qualified person having a prior right who is willing and able to serve.

(c) Upon court order, act as administrator of the estate of ~~fa person dying intestate,~~ **an intestate decedent**, regardless of the amount of assets in the estate of the decedent if no other qualified person is willing and able to serve.

2. ~~The public administrator is not eligible to serve as a guardian of the person and estate of a ward unless the board of county commissioners has designated the public administrator as ex officio public guardian.~~ **The public administrator shall not administer any estate:**

(a) *Held in joint tenancy unless all joint tenants are deceased;*

(b) *For which a beneficiary form has been registered pursuant to NRS 111.480 to 111.650, inclusive; or*

(c) *For which a deed upon death has been executed pursuant to NRS 111.109.*

3. *As used in this section, "intestate decedent" means a person who has died without leaving a valid will, trust or other estate plan.*

Sec. 6. NRS 253.042 is hereby amended to read as follows:

253.042 In connection with an investigation conducted pursuant to subsection 1 of NRS 253.0415, a public administrator may:

1. Require any spouse, parent, child or other kindred of the decedent to give any information and to execute any written requests or authorizations necessary to provide the public administrator with access to records,

otherwise confidential, needed to evaluate the public administrator's eligibility to serve.

2. Obtain information from the public records in any office of the State or any of its agencies or subdivisions upon request and without payment of any fee.

3. Investigate the assets and personal and family history of any decedent for whom he has been requested to serve as administrator, without hiring or being licensed as a private investigator pursuant to chapter 648 of NRS.

Sec. 7. NRS 253.0425 is hereby amended to read as follows:

253.0425 1. If the public administrator finds that there is no qualified person willing and able to administer the estate of a particular decedent, he shall investigate further to estimate its gross value.

2. If the estate appears to have a gross value of ~~[\$50,000]~~ **\$100,000** or less, he shall:

(a) Assist a proper person to petition to have it set aside without administration or directly receive the assets from a custodian, as the facts may warrant;

(b) Himself petition to have the estate set aside without administration and properly distributed; or

(c) Administer the estate pursuant to NRS 253.0403.

3. If the estate appears to have a gross value of more than ~~[\$50,000;]~~ **\$100,000:**

(a) He shall proceed with summary or full administration as the value of the estate requires.

(b) He may retain an attorney to assist him, rotating this employment in successive estates among the attorneys practicing in the county who are qualified by experience and willing to serve. The attorney's fee is a charge upon the estate.

Sec. 8. NRS 253.0447 is hereby amended to read as follows:

253.0447 A public administrator ~~[, or other suitable person designated by the board of county commissioners, who is authorized to perform the duties set forth in NRS 253.044,]~~ may file with the board **of county commissioners** a request for payment for expenses incurred in the performance of such duties. The amount to be paid as expenses must be determined by the board. ~~[of county commissioners.]~~ Payment must be made from the general fund of the county if the board ~~[of county commissioners]~~ approves the request and determines that there is sufficient money in the fund to pay the public administrator or other suitable person designated by the board to perform those duties. This section does not require the board ~~[of county commissioners]~~ to authorize payment of any expense that can be paid from the assets of a person or an estate. ~~[subject to NRS 253.044.]~~

Sec. 9. NRS 253.050 is hereby amended to read as follows:

253.050 1. For the administration of the estates of deceased persons, public administrators are entitled to be paid as other administrators or executors are paid, subject to the provisions of NRS 245.043.

2. The district attorneys of **Humboldt**, Lander, Lincoln and White Pine counties as ex officio public administrators and the clerk of Carson City serving as public administrator of Carson City may retain all fees provided by law received by them as public administrators.

3. The public administrator is entitled to compensation from the estate or from beneficiaries for the reasonable value of his services performed in preserving the property of an estate of a deceased person before the appointment of an administrator. Compensation must be set by the board of county commissioners.

Sec. 10. NRS 253.190 is hereby amended to read as follows:

253.190 A public guardian shall ~~keep~~:

1. **Keep** financial and other appropriate records concerning all cases in which he is appointed as an individual guardian ~~[-]~~; **and**

2. **Retain:**

(a) **All such financial records for each case for at least 7 years after the date of the transaction that is recorded in the record; and**

(b) **All other records for each case for at least 7 years after the termination of the guardianship pursuant to chapter 159 of NRS.**

Sec. 11. NRS 253.200 is hereby amended to read as follows:

253.200 1. A resident of Nevada is eligible to have the public guardian of the county in which he resides appointed as his temporary individual guardian pursuant to NRS 159.0523 or 159.0525.

2. A resident of Nevada is eligible to have the public guardian of a county appointed as his permanent or general individual guardian if ~~he~~:

~~(a) Has [-] the proposed ward is a resident of that county and;~~

(a) **The proposed ward has** no relative or friend ~~able~~ **suitable** and willing to serve as his guardian; ~~and~~

~~(b) Is~~

~~((b) The proposed ward is a resident of that county) [-] [-]~~

~~(c) The public guardian is able to identify a source to pay for the care of the proposed ward; and~~

~~(d) The public guardian is able to establish a case plan for the guardianship; or~~

(b) The proposed ward has a guardian who the court determines must be removed pursuant to NRS 159.185.

3. A person qualified pursuant to subsection 1 or 2, or anyone on his behalf, may petition the district court of the county in which he resides to make the appointment.

4. Before a petition for the appointment of the public guardian as a guardian may be filed pursuant to subsection 3, a copy of the petition and copies of all accompanying documents to be filed must be delivered to the public guardian or a deputy public guardian.

5. Any petition for the appointment of the public guardian as a guardian filed pursuant to subsection 3 must include a statement signed by the public guardian or deputy public guardian and in substantially the following form:

The undersigned is the Public Guardian or a Deputy Public Guardian of County. The undersigned certifies that he has received a copy of this petition and all accompanying documents to be filed with the court.

6. A petition for the appointment of the public guardian as permanent or general guardian must be filed separately from a petition for the appointment of a temporary guardian.

7. If a person other than the public guardian served as temporary guardian ~~[prior to]~~ *before* the appointment of the public guardian as permanent or general guardian, the temporary guardian must file an accounting and report with the court in which the petition for the appointment of a public guardian was filed within 30 days of the appointment of the public guardian as permanent or general guardian.

8. **In addition to NRS 159.099, a county is not liable on any written or oral contract entered into by the public guardian of the county for or on behalf of a ward.**

9. For the purposes of this section:

(a) Except as otherwise provided in paragraph (b), the county of residence of a person is the county to which the person moved with the intent to reside for an indefinite period.

(b) The county of residence of a person placed in institutional care is the county that was the county of residence of the person before the person was placed in institutional care by a guardian or agency or under power of attorney.

Sec. 12. NRS 253.220 is hereby amended to read as follows:

253.220 A public guardian may investigate the financial status, assets and personal and family history of any person for whom the public guardian has been appointed as guardian, without hiring or being licensed as a private investigator pursuant to chapter 648 of NRS. In connection with the investigation, the public guardian may require any ~~[proposed]~~ ward or any spouse, parent, child or other kindred of the ~~[proposed]~~ ward to give any information and to execute and deliver any written requests or authorizations necessary to provide the public guardian with access to records, otherwise confidential, which are needed by the public guardian. The public guardian may obtain information from any public record office of the State or any of its agencies or subdivisions upon request and without payment of any fees.

Sec. 12.5. NRS 253.250 is hereby amended to read as follows:

253.250 The court may, at any time, terminate the appointment of a public guardian as an individual guardian *of a person or of an estate* upon petition by the ward ~~[or]~~ **the public guardian**, any interested person or upon the court's own motion if ~~[it]~~ :

1. It appears that the services of the public guardian are no longer necessary ~~[it]~~ ; **or**

2. After exercising due diligence, the public guardian is unable to identify a source to pay for the care of the ward.

Sec. 13. NRS 481.063 is hereby amended to read as follows:

481.063 1. The Director may charge and collect reasonable fees for official publications of the Department and from persons making use of files and records of the Department or its various divisions for a private purpose. All money so collected must be deposited in the State Treasury for credit to the Motor Vehicle Fund.

2. Except as otherwise provided in subsection 5, the Director may release personal information, except a photograph, from a file or record relating to the driver's license, identification card, or title or registration of a vehicle of a person if the requester submits a written release from the person who holds a lien on the vehicle, or an agent of that person, or the person about whom the information is requested which is dated not more than 90 days before the date of the request. The written release must be in a form required by the Director.

3. Except as otherwise provided in subsection 2, the Director shall not release to any person who is not a representative of the Division of Welfare and Supportive Services of the Department of Health and Human Services or an officer, employee or agent of a law enforcement agency, an agent of the public defender's office or an agency of a local government which collects fines imposed for parking violations, who is not conducting an investigation pursuant to NRS 253.0415 ~~[-253.044]~~ or 253.220, who is not authorized to transact insurance pursuant to chapter 680A of NRS or who is not licensed as a private investigator pursuant to chapter 648 of NRS and conducting an investigation of an insurance claim:

(a) A list which includes license plate numbers combined with any other information in the records or files of the Department;

(b) The social security number of any person, if it is requested to facilitate the solicitation of that person to purchase a product or service; or

(c) The name, address, telephone number or any other personally identifiable information if the information is requested by the presentation of a license plate number.

↪ When such personally identifiable information is requested of a law enforcement agency by the presentation of a license plate number, the law enforcement agency shall conduct an investigation regarding the person about whom information is being requested or, as soon as practicable, provide the requester with the requested information if the requester officially reports that the motor vehicle bearing that license plate was used in a violation of NRS 205.240, 205.345, 205.380 or 205.445.

4. Except as otherwise provided in subsections 2 and 5, the Director shall not release any personal information from a file or record relating to a driver's license, identification card, or title or registration of a vehicle.

5. Except as otherwise provided in paragraph (a) and subsection 6, if a person or governmental entity provides a description of the information

requested and its proposed use and signs an affidavit to that effect, the Director may release any personal information, except a photograph, from a file or record relating to a driver's license, identification card, or title or registration of a vehicle for use:

(a) By any governmental entity, including, but not limited to, any court or law enforcement agency, in carrying out its functions, or any person acting on behalf of a federal, state or local governmental agency in carrying out its functions. The personal information may include a photograph from a file or record relating to a driver's license, identification card, or title or registration of a vehicle.

(b) In connection with any civil, criminal, administrative or arbitration proceeding before any federal or state court, regulatory body, board, commission or agency, including, but not limited to, use for service of process, investigation in anticipation of litigation, and execution or enforcement of judgments and orders, or pursuant to an order of a federal or state court.

(c) In connection with matters relating to:

- (1) The safety of drivers of motor vehicles;
- (2) Safety and thefts of motor vehicles;
- (3) Emissions from motor vehicles;
- (4) Alterations of products related to motor vehicles;
- (5) An advisory notice relating to a motor vehicle or the recall of a motor vehicle;
- (6) Monitoring the performance of motor vehicles;
- (7) Parts or accessories of motor vehicles;
- (8) Dealers of motor vehicles; or
- (9) Removal of nonowner records from the original records of motor vehicle manufacturers.

(d) By any insurer, self-insurer or organization that provides assistance or support to an insurer or self-insurer or its agents, employees or contractors, in connection with activities relating to the rating, underwriting or investigation of claims or the prevention of fraud.

(e) In providing notice to the owners of vehicles that have been towed, repossessed or impounded.

(f) By an employer or its agent or insurer to obtain or verify information relating to a holder of a commercial driver's license who is employed by or has applied for employment with the employer.

(g) By a private investigator, private patrolman or security consultant who is licensed pursuant to chapter 648 of NRS, for any use permitted pursuant to this section.

(h) By a reporter or editorial employee who is employed by or affiliated with any newspaper, press association or commercially operated, federally licensed radio or television station for a journalistic purpose. The Department may not make any inquiries regarding the use of or reason for the

information requested other than whether the information will be used for a journalistic purpose.

(i) In connection with an investigation conducted pursuant to NRS 253.0415 [~~253.044~~] or 253.220.

(j) In activities relating to research and the production of statistical reports, if the personal information will not be published or otherwise redisclosed, or used to contact any person.

(k) In the bulk distribution of surveys, marketing material or solicitations, if the Director has adopted policies and procedures to ensure that:

(1) The information will be used or sold only for use in the bulk distribution of surveys, marketing material or solicitations;

(2) Each person about whom the information is requested has clearly been provided with an opportunity to authorize such a use; and

(3) If the person about whom the information is requested does not authorize such a use, the bulk distribution will not be directed toward that person.

6. Except as otherwise provided in paragraph (j) of subsection 5, a person who requests and receives personal information may sell or disclose that information only for a use permitted pursuant to subsection 5. Such a person shall keep and maintain for 5 years a record of:

(a) Each person to whom the information is provided; and

(b) The purpose for which that person will use the information.

↪ The record must be made available for examination by the Department at all reasonable times upon request.

7. Except as otherwise provided in subsection 2, the Director may deny any use of the files and records if he reasonably believes that the information taken may be used for an unwarranted invasion of a particular person's privacy.

8. Except as otherwise provided in NRS 485.316, the Director shall not allow any person to make use of information retrieved from the database created pursuant to NRS 485.313 for a private purpose and shall not in any other way release any information retrieved from that database.

9. The Director shall adopt such regulations as he deems necessary to carry out the purposes of this section. In addition, the Director shall, by regulation, establish a procedure whereby a person who is requesting personal information may establish an account with the Department to facilitate his ability to request information electronically or by written request if he has submitted to the Department proof of his employment or licensure, as applicable, and a signed and notarized affidavit acknowledging:

(a) That he has read and fully understands the current laws and regulations regarding the manner in which information from the Department's files and records may be obtained and the limited uses which are permitted;

(b) That he understands that any sale or disclosure of information so obtained must be in accordance with the provisions of this section;

(c) That he understands that a record will be maintained by the Department of any information he requests; and

(d) That he understands that a violation of the provisions of this section is a criminal offense.

10. It is unlawful for any person to:

(a) Make a false representation to obtain any information from the files or records of the Department.

(b) Knowingly obtain or disclose any information from the files or records of the Department for any use not permitted by the provisions of this chapter.

11. As used in this section, “personal information” means information that reveals the identity of a person, including, without limitation, his photograph, social security number, driver’s license number, identification card number, name, address, telephone number or information regarding a medical condition or disability. The term does not include the zip code of a person when separate from his full address, information regarding vehicular accidents or driving violations in which he has been involved or other information otherwise affecting his status as a driver.

Sec. 14. NRS 253.030, 253.041, 253.044, 253.0445 and 253.045 are hereby repealed.

Sec. 15. Notwithstanding any other provision of this act, the term of office of the person who holds the office of Public Administrator of Humboldt County on July 1, 2009, does not expire until that term would ordinarily expire pursuant to subsection 2 of NRS 253.010.

Sec. 16. 1. This section and sections 2, 9 and 15 of this act become effective on July 1, 2009.

2. Sections 1, 3 to 8, inclusive, and 10 to 14, inclusive, of this act become effective on October 1, 2009.

LEADLINES OF REPEALED SECTIONS

253.030 Vacancy: Applicable law governing appointment; qualification of appointee.

253.041 County whose population is 100,000 or more: Applicability of NRS 253.041 to 253.0435, inclusive.

253.044 County whose population is less than 100,000: Service as administrator of estate of intestate decedent.

253.0445 County whose population is less than 100,000: Access to information.

253.045 Additional duties in county whose population is less than 100,000.

Assemblyman Segerblom moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Senate Bill No. 213.

Bill read second time and ordered to third reading.

Senate Bill No. 219.

Bill read second time and ordered to third reading.

Senate Bill No. 254.

Bill read second time and ordered to third reading.

Senate Bill No. 298.

Bill read second time and ordered to third reading.

Senate Bill No. 378.

Bill read second time and ordered to third reading.

Senate Bill No. 412.

Bill read second time and ordered to third reading.

Senate Bill No. 414.

Bill read second time and ordered to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Ocegüera moved that all rules be suspended and the Assembly dispense with the reprinting of Assembly Bills Nos. 458 and 488.

Motion carried.

Assemblyman Ocegüera moved that all rules be suspended and that Assembly Bills Nos. 458 and 488 be declared emergency measures under the *Constitution* and placed on General File for third reading and final passage.

Motion carried.

Assemblyman Ocegüera moved that Senate Bill No. 385 be rereferred to the Committee on Ways and Means.

Motion carried.

Assemblywoman Smith moved that Assembly Bill No. 223 be taken from its position on General File and placed at the top of the General File.

Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 223.

Bill read third time.

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

Amendment No. 593.

AN ACT relating to state governmental procurement; establishing bidders' preferences for local businesses and local businesses owned by service-disabled veterans with respect to state purchasing contracts; establishing bidders' preferences for local businesses owned by service-disabled veterans with respect to state public works contracts; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law, with respect only to contracts for public works for which the estimated cost exceeds \$250,000, provides a mechanism by which a contractor who has paid certain taxes may earn a 5-percent preference in bidding on public works. (NRS 338.1389, 338.147, 338.1693, 338.1727) **Sections 18-25** of this bill establish a limited preference in bidding on public works for local businesses owned by service-disabled veterans. This new preference in bidding on public works does not overlap with the existing preference in bidding on public works because the new preference is limited to public works for which the estimated cost is \$100,000 or less.

Under existing law, the State of Nevada imposes an inverse preference against a person who submits a bid or proposal on a state purchasing contract if that person is a resident of a state that denies a preference to bidders or contractors who are residents of this State. (NRS 333.336) **Section 31** of this bill repeals that inverse preference.

In place of the former inverse preference, **sections 5-13** of this bill establish two separate new preferences in bidding on state purchasing contracts: (1) **section 10** adds a 5-percent preference for local businesses; and (2) **section 10** also adds a 7-percent preference for local businesses owned by service-disabled veterans. **Section 14 of this bill requires advertisements for bids or proposals to include notices of these new preferences.**

Section 30 of this bill directs the Office of Veterans' Services to perform certain duties with respect to gathering information and making recommendations to the Legislative Commission concerning the preferences for local businesses owned by service-disabled veterans.

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

Section 1. Chapter 333 of NRS is hereby amended by adding thereto the provisions set forth as sections 5 to 13, inclusive, of this act.

Sec. 2. (Deleted by amendment.)

Sec. 3. (Deleted by amendment.)

Sec. 4. (Deleted by amendment.)

Sec. 5. *As used in sections 5 to 13, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 6 to 9, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 6. *"Business owned by a service-disabled veteran" means a business:*

1. Of which at least 51 percent of the ownership interest is held by one or more service-disabled veterans;

2. That is organized to engage in commercial transactions; and

3. That is managed and operated on a day-to-day basis by one or more service-disabled veterans.

↪ The term includes a business which meets the above requirements that is transferred to the spouse of a service-disabled veteran upon the death of

the service-disabled veteran, as determined by the United States Department of Veterans Affairs.

Sec. 7. *"Local business" means a business that:*

- 1. Employs at least one person in this State; and*
- 2. Has employed at least one person in this State for not fewer than 2 years.*

Sec. 8. *"Service-disabled veteran" means a veteran of the Armed Forces of the United States who has a service-connected disability of at least zero percent as determined by the United States Department of Veterans Affairs.*

Sec. 9. *"State purchasing contract" means a contract awarded pursuant to the provisions of this chapter.*

Sec. 10. *For the purpose of awarding a formal contract solicited pursuant to subsection 2 of NRS 333.300:*

1. If a local business submits a bid or proposal and is a responsive and responsible bidder, the bid or proposal shall be deemed to be 5 percent lower than the bid or proposal actually submitted.

2. If a local business owned by a service-disabled veteran submits a bid or proposal and is a responsive and responsible bidder, the bid or proposal shall be deemed to be 7 percent lower than the bid or proposal actually submitted.

Sec. 11. *1. If the Purchasing Division determines that a business has made a material misrepresentation or otherwise committed a fraudulent act in applying for a preference described in section 10 of this act, the business is thereafter permanently prohibited from:*

(a) Applying for or receiving the preference described in section 10 of this act; and

(b) Bidding on a state purchasing contract.

2. If the Purchasing Division determines, as described in subsection 1, that a business has made a material misrepresentation or otherwise committed a fraudulent act in applying for a preference described in section 10 of this act, the business may apply to the Chief to review the decision pursuant to chapter 233B of NRS.

Sec. 12. *The Purchasing Division shall report every 6 months to the Legislature, if it is in session, or to the Interim Finance Committee, if the Legislature is not in session. The report must contain, for the period since the last report:*

1. The number of state purchasing contracts that were subject to the provisions of sections 5 to 13, inclusive, of this act.

2. The total dollar amount of state purchasing contracts that were subject to the provisions of sections 5 to 13, inclusive, of this act.

3. The number of local businesses owned by service-disabled veterans that submitted a bid or proposal on a state purchasing contract.

4. The number of local businesses not described in subsection 3 that submitted a bid or proposal on a state purchasing contract.

5. *The number of state purchasing contracts that were awarded to local businesses owned by service-disabled veterans.*

6. *The number of state purchasing contracts that were awarded to local businesses not described in subsection 5.*

7. *The total number of dollars worth of state purchasing contracts that were awarded to local businesses owned by service-disabled veterans.*

8. *The total number of dollars worth of state purchasing contracts that were awarded to local businesses not described in subsection 7.*

9. *Any other information deemed relevant by the Director of the Legislative Counsel Bureau.*

Sec. 13. *The Purchasing Division may adopt such regulations as it determines to be necessary or advisable to carry out the provisions of sections 5 to 13, inclusive, of this act. The regulations may include, without limitation, provisions setting forth:*

1. *The method by which a business may apply to receive a preference described in section 10 of this act;*

2. *The documentation or other proof that a business must submit to demonstrate that it qualifies for a preference described in section 10 of this act; and*

3. *Such other matters as the Purchasing Division deems relevant.*

↪ *In carrying out the provisions of this section, the Purchasing Division shall, to the extent practicable, cooperate and coordinate with the State Public Works Board so that any regulations adopted pursuant to this section and section 25 of this act are reasonably consistent.*

Sec. 14. NRS 333.310 is hereby amended to read as follows:

333.310 1. An advertisement must contain a general description of the classes of commodities or services for which a bid or proposal is wanted and must state:

(a) The name and location of the department, agency, local government, district or institution for which the purchase is to be made.

(b) Where and how specifications and quotation forms may be obtained.

(c) If the advertisement is for bids, whether the Chief is authorized by the using agency to be supplied to consider a bid for an article that is an alternative to the article listed in the original request for bids if:

(1) The specifications of the alternative article meet or exceed the specifications of the article listed in the original request for bids;

(2) The purchase of the alternative article results in a lower price; and

(3) The Chief deems the purchase of the alternative article to be in the best interests of the State of Nevada.

(d) ~~[A summary]~~ **Notice** of the ~~[provisions of] [NRS 333.336.] [sections 5 to 13, inclusive,]~~ **preferences set forth in section 10 of this act.**

(e) The date and time not later than which responses must be received by the Purchasing Division.

(f) The date and time when responses will be opened.

↪ The Chief or his designated agent shall approve the copy for the advertisement.

2. Each advertisement must be published in at least one newspaper of general circulation in the State. The selection of the newspaper to carry the advertisement must be made in the manner provided by this chapter for other purchases, on the basis of the lowest price to be secured in relation to the paid circulation.

Sec. 15. NRS 333.335 is hereby amended to read as follows:

333.335 1. Each proposal must be evaluated by:

(a) The chief of the using agency, or a committee appointed by the chief of the using agency in accordance with the regulations adopted pursuant to NRS 333.135, if the proposal is for a using agency; or

(b) The Chief of the Purchasing Division, or a committee appointed by the Chief in accordance with the regulations adopted pursuant to NRS 333.135, if he is responsible for administering the proposal.

2. A committee appointed pursuant to subsection 1 must consist of not less than two members. A majority of the members of the committee must be state officers or employees. The committee may include persons who are not state officers or employees and possess expert knowledge or special expertise that the chief of the using agency or the Chief of the Purchasing Division determines is necessary to evaluate a proposal. The members of the committee are not entitled to compensation for their service on the committee, except that members of the committee who are state officers or employees are entitled to receive their salaries as state officers and employees. No member of the committee may have a financial interest in a proposal.

3. In making an award, the chief of the using agency, the Chief of the Purchasing Division or each member of the committee, if a committee is established, shall consider and assign a score for each of the following factors for determining whether the proposal is in the best interests of the State of Nevada:

(a) The experience and financial stability of the person submitting the proposal;

(b) Whether the proposal complies with the requirements of the request for proposals as prescribed in NRS 333.311;

(c) The price of the proposal ~~;~~ ~~including the~~ ~~[imposition]~~ ~~[granting of]~~ ~~[an inverse preference]~~ ~~[any of the preferences described in]~~ ~~[NRS 333.336.]~~ ~~[section 10 of this act, if applicable.]~~ and

(d) Any other factor disclosed in the request for proposals.

4. The chief of the using agency, the Chief of the Purchasing Division or the committee, if a committee is established, shall determine the relative weight of each factor set forth in subsection 3 before a request for proposals is advertised. The weight of each factor must not be disclosed before the date proposals are required to be submitted.

5. The chief of the using agency, the Chief of the Purchasing Division or the committee, if a committee is established, shall award the contract based on the best interests of the State, as determined by the total scores assigned pursuant to subsection 3, and is not required to accept the lowest-priced proposal.

6. Except as otherwise provided in NRS 239.0115, each proposal evaluated pursuant to the provisions of this section is confidential and may not be disclosed until the contract is awarded.

Sec. 16. NRS 333.340 is hereby amended to read as follows:

333.340 1. Every contract or order for goods must be awarded to the lowest responsible bidder. To determine the lowest responsible bidder, the Chief:

(a) Shall consider, if applicable, the ~~imposition~~ **granting** of *any of the ~~inverse preference~~ preferences* described in ~~[NRS 333.336.]~~ **section 10 of this act.**

(b) May consider:

(1) The location of the using agency to be supplied.

(2) The qualities of the articles to be supplied.

(3) The total cost of ownership of the articles to be supplied.

(4) Except as otherwise provided in subparagraph (5), the conformity of the articles to be supplied with the specifications.

(5) If the articles are an alternative to the articles listed in the original request for bids, whether the advertisement for bids included a statement that bids for an alternative article will be considered if:

(I) The specifications of the alternative article meet or exceed the specifications of the article listed in the original request for bids;

(II) The purchase of the alternative article results in a lower price; and

(III) The Chief deems the purchase of the alternative article to be in the best interests of the State of Nevada.

(6) The purposes for which the articles to be supplied are required.

(7) The dates of delivery of the articles to be supplied.

2. If a contract or an order is not awarded to the lowest bidder, the Chief shall provide the lowest bidder with a written statement which sets forth the specific reasons that the contract or order was not awarded to him.

3. As used in this section, “total cost of ownership” includes, but is not limited to:

(a) The history of maintenance or repair of the articles;

(b) The cost of routine maintenance and repair of the articles;

(c) Any warranties provided in connection with the articles;

(d) The cost of replacement parts for the articles; and

(e) The value of the articles as used articles when given in trade on a subsequent purchase.

Sec. 17. Chapter 338 of NRS is hereby amended by adding thereto the provisions set forth as sections 18 to 25, inclusive, of this act.

Sec. 18. *As used in sections 18 to 25, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 19, 20 and 21 of this act have the meanings ascribed to them in those sections.*

Sec. 19. *"Business owned by a service-disabled veteran" has the meaning ascribed to it in section 6 of this act.*

Sec. 20. *"Local business" has the meaning ascribed to it in section 7 of this act.*

Sec. 21. *"Service-disabled veteran" has the meaning ascribed to it in section 8 of this act.*

Sec. 22. 1. *For the purpose of awarding a contract for a public work of this State for which the estimated cost is \$100,000 or less, as governed by NRS 338.13862, if a local business owned by a service-disabled veteran submits a bid, the bid shall be deemed to be 7 percent lower than the bid actually submitted.*

2. *The preference described in subsection 1 may not be combined with any other preference.*

Sec. 23. 1. *If the State Public Works Board determines that a business has made a material misrepresentation or otherwise committed a fraudulent act in applying for the preference described in section 22 of this act, the business is thereafter permanently prohibited from:*

(a) *Applying for or receiving the preference described in section 22 of this act; and*

(b) *Bidding on a contract for a public work of this State.*

2. *If the State Public Works Board determines, as described in subsection 1, that a business has made a material misrepresentation or otherwise committed a fraudulent act in applying for the preference described in section 22 of this act, the business may apply to the Manager to review the decision pursuant to chapter 233B of NRS.*

3. *As used in this section, "Manager" has the meaning ascribed to it in NRS 341.015.*

Sec. 24. *The State Public Works Board shall report every 6 months to the Legislature, if it is in session, or to the Interim Finance Committee, if the Legislature is not in session. The report must contain, for the period since the last report:*

1. *The number of contracts for public works of this State that were subject to the provisions of sections 18 to 25, inclusive, of this act.*

2. *The total dollar amount of contracts for public works of this State that were subject to the provisions of sections 18 to 25, inclusive, of this act.*

3. *The number of local businesses owned by service-disabled veterans that submitted a bid or proposal on a contract for a public work of this State.*

4. *The number of contracts for public works of this State that were awarded to local businesses owned by service-disabled veterans.*

5. The total number of dollars worth of contracts for public works of this State that were awarded to local businesses owned by service-disabled veterans.

6. Any other information deemed relevant by the Director of the Legislative Counsel Bureau.

Sec. 25. *The State Public Works Board may adopt such regulations as it determines to be necessary or advisable to carry out the provisions of sections 18 to 25, inclusive, of this act. The regulations may include, without limitation, provisions setting forth:*

1. The method by which a business may apply to receive the preference described in section 22 of this act;

2. The documentation or other proof that a business must submit to demonstrate that it qualifies for the preference described in section 22 of this act; and

3. Such other matters as the State Public Works Board deems relevant.

↪ In carrying out the provisions of this section, the State Public Works Board shall, to the extent practicable, cooperate and coordinate with the Purchasing Division of the Department of Administration so that any regulations adopted pursuant to this section and section 13 of this act are reasonably consistent.

Sec. 26. NRS 338.1375 is hereby amended to read as follows:

338.1375 1. The State Public Works Board shall not accept a bid on a contract for a public work unless the contractor who submits the bid has qualified pursuant to NRS 338.1379 to bid on that contract.

2. The State Public Works Board shall by regulation adopt criteria for the qualification of bidders on contracts for public works of this State. The criteria adopted by the State Public Works Board pursuant to this section must be used by the State Public Works Board to determine the qualification of bidders on contracts for public works of this State.

3. The criteria adopted by the State Public Works Board pursuant to this section:

(a) Must be adopted in such a form that the determination of whether an applicant is qualified to bid on a contract for a public work does not require or allow the exercise of discretion by any one person.

(b) May include only:

(1) The financial ability of the applicant to perform a contract;

(2) The principal personnel of the applicant;

(3) Whether the applicant has breached any contracts with a public body or person in this State or any other state;

(4) Whether the applicant has been disqualified from being awarded a contract pursuant to NRS 338.017 or 338.13895 ~~or~~ **or section 23 of this act;**

(5) The performance history of the applicant concerning other recent, similar contracts, if any, completed by the applicant; and

(6) The truthfulness and completeness of the application.

Sec. 27. NRS 338.1385 is hereby amended to read as follows:

338.1385 1. Except as otherwise provided in subsection 9 and NRS 338.1906 and 338.1907, this State, or a governing body or its authorized representative that awards a contract for a public work in accordance with paragraph (a) of subsection 1 of NRS 338.1373 shall not:

(a) Commence a public work for which the estimated cost exceeds \$100,000 unless it advertises in a newspaper qualified pursuant to chapter 238 of NRS that is published in the county where the public work will be performed for bids for the public work. If no qualified newspaper is published in the county where the public work will be performed, the required advertisement must be published in some qualified newspaper that is printed in the State of Nevada and has a general circulation in the county.

(b) Commence a public work for which the estimated cost is \$100,000 or less unless it complies with the provisions of NRS 338.1386, 338.13862 and 338.13864 ~~and~~ *and sections 18 to 25, inclusive, of this act.*

(c) Divide a public work into separate portions to avoid the requirements of paragraph (a) or (b).

2. At least once each quarter, the authorized representative of a public body shall report to the public body any contract that the authorized representative awarded pursuant to subsection 1 in the immediately preceding quarter.

3. Each advertisement for bids must include a provision that sets forth the requirement that a contractor must be qualified pursuant to NRS 338.1379 or 338.1382 to bid on the contract.

4. Approved plans and specifications for the bids must be on file at a place and time stated in the advertisement for the inspection of all persons desiring to bid thereon and for other interested persons. Contracts for the public work must be awarded on the basis of bids received.

5. Except as otherwise provided in subsection 6 and NRS 338.1389, a public body or its authorized representative shall award a contract to the lowest responsive and responsible bidder.

6. Any bids received in response to an advertisement for bids may be rejected if the public body or its authorized representative responsible for awarding the contract determines that:

(a) The bidder is not a qualified bidder pursuant to NRS 338.1379 or 338.1382;

(b) The bidder is not responsive or responsible;

(c) The quality of the services, materials, equipment or labor offered does not conform to the approved plans or specifications; or

(d) The public interest would be served by such a rejection.

7. A public body may let a contract without competitive bidding if no bids were received in response to an advertisement for bids and:

(a) The public body publishes a notice stating that no bids were received and that the contract may be let without further bidding;

(b) The public body considers any bid submitted in response to the notice published pursuant to paragraph (a);

(c) The public body lets the contract not less than 7 days after publishing a notice pursuant to paragraph (a); and

(d) The contract is awarded to the bidder who has submitted the lowest responsive and responsible bid.

8. Before a public body may commence the performance of a public work itself pursuant to the provisions of this section, based upon a determination that the public interest would be served by rejecting any bids received in response to an advertisement for bids, the public body shall prepare and make available for public inspection a written statement containing:

(a) A list of all persons, including supervisors, whom the public body intends to assign to the public work, together with their classifications and an estimate of the direct and indirect costs of their labor;

(b) A list of all equipment that the public body intends to use on the public work, together with an estimate of the number of hours each item of equipment will be used and the hourly cost to use each item of equipment;

(c) An estimate of the cost of administrative support for the persons assigned to the public work;

(d) An estimate of the total cost of the public work, including the fair market value of or, if known, the actual cost of all materials, supplies, labor and equipment to be used for the public work; and

(e) An estimate of the amount of money the public body expects to save by rejecting the bids and performing the public work itself.

9. This section does not apply to:

(a) Any utility subject to the provisions of chapter 318 or 710 of NRS;

(b) Any work of construction, reconstruction, improvement and maintenance of highways subject to NRS 408.323 or 408.327;

(c) Normal maintenance of the property of a school district;

(d) The Las Vegas Valley Water District created pursuant to chapter 167, Statutes of Nevada 1947, the Moapa Valley Water District created pursuant to chapter 477, Statutes of Nevada 1983 or the Virgin Valley Water District created pursuant to chapter 100, Statutes of Nevada 1993;

(e) The design and construction of a public work for which a public body contracts with a design-build team pursuant to NRS 338.1711 to 338.1727, inclusive;

(f) A constructability review of a public work, which review a local government or its authorized representative is required to perform pursuant to NRS 338.1435; or

(g) The preconstruction or construction of a public work for which a public body enters into a contract with a construction manager at risk pursuant to NRS 338.169 to 338.1699, inclusive.

Sec. 28. NRS 338.1385 is hereby amended to read as follows:

338.1385 1. Except as otherwise provided in subsection 9, this State, or a governing body or its authorized representative that awards a contract for a

public work in accordance with paragraph (a) of subsection 1 of NRS 338.1373 shall not:

(a) Commence a public work for which the estimated cost exceeds \$100,000 unless it advertises in a newspaper qualified pursuant to chapter 238 of NRS that is published in the county where the public work will be performed for bids for the public work. If no qualified newspaper is published in the county where the public work will be performed, the required advertisement must be published in some qualified newspaper that is printed in the State of Nevada and having a general circulation within the county.

(b) Commence a public work for which the estimated cost is \$100,000 or less unless it complies with the provisions of NRS 338.1386, 338.13862 and 338.13864 ~~[-]~~ **and sections 18 to 25, inclusive, of this act.**

(c) Divide a public work into separate portions to avoid the requirements of paragraph (a) or (b).

2. At least once each quarter, the authorized representative of a public body shall report to the public body any contract that the authorized representative awarded pursuant to subsection 1 in the immediately preceding quarter.

3. Each advertisement for bids must include a provision that sets forth the requirement that a contractor must be qualified pursuant to NRS 338.1379 or 338.1382 to bid on the contract.

4. Approved plans and specifications for the bids must be on file at a place and time stated in the advertisement for the inspection of all persons desiring to bid thereon and for other interested persons. Contracts for the public work must be awarded on the basis of bids received.

5. Except as otherwise provided in subsection 6 and NRS 338.1389, a public body or its authorized representative shall award a contract to the lowest responsive and responsible bidder.

6. Any bids received in response to an advertisement for bids may be rejected if the public body or its authorized representative responsible for awarding the contract determines that:

(a) The bidder is not a qualified bidder pursuant to NRS 338.1379 or 338.1382;

(b) The bidder is not responsive or responsible;

(c) The quality of the services, materials, equipment or labor offered does not conform to the approved plans or specifications; or

(d) The public interest would be served by such a rejection.

7. A public body may let a contract without competitive bidding if no bids were received in response to an advertisement for bids and:

(a) The public body publishes a notice stating that no bids were received and that the contract may be let without further bidding;

(b) The public body considers any bid submitted in response to the notice published pursuant to paragraph (a);

(c) The public body lets the contract not less than 7 days after publishing a notice pursuant to paragraph (a); and

(d) The contract is awarded to the lowest responsive and responsible bidder.

8. Before a public body may commence the performance of a public work itself pursuant to the provisions of this section, based upon a determination that the public interest would be served by rejecting any bids received in response to an advertisement for bids, the public body shall prepare and make available for public inspection a written statement containing:

(a) A list of all persons, including supervisors, whom the public body intends to assign to the public work, together with their classifications and an estimate of the direct and indirect costs of their labor;

(b) A list of all equipment that the public body intends to use on the public work, together with an estimate of the number of hours each item of equipment will be used and the hourly cost to use each item of equipment;

(c) An estimate of the cost of administrative support for the persons assigned to the public work;

(d) An estimate of the total cost of the public work, including, the fair market value of or, if known, the actual cost of all materials, supplies, labor and equipment to be used for the public work; and

(e) An estimate of the amount of money the public body expects to save by rejecting the bids and performing the public work itself.

9. This section does not apply to:

(a) Any utility subject to the provisions of chapter 318 or 710 of NRS;

(b) Any work of construction, reconstruction, improvement and maintenance of highways subject to NRS 408.323 or 408.327;

(c) Normal maintenance of the property of a school district;

(d) The Las Vegas Valley Water District created pursuant to chapter 167, Statutes of Nevada 1947, the Moapa Valley Water District created pursuant to chapter 477, Statutes of Nevada 1983 or the Virgin Valley Water District created pursuant to chapter 100, Statutes of Nevada 1993;

(e) The design and construction of a public work for which a public body contracts with a design-build team pursuant to NRS 338.1711 to 338.1727, inclusive;

(f) A constructability review of a public work, which review a local government or its authorized representative is required to perform pursuant to NRS 338.1435; or

(g) The preconstruction or construction of a public work for which a public body enters into a contract with a construction manager at risk pursuant to NRS 338.169 to 338.1699, inclusive.

Sec. 29. NRS 338.13862 is hereby amended to read as follows:

338.13862 1. Before this State or a local government awards a contract for the completion of a public work in accordance with subsection 1 of NRS 338.1386, the State or the local government must:

(a) If the estimated cost of the public work is more than \$25,000 but not more than \$100,000, solicit bids from at least three properly licensed contractors; and

(b) If the estimated cost of the public work is \$25,000 or less, solicit a bid from at least one properly licensed contractor.

2. Any bids received in response to a solicitation for bids made pursuant to this section may be rejected if the State or the local government determines that:

(a) The quality of the services, materials, equipment or labor offered does not conform to the approved plan or specifications;

(b) The bidder is not responsive or responsible; or

(c) The public interest would be served by such a rejection.

3. At least once each quarter, the State and each local government shall prepare a report detailing, for each public work over \$25,000 for which a contract for its completion is awarded pursuant to paragraph (a) of subsection 1, if any:

(a) The name of the contractor to whom the contract was awarded;

(b) The amount of the contract awarded;

(c) A brief description of the public work; and

(d) The names of all contractors from whom bids were solicited.

4. A report prepared pursuant to subsection 3 is a public record and must be maintained on file at the administrative offices of the applicable public body.

5. The provisions of this section do not relieve this State from the duty to award the contract for the public work to a bidder who is:

(a) Qualified pursuant to the applicable provisions of NRS 338.1375 to 338.1382, inclusive; and

(b) The lowest responsive and responsible bidder, if bids are required to be solicited from more than one properly licensed contractor pursuant to subsection 1. ***For the purposes of this paragraph, the lowest responsive and responsible bidder must be determined in consideration of any applicable bidder's preference granted pursuant to section 22 of this act.***

Sec. 30. Chapter 417 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Each year on or before October 1, the Office of Veterans' Services shall review the reports submitted pursuant to sections 12 and 24 of this act.

2. In carrying out the provisions of subsection 1, the Office of Veterans' Services shall seek input from:

(a) The Purchasing Division of the Department of Administration.

(b) The State Public Works Board.

(c) The Commission on Economic Development.

(d) Groups representing the interests of veterans of the Armed Forces of the United States.

(e) The business community.

(f) Local businesses owned by service-disabled veterans.

3. *After performing the duties described in subsections 1 and 2, the Office of Veterans' Services shall make recommendations to the Legislative Commission regarding the continuation, modification, promotion or expansion of the preferences for local businesses owned by service-disabled veterans which are described in sections 10 and 22 of this act.*

4. *As used in this section:*

(a) "Business owned by a service-disabled veteran" has the meaning ascribed to it in section 6 of this act.

(b) "Local business" has the meaning ascribed to it in section 7 of this act.

(c) "Service-disabled veteran" has the meaning ascribed to it in section 8 of this act.

Sec. 31. NRS 333.336 is hereby repealed.

Sec. 32. 1. This section, ~~it~~ **and** sections 1 to 26, inclusive, ~~and~~ 29, 30 and 31 of this act become effective on October 1, 2009.

2. Section 27 of this act expires by limitation on April 30, 2013.

3. Section 28 of this act becomes effective on May 1, 2013.

TEXT OF REPEALED SECTION

333.336 Inverse preference imposed on certain bidders resident outside State of Nevada.

For the purpose of awarding a contract pursuant to this chapter, if a person who submits a bid or proposal:

1. Is a resident of a state other than the State of Nevada; and

2. That other state, with respect to contracts awarded by that other state or agencies of that other state, applies to bidders or contractors who are residents of that state a preference which is not afforded to bidders or contractors who are residents of the State of Nevada,

↪ the person or entity responsible for awarding the contract pursuant to this chapter shall, insofar as is practicable, increase the person's bid or proposal by an amount that is substantially equivalent to the preference that the other state of which the person is a resident denies to bidders or contractors who are residents of the State of Nevada.

Assemblywoman Smith moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Assembly Bill No. 3.

Bill read third time.

Remarks by Assemblyman Manendo.

Potential conflict of interest declared by Assemblyman Manendo.

Roll call on Assembly Bill No. 3:

YEAS—41.

NAYS—None.

EXCUSED—Carpenter.

Assembly Bill No. 3 having received a constitutional majority,
Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 283.

Bill read third time.

Remarks by Assemblyman Manendo.

Roll call on Assembly Bill No. 283:

YEAS—41.

NAYS—None.

EXCUSED—Carpenter.

Assembly Bill No. 283 having received a constitutional majority,
Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 482.

Bill read third time.

Roll call on Assembly Bill No. 482:

YEAS—41.

NAYS—None.

EXCUSED—Carpenter.

Assembly Bill No. 482 having received a constitutional majority,
Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 494.

Bill read third time.

Remarks by Assemblywoman Kirkpatrick.

Roll call on Assembly Bill No. 494:

YEAS—41.

NAYS—None.

EXCUSED—Carpenter.

Assembly Bill No. 494 having received a constitutional majority,
Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 23.

Bill read third time.

Remarks by Assemblywoman Mastroluca.

Roll call on Senate Bill No. 23:

YEAS—41.

NAYS—None.

EXCUSED—Carpenter.

Senate Bill No. 23 having received a constitutional majority,
Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 59.

Bill read third time.

Remarks by Assemblyman Settlemeyer.

Roll call on Senate Bill No. 59:

YEAS—40.

NAYS—Cobb.

EXCUSED—Carpenter.

Senate Bill No. 59 having received a constitutional majority,
Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 61.

Bill read third time.

Remarks by Assemblymen Goedhart and Smith.

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

Roll call on Senate Bill No. 61:

YEAS—41.

NAYS—None.

EXCUSED—Carpenter.

Senate Bill No. 61 having received a constitutional majority,
Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 76.

Bill read third time.

Remarks by Assemblywoman Woodbury.

Roll call on Senate Bill No. 76:

YEAS—41.

NAYS—None.

EXCUSED—Carpenter.

Senate Bill No. 76 having received a constitutional majority,
Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 139.

Bill read third time.

Remarks by Assemblyman Manendo.

Potential conflict of interest declared by Assemblyman Manendo.

Roll call on Senate Bill No. 139:

YEAS—41.

NAYS—None.

EXCUSED—Carpenter.

Senate Bill No. 139 having received a constitutional majority,
Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 144.

Bill read third time.

Remarks by Assemblymen Christensen and Kirkpatrick.

Roll call on Senate Bill No. 144:

YEAS—41.

NAYS—None.

EXCUSED—Carpenter.

Senate Bill No. 144 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Ocegüera moved that Senate Bill No. 158 be taken from the General File and placed on the Chief Clerk's desk.

Motion carried.

Assemblyman Ocegüera moved that Senate Bill No. 207 be taken from its position on the General File and placed at the bottom of the General File.

Motion carried.

Assemblyman Ocegüera moved that all rules be suspended and that the Assembly dispense with the reprinting of Assembly Bill No. 223 and that it be placed on third reading and final passage.

Motion carried.

GENERAL FILE AND THIRD READING

Senate Bill No. 256.

Bill read third time.

Remarks by Assemblymen Smith and Anderson.

Roll call on Senate Bill No. 256:

YEAS—38.

NAYS—Cobb, Gustavson, McArthur—3.

EXCUSED—Carpenter.

Senate Bill No. 256 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Ocegüera moved that Senate Bills Nos. 106, 207, 287, 317; Senate Joint Resolutions Nos. 3 and 9 be taken from their position on the General File and placed at the bottom of the General File.

Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 99.

Bill read third time.

Roll call on Assembly Bill No. 99:

YEAS—41.

NAYS—None.

EXCUSED—Carpenter.

Assembly Bill No. 99 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 279.

Bill read third time.

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

Amendment No. 637.

~~SUMMARY ~~[Makes various changes relating to certain convicted persons.]~~~~ **Requires the preservation of certain biological evidence under certain circumstances.** (BDR 14-518)

AN ACT relating to offenders; requiring the preservation of certain biological evidence under certain circumstances; ~~[authorizing certain persons to be committed to the Department of Corrections for evaluation;]~~ and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 2 of this bill provides that upon the conviction of a defendant for a category A or B felony, an agency of criminal justice that possesses any biological evidence secured in connection with the investigation or prosecution of the defendant is required to preserve such evidence until the expiration of any sentence imposed on the defendant.

~~[Sections 4, 6, 7, 9 and 10 of this bill authorize a court to commit before sentencing or as a condition of probation, offenders who have never been sentenced to imprisonment for more than 6 months as adults to the Department of Corrections or a local detention center for certain periods of evaluation. Such evaluations may be completed in conjunction with the Department of Health and Human Services. Upon conclusion of the evaluation period of such an offender, the Department of Corrections is required to report its results and the recommendations of the Department of Health and Human Services to the court to assist the court in determining whether to grant probation or impose a sentence of imprisonment.]~~

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

Section 1. Chapter 176 of NRS is hereby amended by adding thereto the provisions set forth as sections 2, 3 and 4 of this act.

Sec. 2. *1. Except as otherwise provided in this section, upon the conviction of a defendant for a category A or B felony, an agency of criminal justice that has in its possession or custody any biological evidence secured in connection with the investigation or prosecution of the defendant shall preserve such evidence until the expiration of any sentence imposed on the defendant.*

2. Biological evidence subject to the requirements of this section may be consumed for testing upon notice to the defendant.

3. An agency of criminal justice may establish procedures for:

(a) Retaining probative samples of biological evidence subject to the requirements of this section; and

(b) Disposing of bulk evidence that does not affect the suitability of such probative samples for testing.

4. The provisions of this section must not be construed to restrict or limit an agency of criminal justice from establishing procedures for the retention, preservation and disposal of biological evidence secured in connection with other criminal cases.

5. As used in this section:

(a) "Agency of criminal justice" has the meaning ascribed to it in NRS 179A.030.

(b) "Biological evidence" means any semen, blood, saliva, hair, skin tissue or other identified biological material removed from physical evidence.

(c) "Sexual offense" has the meaning ascribed to it in NRS 179D.097.

Sec. 3. (Deleted by amendment.)

Sec. 4. ~~1. If a defendant has been convicted of a felony for which he may be sentenced to imprisonment and has never been sentenced to imprisonment as an adult for more than 6 months, the court may, before sentencing the defendant or as a condition of probation:~~

~~(a) Commit him to the custody of the Director of the Department of Corrections for a period of evaluation not to exceed 30 days;~~

~~(b) Provide for short term incarceration in the custody of the local detention center or in the custody of the Director of the Department of Corrections for a period not to exceed 30 days; or~~

~~(c) Commit the defendant to the custody of the Director of the Department of Corrections for a period not to exceed 180 days as an intermediate sanction where intensive treatment will be provided under the supervision of the Director of the Department of Health and Human Services.~~

~~2. The Department of Corrections shall return the defendant to the court not later than the end of the period ordered under subsection 1, together with any evaluation of the defendant by the Department of Corrections and any recommendations of the Department of Health and Human Services.~~

~~3. During any period prescribed under subsection 1, the defendant may undergo:~~

~~(a) An intake evaluation, including an evaluation of his dental, medical and mental health, provided by the Department of Corrections or the Department of Health and Human Services;~~

~~(b) Substance abuse treatment provided by the Department of Health and Human Services;~~

~~(c) Mental health treatment provided by the Department of Health and Human Services; and~~

~~(d) Job training and placement provided by the Department of Employment, Training and Rehabilitation.~~

~~4.—Upon receiving the evaluation and recommendations, the court shall sentence the defendant to:~~

~~(a) An appropriate term of imprisonment, the duration of which must be computed from the date of commitment under subsection 1, or~~

~~(b) Probation, a condition of which must be that the defendant serve a number of days in the state prison equal to or greater than the number of days spent in confinement under subsection 1, including the day of commitment.] (Deleted by amendment.)~~

Sec. 5. NRS 176.0911 is hereby amended to read as follows:

176.0911 As used in NRS 176.0911 to 176.0917, inclusive, *and section 2 of this act*, unless the context otherwise requires, “CODIS” means the Combined DNA Indexing System operated by the Federal Bureau of Investigation.

Sec. 6. ~~[NRS 176.105 is hereby amended to read as follows:~~

~~176.105 1.—If a defendant is found guilty and is [sentenced]:~~

~~(a) To be committed to the custody of the Director of the Department of Corrections pursuant to section 4 of this act, the judgment of conviction must set forth the plea, the verdict or finding and the adjudication.~~

~~(b) Sentenced as provided by law, the judgment of conviction must set forth:~~

~~[(a)] (1) The plea;~~

~~[(b)] (2) The verdict or finding;~~

~~[(c)] (3) The adjudication and sentence, including the date of the sentence, any term of imprisonment, the amount and terms of any fine, restitution or administrative assessment, a reference to the statute under which the defendant is sentenced and, if necessary to determine eligibility for parole, the applicable provision of the statute; and~~

~~[(d)] (4) The exact amount of credit granted for time spent in confinement before conviction, if any.~~

~~2.—If the defendant is found not guilty, or for any other reason is entitled to be discharged, judgment must be entered accordingly.~~

~~3.—The judgment must be signed by the judge and entered by the clerk.] (Deleted by amendment.)~~

Sec. 7. ~~[NRS 176.133 is hereby amended to read as follows:~~

~~176.133 As used in NRS 176.133 to 176.159, inclusive, *and section 4 of this act*, unless the context otherwise requires:~~

~~1.—“Person professionally qualified to conduct psychosexual evaluations” means a person who has received training in conducting psychosexual evaluations and is:~~

~~(a) A psychiatrist licensed to practice medicine in this State and certified by the American Board of Psychiatry and Neurology, Inc.;~~

~~(b) A psychologist licensed to practice in this State;~~

~~(c) A social worker holding a master's degree in social work and licensed in this State as a clinical social worker;~~

~~(d) A registered nurse holding a master's degree in the field of psychiatric nursing and licensed to practice professional nursing in this State;~~

~~(e) A marriage and family therapist licensed in this State pursuant to chapter 641A of NRS; or~~

~~(f) A clinical professional counselor licensed in this State pursuant to chapter 641A of NRS.~~

~~2. "Psychosexual evaluation" means an evaluation conducted pursuant to NRS 176.139.~~

~~3. "Sexual offense" means:~~

~~(a) Sexual assault pursuant to NRS 200.366;~~

~~(b) Statutory sexual seduction pursuant to NRS 200.368, if punished as a felony;~~

~~(c) Battery with intent to commit sexual assault pursuant to NRS 200.400;~~

~~(d) Abuse of a child pursuant to NRS 200.508, if the abuse involved sexual abuse or sexual exploitation and is punished as a felony;~~

~~(e) An offense involving pornography and a minor pursuant to NRS 200.710 to 200.730, inclusive;~~

~~(f) Incest pursuant to NRS 201.180;~~

~~(g) Solicitation of a minor to engage in acts constituting the infamous crime against nature pursuant to NRS 201.195, if punished as a felony;~~

~~(h) Open or gross lewdness pursuant to NRS 201.210, if punished as a felony;~~

~~(i) Indecent or obscene exposure pursuant to NRS 201.220, if punished as a felony;~~

~~(j) Lewdness with a child pursuant to NRS 201.230;~~

~~(k) Sexual penetration of a dead human body pursuant to NRS 201.450;~~

~~(l) Luring a child or a person with mental illness pursuant to NRS 201.560, if punished as a felony;~~

~~(m) An attempt to commit an offense listed in paragraphs (a) to (l), inclusive, if punished as a felony; or~~

~~(n) An offense that is determined to be sexually motivated pursuant to NRS 175.547 or 207.193. (Deleted by amendment.)~~

Sec. 8. (Deleted by amendment.)

Sec. 9. ~~[NRS 209.341 is hereby amended to read as follows:~~

~~209.341 The Director shall:~~

~~1. Establish, with the approval of the Board, a system of initial classification and evaluation for offenders who are *committed to him for evaluation by the Department* or sentenced to imprisonment in the state prison; and~~

~~2. Assign every person who is *committed to him for evaluation by the Department* or sentenced to imprisonment in the state prison to an appropriate institution or facility of the Department. The assignment must be~~

~~based on an evaluation of the offender's records, particular needs and requirements for custody.] (Deleted by amendment.)~~

Sec. 10. ~~[NRS 209.385 is hereby amended to read as follows:~~

~~209.385 1. Each offender committed to the custody of the department for *evaluation or* imprisonment shall submit to such initial tests as the Director determines appropriate to detect exposure to the human immunodeficiency virus. Each such test must be approved by regulation of the State Board of Health. At the time the offender is committed to custody and after an incident involving the offender:~~

~~(a) The appropriate approved tests must be administered; and~~

~~(b) The offender must receive counseling regarding the virus.~~

~~2. If the results of an initial test are positive, the offender shall submit to such supplemental tests as the Director determines appropriate. Each such test must be approved for the purpose by regulation of the State Board of Health.~~

~~3. If the results of a supplemental test are positive, the name of the offender must be disclosed to:~~

~~(a) The Director;~~

~~(b) The administrative officers of the Department who are responsible for the classification and medical treatment of offenders;~~

~~(c) The manager or warden of the facility or institution at which the offender is confined; and~~

~~(d) Each other employee of the Department whose normal duties involve him with the offender or require him to come into contact with the blood or bodily fluids of the offender.~~

~~4. The offender must be segregated from every other offender whose test results are negative if:~~

~~(a) The results of a supplemental test are positive; and~~

~~(b) The offender engages in behavior that increases the risk of transmitting the virus, such as battery, the infamous crime against nature, sexual intercourse in its ordinary meaning or illegal intravenous injection of a controlled substance or a dangerous drug as defined in chapter 454 of NRS.~~

~~5. The Director, with the approval of the Board:~~

~~(a) Shall establish for inmates and employees of the Department an educational program regarding the virus whose curriculum is provided by the Health Division of the Department of Health and Human Services. A person who provides instruction for this program must be certified to do so by the Health Division.~~

~~(b) May adopt such regulations as are necessary to carry out the provisions of this section.~~

~~6. As used in this section:~~

~~(a) "Incident" means an occurrence, of a kind specified by regulation of the State Board of Health, that entails a significant risk of exposure to the human immunodeficiency virus.~~

~~(b) "Infamous crime against nature" means anal intercourse, cunnilingus or fellatio between natural persons of the same sex.] (Deleted by amendment.)~~

Assemblyman Arberry moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Assembly Bill No. 349.

Bill read third time.

Remarks by Assemblywoman Parnell.

Roll call on Assembly Bill No. 349:

YEAS—41.

NAYS—None.

EXCUSED—Carpenter.

Assembly Bill No. 349 having received a two-thirds majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 359.

Bill read third time.

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

Amendment No. 634.

AN ACT relating to education; creating the Grant Fund for the Training and Education of Personnel Who Work With Pupils With Autism; requiring that the boards of trustees of school districts and the governing bodies of charter schools, to the extent money is available, ensure that certain personnel possess the skills and qualifications necessary to work with pupils with autism; requiring the Health Division of the Department of Health and Human Services to ensure that certain personnel possess the skills and qualifications necessary to provide services to children with autism and their families; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 3 of this bill creates the Grant Fund for the Training and Education of Personnel Who Work With Pupils With Autism to provide grants of money to school districts and charter schools for programs of training of certain personnel.

Section 4 of this bill requires the board of trustees of each school district and the governing body of each charter school, to the extent money is available from the Grant Fund, to ensure that the personnel employed by the school district or charter school who work with pupils with autism receive the appropriate preparation and training necessary to serve those pupils.

Section 5 of this bill requires the board of trustees of each school district and the governing body of each charter school, to the extent money is available from the Grant Fund, to ensure that the licensed educational personnel employed by the school district or charter school who are assigned to assist a

parent or legal guardian of a pupil with autism in making decisions about the services and programs available for the pupil receive the appropriate preparation and training necessary to assist those persons. **Section 7** of this bill requires the board of trustees of each school district and the governing body of each charter school, to the extent money is available from the Grant Fund, to ensure that a paraprofessional who is employed by the school district or charter school who is assigned to work with a pupil with autism receives the appropriate preparation and training necessary to serve those pupils.

Section 8 of this bill requires the personnel of the Health Division of the Department of Health and Human Services who provide early intervention services and the persons with whom the Health Division contracts to provide those services to possess the knowledge and skills necessary to provide services to children with autism and their families.

~~[Section 9 of this bill requires that any money received by this State pursuant to the American Recovery and Reinvestment Act of 2009, Public Law 111-5, to assist school districts with the training of personnel to assist pupils with autism be deposited in the Grant Fund.]~~

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 7, inclusive, of this act.

Sec. 2. *As used in sections 2 to 7, inclusive, of this act, unless the context otherwise requires, "Grant Fund" means the Grant Fund for the Training and Education of Personnel Who Work With Pupils With Autism.*

Sec. 3. 1. *There is hereby created the Grant Fund for the Training and Education of Personnel Who Work With Pupils With Autism to be administered by the Department. The Department may accept gifts, grants and donations from any source for deposit in the Grant Fund.*

2. *The money in the Grant Fund must be used only for the distribution of money to school districts and charter schools for programs of training as set forth in sections 4, 5 and 7 of this act and to provide assistance to licensed educational personnel who work with pupils with autism in obtaining an appropriate endorsement to teach those pupils.*

3. *The board of trustees of a school district or the governing body of a charter school may apply to the Department on a form prescribed by the Department for a grant of money from the Grant Fund. The application must include a description of the program of training for which the grant of money will be used.*

Sec. 4. 1. *To the extent money is available from the Grant Fund, the board of trustees of each school district and the governing body of each charter school shall ensure that the licensed educational personnel employed by the school district or charter school who work with pupils with*

autism receive the appropriate preparation and training necessary to serve those pupils. The training may include, without limitation:

(a) The characteristics of autism, including, without limitation, behavioral and communication characteristics;

(b) Methods for determining, on a regular and consistent basis, the specific needs of a pupil with autism to ensure the pupil is meeting the objectives and goals described in the individualized education program of the pupil or other educational plan prepared for the pupil;

(c) The procedure for evaluating pupils who demonstrate behaviors which are consistent with autism;

(d) Approaches for use in the classroom to assist a pupil with autism with communication and social development; and

(e) Methods of providing support to pupils with autism and their families.

2. To the extent money is available from the Grant Fund, the board of trustees of a school district or the governing body of a charter school may enter into an agreement with a local corporation, business, organization or other entity to provide training for licensed educational personnel employed by the school district or charter school who work with pupils with autism in accordance with this section.

Sec. 5. To the extent money is available from the Grant Fund, the board of trustees of each school district and the governing body of each charter school shall ensure that the licensed educational personnel employed by the school district or charter school who are assigned to assist a parent or legal guardian of a pupil with autism in making decisions about the services and programs available for the pupil receive the appropriate preparation and training:

1. On using the 2008 Report of the Nevada Autism Task Force and any subsequent report issued by the Nevada Autism Task Force created pursuant to chapter 348, Statutes of Nevada 2007, to determine best practices in the development of programs for pupils with autism; and

2. To provide the parent or legal guardian with information on all options for treatment and intervention that may assist the pupil in his development and advancement.

Sec. 6. (Deleted by amendment.)

Sec. 7. 1. To the extent money is available from the Grant Fund, the board of trustees of each school district and the governing body of each charter school shall ensure that a paraprofessional who is employed by the school district or charter school to provide assistance to pupils with autism receives the appropriate preparation and training to acquire:

(a) Knowledge of autism, including, without limitation:

(1) The characteristics of autism and the range of spectrum disorders within a diagnosis of autism;

(2) *An understanding of the importance of building relationships between pupils with autism, other pupils and teachers or adults to encourage the independence of a pupil with autism; and*

(3) *The ability to determine the patterns of behavior of pupils with autism;*

(b) *The ability to provide structure and predictability through the consistent use of methods that support prior learning and continued development;*

(c) *The ability to adapt, modify or structure the environment based upon an understanding of the auditory, visual or other sensory stimuli which may be reinforcing, calming or distracting to the pupil;*

(d) *The ability to use positive behavioral supports, including, without limitation, the use of discrete trial, structured teaching methods, reinforcement and generalized approaches to enhance the pupil's education and prevent behavioral problems, as directed by the pupil's teacher or other appropriate personnel;*

(e) *The ability to accurately collect and record data on the progress of a pupil with autism and report to the pupil's teacher in a timely manner if a particular strategy or program is not producing the planned outcome for the pupil; and*

(f) *The ability to communicate effectively and consistently with pupils with autism using communication techniques designed for those pupils.*

2. *To the extent money is available from the Grant Fund, the board of trustees of a school district or the governing body of a charter school may enter into an agreement with a local corporation, business, organization or other entity to provide training for a paraprofessional who provides assistance to pupils with autism in accordance with this section.*

Sec. 8. Chapter 442 of NRS is hereby amended by adding thereto a new section to read as follows:

1. *The Health Division shall ensure that the personnel employed by the Health Division who provide early intervention services to children with autism and the persons with whom the Health Division contracts to provide early intervention services to children with autism possess the knowledge and skills necessary to serve children with autism, including, without limitation:*

(a) *The screening of a child for autism at the age levels and frequency recommended by the American Academy of Pediatrics, or its successor organization;*

(b) *The procedure for evaluating children who demonstrate behaviors which are consistent with autism;*

(c) *The procedure for enrolling a child in early intervention services upon determining that the child has autism;*

(d) *Methods of providing support to children with autism and their families; and*

(e) *The procedure for developing an individualized family service plan in accordance with Part C of the Individuals with Disabilities Education Act, 20 U.S.C. §§ 1431 et seq., or other appropriate plan for the child.*

2. *The Health Division shall ensure that the personnel employed by the Health Division to provide early intervention services to children with autism and the persons with whom the Health Division contracts to provide early intervention services to children with autism:*

(a) *Possess the knowledge and understanding of the scientific research and support for the methods and approaches for serving children with autism and the ability to recognize the difference between an approach or method that is scientifically validated and one that is not;*

(b) *Possess the knowledge to accurately describe to parents and guardians the research supporting the methods and approaches, including, without limitation, the knowledge necessary to provide an explanation that a method or approach is experimental if it is not supported by scientific evidence;*

(c) *Immediately notify a parent or legal guardian if a child is identified as being at risk for a diagnosis of autism and refer the parent or legal guardian to the appropriate professionals for further evaluation and simultaneously refer the parent or legal guardian to any appropriate early intervention services and strategies; and*

(d) *Provide the parent or legal guardian with information on evidence-based treatments and interventions that may assist the child in his development and advancement.*

3. *The Health Division shall ensure that the personnel employed by the Health Division who provide early intervention screenings to children and the persons with whom the Health Division contracts to provide early intervention screenings to children perform screenings of children for autism at the age levels and frequency recommended by the American Academy of Pediatrics, or its successor organization.*

Sec. 9. ~~[Notwithstanding any other provision of law to the contrary, if any money is received by this State pursuant to the American Recovery and Reinvestment Act of 2009, Public Law 111-5, which is designated for expenditure from the State Distributive Account in the State General Fund by the Legislature for Fiscal Years 2009-2010 and 2010-2011 to assist school districts with the training of personnel to assist pupils with autism, the money must be deposited in the Grant Fund for the Training and Education of Personnel Who Work With Pupils With Autism created by section 3 of this act.] (Deleted by amendment.)~~

Sec. 10. ~~[1.—This section and section 9 of this act become effective upon passage and approval.~~

~~2.—Sections 1 to 8, inclusive, of this act become] This act becomes effective on July 1, 2009.~~

Assemblyman Arberry moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Assembly Bill No. 461.

Bill read third time.

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

Amendment No. 632.

AN ACT relating to older persons; revising the provisions pertaining to the ~~persons who are required to report the~~ **reporting of** abuse, neglect, exploitation or isolation of an older person; providing for the establishment of a multidisciplinary team; ~~increasing certain filing fees;~~ making various other changes relating to older persons; ~~making an appropriation;~~ and providing other matters properly relating thereto.

Legislative Counsel's Digest:

~~Under existing law, certain persons, including, without limitation, medical professionals, therapists and social workers, are required to make a report if the person knows or reasonably believes an older person has been abused, neglected, exploited or isolated. (NRS 200.5093) Section 1 of this bill adds to the list of persons required to make such a report: (1) religious leaders, unless the religious leader acquired knowledge of the abuse, neglect, exploitation or isolation during a confession; and (2) attorneys, unless the attorney acquired knowledge of the abuse, neglect, exploitation or isolation from a client who is or may be accused of the crime.]~~

Existing law requires certain governmental entities to forward to the Aging Services Division of the Department of Health and Human Services and to the Unit for the Investigation and Prosecution of Crimes Against Older Persons in the Office of the Attorney General a copy of the final report of the investigation of a report of abuse, neglect, exploitation or isolation of an older person. (NRS 200.5093) **Section 1** of this bill: (1) adds the Repository for Information Concerning Crimes Against Older Persons to the list of entities that must be forwarded a copy of such a report; and (2) changes the period within which the report must be forwarded from 90 days after the completion of the report to 30 days after the completion of the report.

~~Section 3 of this bill imposes a filing fee of \$10 for deposit in the Account for the Unit for the Investigation and Prosecution of Crimes Against Older Persons. (Chapter 19 of NRS)]~~

Existing law allows a prospective witness who may be unable to attend or may be prevented from attending a trial or hearing to have his deposition taken, if his testimony is material, in order to prevent a failure of justice. (NRS 174.175) At a trial or hearing, a part or all of a deposition may be used if it appears that: (1) the witness is dead; (2) the witness is out of the State of Nevada; (3) the witness is sick; (4) the witness has become of unsound mind; or (5) the party offering the deposition could not procure the attendance of

the witness by subpoena. (NRS 174.215) **Section 4** of this bill expands the list of prospective witnesses who may have their deposition taken to include ~~elder persons.]~~ **persons who are 70 years of age or older.** (NRS 174.175)

Section 5 of this bill allows the Repository for Information Concerning Crimes Against Older Persons to include records of every incident of elder abuse reported to any entity and certain additional information related to each incident. (NRS 179A.450)

Section 6 of this bill allows the Unit for the Investigation and Prosecution of Crimes Against Older Persons to establish a multidisciplinary team to review any allegations of abuse, neglect, exploitation or isolation of an older person or the death of an older person as the result of abuse, neglect or isolation and prescribes its membership. (NRS 228.270) The establishment of such a team does not grant the Unit supervisory authority over any state or local agency that investigates or prosecutes allegations of abuse, neglect, exploitation or isolation of an older person or the death of an older person as the result of abuse, neglect or isolation.

Section 7 of this bill requires the Peace Officers' Standards and Training Commission to adopt regulations that require all peace officers to receive training in the handling of cases involving abuse, neglect, exploitation and isolation of older persons. (NRS 289.510)

~~Section 10 of this bill makes an appropriation to the Account for the Unit for the Investigation and Prosecution of Crimes Against Older Persons.]~~

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

Section 1. NRS 200.5093 is hereby amended to read as follows:

200.5093 1. Any person who is described in subsection 4 and who, in his professional or occupational capacity, knows or has reasonable cause to believe that an older person has been abused, neglected, exploited or isolated shall:

(a) Except as otherwise provided in subsection 2, report the abuse, neglect, exploitation or isolation of the older person to:

(1) The local office of the Aging Services Division of the Department of Health and Human Services;

(2) A police department or sheriff's office;

(3) The county's office for protective services, if one exists in the county where the suspected action occurred; or

(4) A toll-free telephone service designated by the Aging Services Division of the Department of Health and Human Services; and

(b) Make such a report as soon as reasonably practicable but not later than 24 hours after the person knows or has reasonable cause to believe that the older person has been abused, neglected, exploited or isolated.

2. If a person who is required to make a report pursuant to subsection 1 knows or has reasonable cause to believe that the abuse, neglect, exploitation

or isolation of the older person involves an act or omission of the Aging Services Division, another division of the Department of Health and Human Services or a law enforcement agency, the person shall make the report to an agency other than the one alleged to have committed the act or omission.

3. Each agency, after reducing a report to writing, shall forward a copy of the report to the Aging Services Division of the Department of Health and Human Services and the Unit for the Investigation and Prosecution of Crimes.

4. A report must be made pursuant to subsection 1 by the following persons:

(a) Every physician, dentist, dental hygienist, chiropractor, optometrist, podiatric physician, medical examiner, resident, intern, professional or practical nurse, physician assistant licensed pursuant to chapter 630 or 633 of NRS, psychiatrist, psychologist, marriage and family therapist, clinical professional counselor, clinical alcohol and drug abuse counselor, alcohol and drug abuse counselor, athletic trainer, driver of an ambulance, advanced emergency medical technician or other person providing medical services licensed or certified to practice in this State, who examines, attends or treats an older person who appears to have been abused, neglected, exploited or isolated.

(b) Any personnel of a hospital or similar institution engaged in the admission, examination, care or treatment of persons or an administrator, manager or other person in charge of a hospital or similar institution upon notification of the suspected abuse, neglect, exploitation or isolation of an older person by a member of the staff of the hospital.

(c) A coroner.

(d) Every person who maintains or is employed by an agency to provide personal care services in the home.

(e) Every person who maintains or is employed by an agency to provide nursing in the home.

(f) Every person who operates, who is employed by or who contracts to provide services for an intermediary service organization as defined in NRS 426.218.

(g) Any employee of the Department of Health and Human Services.

(h) Any employee of a law enforcement agency or a county's office for protective services or an adult or juvenile probation officer.

(i) Any person who maintains or is employed by a facility or establishment that provides care for older persons.

(j) Any person who maintains, is employed by or serves as a volunteer for an agency or service which advises persons regarding the abuse, neglect, exploitation or isolation of an older person and refers them to persons and agencies where their requests and needs can be met.

(k) Every social worker.

(l) Any person who owns or is employed by a funeral home or mortuary.

~~f (m) A clergyman, practitioner of Christian Science or a religious healer, unless he acquired knowledge of the abuse, neglect, exploitation or isolation from the offender during a confession.~~

~~(n) An attorney, unless he has acquired knowledge of the abuse, neglect, exploitation or isolation from a client who is or may be accused of the abuse, neglect, exploitation or isolation.~~

5. A report may be made by any other person.

6. If a person who is required to make a report pursuant to subsection 1 knows or has reasonable cause to believe that an older person has died as a result of abuse, neglect or isolation, the person shall, as soon as reasonably practicable, report this belief to the appropriate medical examiner or coroner, who shall investigate the cause of death of the older person and submit to the appropriate local law enforcement agencies, the appropriate prosecuting attorney, the Aging Services Division of the Department of Health and Human Services and the Unit for the Investigation and Prosecution of Crimes his written findings. The written findings must include the information required pursuant to the provisions of NRS 200.5094, when possible.

7. A division, office or department which receives a report pursuant to this section shall cause the investigation of the report to commence within 3 working days. A copy of the final report of the investigation conducted by a division, office or department, other than the Aging Services Division of the Department of Health and Human Services, must be forwarded **within 30 days after the completion of the report** to the :

~~(a) Aging Services Division [within 90 days after the completion of the report, and a copy of any final report of an investigation must be forwarded to the];~~

(b) Repository for Information Concerning Crimes Against Older Persons created by NRS 179A.450; and

~~(c) Unit for the Investigation and Prosecution of Crimes . [within 90 days after completion of the report.]~~

8. If the investigation of a report results in the belief that an older person is abused, neglected, exploited or isolated, the Aging Services Division of the Department of Health and Human Services or the county's office for protective services may provide protective services to the older person if he is able and willing to accept them.

9. A person who knowingly and willfully violates any of the provisions of this section is guilty of a misdemeanor.

10. As used in this section, "Unit for the Investigation and Prosecution of Crimes" means the Unit for the Investigation and Prosecution of Crimes Against Older Persons in the Office of the Attorney General created pursuant to NRS 228.265.

Sec. 2. (Deleted by amendment.)

~~Sec. 3. [Chapter 10 of NRS is hereby amended by adding thereto a new section to read as follows:~~

~~1. Except as otherwise provided by specific statute, on the commencement of any civil action or proceeding in the district court, other than the commencement of a proceeding for an adoption, the county clerk of a county, in addition to any other fees provided by law, shall charge and collect \$10 from the party commencing the action or proceeding.~~

~~2. On or before the first Monday of each month, the county clerk shall pay over to the county treasurer the amount of all fees collected by him pursuant to subsection 1 and the county treasurer shall place that amount to the credit of the State General Fund. Quarterly, the county treasurer shall remit all money so collected to the State Controller, who shall place the money in the Account for the Unit for the Investigation and Prosecution of Crimes Against Older Persons created pursuant to NRS ~~228.285.7~~ (Deleted by amendment.)~~

Sec. 4. NRS 174.175 is hereby amended to read as follows:

174.175 1. If it appears that a prospective witness *is an older person or* may be unable to attend or prevented from attending a trial or hearing, that his testimony is material and that it is necessary to take his deposition in order to prevent a failure of justice, the court at any time after the filing of an indictment, information or complaint may upon motion of a defendant or of the State and notice to the parties order that his testimony be taken by deposition and that any designated books, papers, documents or tangible objects, not privileged, be produced at the same time and place. If the deposition is taken upon motion of the State, the court shall order that it be taken under such conditions as will afford to each defendant the opportunity to confront the witnesses against him.

2. If a witness is committed for failure to give bail to appear to testify at a trial or hearing, the court on written motion of the witness and upon notice to the parties may direct that his deposition be taken. After the deposition has been subscribed the court may discharge the witness.

3. This section does not apply to the prosecutor, or to an accomplice in the commission of the offense charged.

4. *As used in this section, "older person" means a person who is ~~60~~ 70 years of age or older.*

Sec. 5. NRS 179A.450 is hereby amended to read as follows:

179A.450 1. The Repository for Information Concerning Crimes Against Older Persons is hereby created within the Central Repository.

2. The Repository for Information Concerning Crimes Against Older Persons must contain a complete and systematic record of all reports of crimes against older persons committed in this State. ~~that~~ **The record** must be prepared in a manner approved by the Director of the Department ~~and~~ **may include, without limitation, the following information:**

(a) *All incidents that are reported to any entity.*

(b) *All cases that are currently under investigation and the type of such cases.*

(c) *All cases that are referred for prosecution and the type of such cases.*

(d) All cases in which prosecution is declined or dismissed and any reason for such action.

(e) All cases that are prosecuted and the final disposition of such cases.

(f) All cases that are resolved by agencies which provide protective services and the type of such cases.

3. The Director of the Department shall compile and analyze the data collected pursuant to this section to assess the incidence of crimes against older persons.

4. On or before July 1 of each year, the Director of the Department shall prepare and submit a report to the Director of the Legislative Counsel Bureau for transmittal to the Legislature that sets forth statistical data on crimes against older persons.

5. The data acquired pursuant to this section is confidential and must be used only for the purpose of research. The data and findings generated pursuant to this section must not contain information that may reveal the identity of an individual victim of a crime.

6. As used in this section, "older person" means a person who is 60 years of age or older.

Sec. 6. NRS 228.270 is hereby amended to read as follows:

228.270 *1.* The Unit may investigate and prosecute any alleged abuse, neglect, exploitation or isolation of an older person in violation of NRS 200.5099 or 200.50995 and any failure to report such a violation pursuant to NRS 200.5093:

~~1-1~~ *(a)* At the request of the district attorney of the county in which the violation occurred;

~~1-2~~ *(b)* If the district attorney of the county in which the violation occurred fails, neglects or refuses to prosecute the violation; or

~~1-3~~ *(c)* Jointly with the district attorney of the county in which the violation occurred.

2. The Unit may organize or sponsor one or more multidisciplinary teams to review any allegations of abuse, neglect, exploitation or isolation of an older person or the death of an older person that is alleged to be from abuse, neglect or isolation. A multidisciplinary team may include, without limitation, the following members:

(a) A representative of the Unit;

(b) Any law enforcement agency that is involved with the case under review;

(c) The district attorney's office in the county where the case is under review;

(d) The Aging Services Division of the Department of Health and Human Services or the county's office of protective services, if one exists in the county where the case is under review;

(e) A representative of the coroner's office; and

(f) Any other medical professional or financial professional that the Attorney General deems appropriate for the review.

3. Each organization represented on a multidisciplinary team may share with other members of the team information in its possession concerning the older person who is the subject of the review or any person who was in contact with the older person and any other information deemed by the organization to be pertinent to the review. Any information shared by an organization with other members of a team is confidential.

4. The organizing or sponsoring of a multidisciplinary team pursuant to subsection 2 does not grant the Unit supervisory authority over, or restrict or impair the statutory authority of, any state or local agency responsible for the investigation or prosecution of allegations of abuse, neglect, exploitation or isolation of an older person or the death of an older person that is alleged to be the result of abuse, neglect or isolation.

Sec. 7. NRS 289.510 is hereby amended to read as follows:

289.510 1. The Commission:

(a) Shall meet at the call of the Chairman, who must be elected by a majority vote of the members of the Commission.

(b) Shall provide for and encourage the training and education of persons whose primary duty is law enforcement to ensure the safety of the residents of and visitors to this State.

(c) Shall adopt regulations establishing minimum standards for the certification and decertification, recruitment, selection and training of peace officers. The regulations must establish:

(1) Requirements for basic training for category I, category II and category III peace officers and reserve peace officers;

(2) Standards for programs for the continuing education of peace officers, including minimum courses of study and requirements concerning attendance;

(3) Qualifications for instructors of peace officers; and

(4) Requirements for the certification of a course of training.

(d) Shall, when necessary, present courses of training and continuing education courses for category I, category II and category III peace officers and reserve peace officers.

(e) May make necessary inquiries to determine whether the agencies of this State and of the local governments are complying with standards set forth in its regulations.

(f) Shall carry out the duties required of the Commission pursuant to NRS 432B.610 and 432B.620.

(g) May perform any other acts that may be necessary and appropriate to the functions of the Commission as set forth in NRS 289.450 to 289.600, inclusive.

(h) May enter into an interlocal agreement with an Indian tribe to provide training to and certification of persons employed as police officers by that Indian tribe.

2. Regulations adopted by the Commission:

(a) Apply to all agencies of this State and of local governments in this State that employ persons as peace officers;

(b) Must require that all peace officers receive training in the handling of cases involving abuse or neglect of children or missing children; ~~and~~

(c) ***Must require that all peace officers receive training in the handling of cases involving abuse, neglect, exploitation and isolation of older persons; and***

(d) May require that training be carried on at institutions which it approves in those regulations.

Sec. 8. (Deleted by amendment.)

Sec. 9. (Deleted by amendment.)

Sec. 10. ~~[There is hereby appropriated from the State General Fund to the Account for the Unit for the Investigation and Prosecution of Crimes Against Older Persons to be used for the purposes set forth in NRS 228.285 the sum of:~~

~~For the Fiscal Year 2009-2010 \$250,000~~

~~For the Fiscal Year 2010-2011 \$250,000]~~

(Deleted by amendment.)

Assemblyman Arberry moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

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

Assembly in recess at 12:49 p.m.

ASSEMBLY IN SESSION

At 12:50 p.m.

Mr. Speaker pro Tempore presiding.

Quorum present.

Assembly Bill No. 458.

Bill read third time.

Remarks by Assemblywomen Buckley, Smith, and Gansert.

Assemblywoman Buckley requested that the following remarks be entered in the Journal.

ASSEMBLYWOMAN BUCKLEY:

Thank you, Mr. Speaker pro Tempore. Assembly Bill 458 stabilizes funding for K-12 education in Nevada. Assembly Bill 458 will return dollars to the K-12 education budget by doing two things: first, creating a rainy day fund to cushion the budget from the harshest effects of economic downturns, and second, stopping the diversion of tax dollars from education.

I certainly don't have to tell anybody in this body the effects of our economic downturn. Our state is facing a loss of 44 percent when we compare to what is needed to fund current services. Because education comprises such a large percentage of our budget, it is hard to shield education from a severe downturn. That is why Assembly Bill 458 is needed—to create an education rainy day fund, so when times are tough, we have an avenue available to us so as to not have to cut our progress.

It seems a short time ago when we were arguing in this legislative body about how much to fund career and technical education, how much to fund full day kindergarten, how much to fund empowerment schools, how much to fund pay for performance in education, and how much to fund the innovative fund for schools. Now look at where we are. It makes no sense to fund education in good times and to take away money in bad times. The children are going to school whether the economy is good or whether the economy is bad. It makes no sense to divert tax dollars for education in order to attract businesses to come here when businesses don't want to come to Nevada because of our educational system. We need a balanced approach and that is what Assembly Bill 458 does. It looks at what is being diverted from education and says it doesn't make sense to divert money from education at a time when education funding needs more. It also looks at the money that comes back to the state when enrollments or projections are lower and says that money will be set aside for the future of education. Assembly Bill 458 will help our state in the long run. It is a long-term reform that can make sure that we are not in the same situation again. I urge your support.

ASSEMBLYWOMAN SMITH:

Thank you, Mr. Speaker pro Tempore. I rise in support of Assembly Bill 458 and appreciate the Speaker bringing this bill forward. She is absolutely right that we have seen the bust and boom with education funding. We saw the end results over the last year when we cut so much from our education budget. We worked hard to provide some funding for pay for performance in the last session—it's gone; empowerment schools, it's gone; the Remediation Trust Fund. This is something my colleagues and I worked on for the better part of the last year and will really put that education money back where it belongs—in education. I will tell you that our constituents and the taxpayers appreciate knowing that when they approve a tax increase, which they have done many times over the years in the name of education funding, they want it to stay there. This is a solid way of making that happen, and I urge your support.

ASSEMBLYWOMAN GANSERT:

Thank you, Mr. Speaker pro Tempore. I have a question. There is some concern about impairing the repayment of current debt, and so I have been looking through the bill trying to make sure that anything that is currently on the books will not be affected by this. There was some discussion about whether it was the net or the gross incremental financing.

ASSEMBLYWOMAN BUCKLEY:

Thank you, Mr. Speaker pro Tempore. To you and through you to the Minority Leader, if a redevelopment agency has a preexisting obligation and compliance with the terms of the obligation is threatened by the setoff, the redevelopment agency shall be held harmless if an opinion of bond counsel—independent of the redevelopment agency, the municipality and the assessor—explains how and for what period such compliance is threatened by the setoff. Preexisting obligations include MOUs where the MOU is executed before April 1, 2009, and where the developers expended funds to excavate, demolish, or otherwise reduce the value of the acquired property. Affecting anything that is already obligated by bond would not be permissible, as it would impair the integrity of that bond.

ASSEMBLYWOMAN GANSERT:

If you have started to work on a project—so the April 1—and put some money into your project, then that potentially would be grandfathered in also?

ASSEMBLYWOMAN BUCKLEY:

Thank you, Mr. Speaker pro Tempore. Where the MOU was executed before April 1, 2009, and where there has been an expenditure of funds with regard to the project a preexisting obligation exists. It is always tricky when you grandfather people in. On one hand, you want to allow someone who relied in good faith on the existing law to proceed where there is money out of pocket. On the other hand, we have seen examples of legislation where we passed legislation as of July 1 and everybody and his brother rushes in, when they don't even have a project. They have a dream and they try to obligate. This is a balance that we struck in discussion with many people who potentially would be affected, and this is, I believe, a fair balance to make sure that

there is an existing MOU and there is an expenditure of funds. We put specific showings that need to be made to make sure it is not just a pipe dream.

Roll call on Assembly Bill No. 458:

YEAS—41.

NAYS—None.

EXCUSED—Carpenter.

Assembly Bill No. 458 having received a constitutional majority, Mr. Speaker pro Tempore declared it passed, as amended.

Bill 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 12:58 p.m.

ASSEMBLY IN SESSION

At 12:58 p.m.

Madam Speaker presiding.

Quorum present.

Assembly Bill No. 488.

Bill read third time.

Remarks by Assemblywoman Parnell.

Roll call on Assembly Bill No. 488:

YEAS—41.

NAYS—None.

EXCUSED—Carpenter.

Assembly Bill No. 488 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 223.

Bill read third time.

Remarks by Assemblymen Smith, Settlemeyer, Spiegel, Gansert, and Claborn.

Roll call on Assembly Bill No. 223:

YEAS—31.

NAYS—Christensen, Cobb, Gansert, Goedhart, Goicoechea, Gustavson, Hambrick, McArthur, Settlemeyer, Woodbury—10.

EXCUSED—Carpenter.

Assembly Bill No. 223 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Ocegueda moved that Senate Bills Nos. 106, 207, 287, 317; Senate Joint Resolutions Nos. 3 and 9 be taken from the General File and placed on the General File for the next legislative day.

Motion carried.

Assemblyman Atkinson moved that Senate Bill No. 312 be taken from the Chief Clerk's desk and rereferred to the Committee on Ways and Means.

Motion carried.

GUESTS EXTENDED PRIVILEGE OF ASSEMBLY FLOOR

On request of Assemblyman Cobb, the privilege of the floor of the Assembly Chamber for this day was extended to Bruce Dacon.

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

On request of Assemblyman Hogan, the privilege of the floor of the Assembly Chamber for this day was extended to the following students from Roger Gehring Elementary School: Colton Carter, Isabella Elrod, Dakota Kevish-Martin, Devan Moilanen, Veronica Rodriguez, Ameenah Zapata, Kristiana Redding, Hailey Whalen, Breanna Bliss, Mikayla Jackson, Dylan O'Keefe, Sauvignon Baker, Anastasia Rogers, Matthew Hoffman, Grace O'Malley-Perez, Angelina Contreras, Chase Jenkins, Sydney Mohler, Wellington Coello, Zamaria Clemente, Blair Rush, Jennifer Le, Samantha Barnard, Paige Kidd, Savannah Costella, Jordan Koressel, Ryan Djino, Bailey Kamai, Samantha Gianantonio, Jonathan Webb, Elijah DiMaggio, Raymond Tabio, Allison Staggs, Conner Murphy, Sydney Jenkins, Megan Gilbert, Leah Galier, Bailey Doctolero, Vanessa Marroquin, Madisyn Reis, Calvin Doan, Ryan Tran, Kourtney Allen, Jordanne Santos, Nathaniel Sison, Raymond Abaganyan, Kristine Bartolome, Joel Weathers, Tyler Suey, Rylee Santillian, Manny Chavez, Talia Sapp, Kelsy Neill, Sydney Taylor, Kaylo Po, Zoe Kenney, Alec Goree, Bianca Reveles, Dawson O'Keefe, Christian Palma, and Taylor Gunterman; chaperones Babs Mercer, Julie Elrod, Korri Martin-Ditillo, Maria Moilanen, Leticia Rodriguez, Jasmine Gonzales, Yasmine Redding, Beth Whalen, Lori Bliss, Rhonda Baker, Frenchie Amie, Adrian Hoffman, Sheila Perez, Diana Contreras, Christine Jenkins, Erin Mohler, Laura Taylor, and Sandra Palma.

On request of Assemblywoman Parnell, the privilege of the floor of the Assembly Chamber for this day was extended to the following students from Fritsch Elementary School: Charlie Adams, Katie Anstedt, Jayson Artz, Kelsey Bradley, Nathaniel Braun, Alexis Dye, Devon Frazier, Skylar Glock, Alexis Grove, Mark Huckabay, Shelby Kuhlman, Tylor LaGier, Kacey Lopes, Allison Lopez, Jessica Mathiesen, Elizabeth McGill, Jayden Meyer, Christian Okamoto, Keelin Pilgrim, Jake Roman, Nia Romero, Branden

Schenkhuizen, Devin Skelley, Soralla Vargas, Kathleen Villegas, Robert White, Brenson Whorley, Jessyca Apodaca, Nicholas Bowler, Anthony Burgess, Jacob Cartwright, Taylor Dixon, Megan Dunkel, Roxette Fourie, Jade Fulmer, Spencer Lang, Eddie Leon, Aneet Mand, Connor McRae, Angela Miller, Armando Olivia, Dylan Outlaw, Noah Poole, Jaycie Roberts, Allan Rodriguez, John Rowe, Aubreana Ruiz, Corree Smith, Henry Sturm, Viviana Suarez, Rachel Tran, Darleth Vazquez, Bailey Wolf; chaperones Carrie Schenkhuizen, Bryan McGill, Emily Howarth, Tobiah Pilgrim, Branden Mathiesen, and Linda Mathiesen; teachers Shelly Monroe and Heidi Lerud.

On request of Assemblywoman Smith, the privilege of the floor of the Assembly Chamber for this day was extended to R.G. Smith and Jim Helsel.

Assemblyman Conklin moved that the Assembly adjourn until Wednesday, May 13, 2009, at 11:30 a.m.

Motion carried.

Assembly adjourned at 1:12 p.m.

Approved:

BARBARA E. BUCKLEY
Speaker of the Assembly

Attest: SUSAN FURLONG REIL

Chief Clerk of the Assembly