

THE ONE HUNDRED AND EIGHTEENTH DAY

CARSON CITY (Saturday), May 30, 2009

Assembly called to order at 11:35 a.m.

Madam Speaker presiding.

Roll called.

All present.

Prayer by the Chaplain, Terry Sullivan.

Let us pray. Well, Lord, since “Cowboy Hall of Fame” day is here, it would be only proper to ask You for a blessing for all the cowboys in the world and all their horses and their cow dogs and certainly their family and friends. And, I believe, Lord, that You know that in our hearts we’re all cowboys here. And You also know that in this case the word cowboy is gender neutral. And I want to especially ask for You, Lord, to forgive those makers of the Third House, for as they say, “They know not what they do.”

Please make these final few days as short and pleasant as possible and for sure, give us the ability to continue to think clearly as we have in the past. We ask for these blessings and other matters in Whose Name we pray.

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 Ways and Means, to which was rereferred Assembly Bill No. 317, 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*

GENERAL FILE AND THIRD READING

Assembly Bill No. 317.

Bill read third time.

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

Amendment No. 972.

AN ACT relating to taxation; providing for the disbursement of a portion of the proceeds of the state tax imposed on certain businesses to regional organizations for economic development; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

This bill requires the Department of Taxation to disburse to a regional organization for economic development which directly assists in the location

~~for expansion~~ of a business in this State, other than a gaming business, 50 percent of the state business tax paid by that business for 10 fiscal years as a result of the location ~~for expansion~~ of the business in this State. The total amount of these disbursements, together with any other amounts allocated by the Legislature, to such a regional organization during any fiscal year is limited to \$1 million. The money disbursed to such a regional organization must be used to promote economic development in this State and not for administrative expenses.

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

Section 1. Chapter 363B of NRS is hereby amended by adding thereto a new section to read as follows:

1. Except as otherwise provided in this section, the Department shall, on a quarterly basis, disburse to an eligible organization 50 percent of the amount of tax paid by an employer pursuant to NRS 363B.110, after the deduction of any abatements and exemptions to which that employer is entitled, which is attributable to any employment that results from the location , ~~for expansion,~~ with the direct assistance of that eligible organization, of the business of that employer in this State. The provisions of this subsection apply only to the applicable amount of tax paid by the employer for each calendar quarter that:

(a) Commences not less than 30 days after the eligible organization files with the Department an affidavit, executed by an officer of the employer, stating that the eligible organization directly ~~is~~

~~(1) Recruited~~ recruited the employer to locate its business in this State or otherwise directly assisted the employer to locate its business in this State; ~~for~~

~~(2) Assisted the employer with the expansion of its existing business in this State;~~ and

(b) Ends not later than the last day of the 10th fiscal year after the commencement of the pertinent location ~~for expansion~~ by the employer of its business in this State.

2. The total amount disbursed to each eligible organization during each fiscal year pursuant to this section, together with any other amounts allocated or appropriated by the Legislature to the eligible organization for that fiscal year, must not exceed \$1,000,000.

3. Any money disbursed to an eligible organization pursuant to this section:

(a) Must be expended by the eligible organization to promote the advantages of locating or expanding businesses in this State, to recruit and attract businesses from outside this State, to retain and expand businesses in this State, and to engage in research and analysis in support of economic development in this State; and

(b) Must not be expended for any administrative expenses of the eligible organization.

4. The Department may:

(a) Require an eligible organization to submit such documentation as the Department determines to be necessary for the administration of this section.

(b) Refuse to make any further disbursements of money pursuant to this section to an eligible organization that:

(1) Fails or refuses to submit any documentation as required by the Department pursuant to paragraph (a); or

(2) Expends any money received pursuant to this section in a manner that does not comply with the requirements of subsection 3.

5. Any disbursement of money to an eligible organization pursuant to this section shall be deemed to constitute an appropriation of public money for the purposes of NRS 218.855.

6. For the purposes of this section:

(a) "Eligible organization" means a regional organization for economic development which is recognized by the Commission on Economic Development and which:

(1) Operates on a nonprofit basis;

(2) Receives funding from dues paid by the members of the organization; and

(3) Does not constitute a government, governmental agency or political subdivision of a government.

(b) "Employer" does not include any employer who is required to hold a license issued by the Nevada Gaming Commission pursuant to title 41 of NRS.

Sec. 2. NRS 363B.060 is hereby amended to read as follows:

363B.060 The Department shall:

1. Administer and enforce the provisions of this chapter, and may adopt such regulations as it deems appropriate for those purposes.

2. ~~Deposit~~ *Except as otherwise provided in section 1 of this act, deposit* all taxes, interest and penalties it receives pursuant to this chapter in the State Treasury for credit to the State General Fund.

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

Assemblyman Ocegüera moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Ocegüera moved that all rules be suspended and the Assembly dispense with the reprinting of Assembly Bill No. 317.

Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 317.

Bill read third time.

Roll call on Assembly Bill No. 317:

YEAS—40.

NAYS—None.

EXCUSED—Christensen, Koivisto—2.

Assembly Bill No. 317 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

UNFINISHED BUSINESS

APPOINTMENT OF CONFERENCE COMMITTEES

Madam Speaker appointed Assemblymen Munford, Spiegel, and Mastroluca as a Conference Committee to meet with a like committee of the Senate for the further consideration of Assembly Bill No. 60.

CONSIDERATION OF SENATE AMENDMENTS

Assembly Bill No. 523.

The following Senate amendment was read:

Amendment No. 957.

AN ACT relating to mortgage lending; establishing provisions for the implementation of the federal Secure and Fair Enforcement for Mortgage Licensing Act of 2008; increasing certain administrative fines; providing penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

This bill implements the federal Secure and Fair Enforcement for Mortgage Licensing Act of 2008. **Sections 1.5-18, 21, 23, 24, 50.1-50.7 and 55-85** of this bill establish provisions for the licensing and registration with the nationwide mortgage licensing system and registry of residential mortgage loan originators, in compliance with federal law.

Section 55 of this bill also increases the administrative fine the Commissioner of Mortgage Lending may impose upon an applicant for or a holder of a license as a mortgage broker, ~~or~~ **or** mortgage agent ~~for residential mortgage loan originator~~ for certain violations from \$10,000 to \$25,000 for each violation. (NRS 645B.670)

Section 85.5 of this bill repeals provisions for the licensing of certain persons on behalf of a corporation or limited-liability company as mortgage agents. (NRS 645B.455)

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

Section 1. Chapter 645B of NRS is hereby amended by adding thereto the provisions set forth as sections ~~24~~ **1.5** to 8, inclusive, of this act.

Sec. 1.5. *“Clerical or ministerial tasks” means communication with a person to obtain, and the receipt, collection and distribution of, information necessary for the processing or underwriting of a mortgage loan.*

Sec. 2. *“Nationwide Mortgage Licensing System and Registry” or “Registry” means the mortgage licensing system developed and maintained by the Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators for licensing and registration of residential mortgage loan originators.*

Sec. 3. (Deleted by amendment.)

Sec. 4. (Deleted by amendment.)

Sec. 5. *“Residential mortgage loan” means any loan primarily for personal, family or household use that is secured by a mortgage, deed of trust or other equivalent consensual security interest on a dwelling or residential real estate upon which is constructed or intended to be constructed a dwelling. For purposes of this section, “dwelling” has the meaning ascribed to it section 103(v) of the federal Truth in Lending Act, 15 U.S.C. § 1602(v).*

Sec. 6. *“Residential mortgage loan originator” means a natural person who takes a residential mortgage loan application or offers or negotiates terms of a residential mortgage loan for compensation or other pecuniary gain. The term does not include:*

1. A person who performs clerical or ministerial tasks as an employee at the direction of and subject to the supervision and instruction of a person licensed or exempt from licensing under this chapter, unless the person who performs such clerical or ministerial tasks is an independent contractor; or

2. A person solely involved in extensions of credit relating to timeshare plans, as that term is defined in 11 U.S.C. § 101(53D).

Sec. 7. (Deleted by amendment.)

Sec. 8. *A mortgage broker or qualified employee who wishes to engage in activities as a residential mortgage loan originator or to supervise a mortgage agent who engages in activities as a residential mortgage loan originator must obtain and maintain a license as a mortgage agent pursuant to the provisions of NRS 645B.400 to 645B.460, inclusive.*

Sec. 9. (Deleted by amendment.)

Sec. 10. (Deleted by amendment.)

Sec. 11. (Deleted by amendment.)

Sec. 12. (Deleted by amendment.)

Sec. 13. (Deleted by amendment.)

Sec. 14. (Deleted by amendment.)

Sec. 15. (Deleted by amendment.)

Sec. 16. (Deleted by amendment.)

Sec. 17. (Deleted by amendment.)

Sec. 18. (Deleted by amendment.)

Sec. 19. NRS 645B.010 is hereby amended to read as follows:

645B.010 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 645B.0105 to 645B.0135, inclusive, **and sections 1.5 to 6, inclusive, of this act** have the meanings ascribed to them in those sections.

Sec. 20. (Deleted by amendment.)

Sec. 21. NRS 645B.0125 is hereby amended to read as follows:

645B.0125 1. "Mortgage agent" means ~~as~~:

(a) A natural person who:

~~[(a)]~~ (1) Is an employee ~~for independent contractor~~ of a mortgage broker **or mortgage banker** who is required to be licensed pursuant to this chapter ~~or chapter 645E of NRS~~; and

~~[(b)]~~ (2) Is authorized by the mortgage broker **or mortgage banker** to engage in, on behalf of the mortgage broker ~~or mortgage banker~~, any activity that would require the person, if he were not an employee ~~for independent contractor~~ of the mortgage broker ~~or mortgage banker~~, to be licensed as a mortgage broker **or mortgage banker** pursuant to this chapter ~~or chapter 645E of NRS~~; or

(b) A mortgage ~~banker~~ **broker, qualified employee or mortgage banker who is required by section 8 or ~~59~~ 59.1 of this act to be licensed as a mortgage agent.**

2. The term **includes a residential mortgage loan originator.**

3. **The term** does not include a person who:

(a) ~~[(a)]~~ **Except as otherwise provided in paragraph (b) of subsection 1, is licensed as a mortgage broker ~~or mortgage banker~~;**

(b) ~~[(a)]~~ **Is an owner, general partner, officer or director of a mortgage broker ~~or mortgage banker~~;**

(c) Performs only clerical or ministerial tasks for a mortgage broker ~~or mortgage banker~~;

or
(d) **Collects payments and performs related services, including, without limitation, the modification of an existing loan, in connection with a loan secured by a lien on real property and who does not undertake any other activity that would otherwise require a license pursuant to this chapter or chapter 645E of NRS.**

Sec. 22. (Deleted by amendment.)

Sec. 23. NRS 645B.0137 is hereby amended to read as follows:

645B.0137 1. In addition to any other requirements provided by this chapter, a person who wishes to receive an initial license as a mortgage broker or mortgage agent must:

(a) Complete education on mortgage lending as required by this chapter ~~or~~ **and any regulations adopted thereto; and**

(b) Successfully pass a written examination as ~~determined~~ **provided for** by the Division.

2. If the applicant for an initial license as a mortgage broker is not a natural person, the applicant must designate a natural person to be the

qualified employee of the applicant and meet the requirements of subsection 1.

3. The Division ~~[-~~

(a) ~~May]~~ **may** hire a testing organization to create, administer and score a written examination. ~~[-and~~

~~(b) May create waivers for a written examination.]~~

4. The Commissioner ~~[-may]~~ **shall** adopt regulations to carry out the provisions of this section, including, without limitation ~~[-regulations]~~ :

(a) **Regulations** relating to the content of a written examination ~~[-]~~ **and** the scoring of a written examination ~~[-or any possible waivers of a written examination.]~~ ; **and**

(b) **Regulations for compliance with the requirements for registration with the Registry and any other applicable federal law.**

Sec. 24. NRS 645B.0138 is hereby amended to read as follows:

645B.0138 1. A course of continuing education that is required pursuant to this chapter must meet the requirements set forth by the Commissioner by regulation.

2. The Commissioner shall adopt regulations:

(a) Relating to the requirements for courses of continuing education, including, without limitation, regulations relating to the providers and instructors of such courses, records kept for such courses, approval and revocation of approval of such courses, monitoring of such courses and disciplinary action taken regarding such courses.

(b) Allowing for the participation of representatives of the mortgage lending industry pertaining to the creation of regulations regarding such courses.

(c) **Ensuring compliance with the requirements for registration with the Registry and any other applicable federal law.**

Sec. 25. (Deleted by amendment.)

Sec. 26. (Deleted by amendment.)

Sec. 27. (Deleted by amendment.)

Sec. 28. (Deleted by amendment.)

Sec. 29. (Deleted by amendment.)

Sec. 30. (Deleted by amendment.)

Sec. 31. (Deleted by amendment.)

Sec. 32. (Deleted by amendment.)

Sec. 33. (Deleted by amendment.)

Sec. 34. (Deleted by amendment.)

Sec. 35. (Deleted by amendment.)

Sec. 36. (Deleted by amendment.)

Sec. 37. (Deleted by amendment.)

Sec. 38. (Deleted by amendment.)

Sec. 39. (Deleted by amendment.)

Sec. 40. (Deleted by amendment.)

Sec. 41. (Deleted by amendment.)

Sec. 42. (Deleted by amendment.)

Sec. 43. (Deleted by amendment.)

Sec. 44. (Deleted by amendment.)

Sec. 45. (Deleted by amendment.)

Sec. 46. (Deleted by amendment.)

Sec. 47. (Deleted by amendment.)

Sec. 48. (Deleted by amendment.)

Sec. 49. (Deleted by amendment.)

Sec. 50. (Deleted by amendment.)

Sec. 50.1. NRS 645B.018 is hereby amended to read as follows:

645B.018 1. A person may apply to the Commissioner for an exemption from the provisions of this chapter governing the making of a loan of money ~~[-]~~, ***except that an exemption may not be issued for the making of a residential mortgage loan.***

2. The Commissioner may grant the exemption if he finds that:

(a) The making of the loan would not be detrimental to the financial condition of the lender, the debtor or the person who is providing the money for the loan;

(b) The lender, the debtor or the person who is providing the money for the loan has established a record of sound performance, efficient management, financial responsibility and integrity;

(c) The making of the loan is likely to increase the availability of capital for a sector of the state economy; and

(d) The making of the loan is not detrimental to the public interest.

3. The Commissioner:

(a) May revoke an exemption unless the loan for which the exemption was granted has been made; and

(b) Shall issue a written statement setting forth the reasons for his decision to grant, deny or revoke an exemption.

Sec. 50.2. NRS 645B.020 is hereby amended to read as follows:

645B.020 1. A person who wishes to be licensed as a mortgage broker must file a written application for a license with the Office of the Commissioner and pay the fee required pursuant to NRS 645B.050. An application for a license as a mortgage broker must:

(a) State the name, residence address and business address of the applicant and the location of each principal office and branch office at which the mortgage broker will conduct business within this State.

(b) State the name under which the applicant will conduct business as a mortgage broker.

(c) List the name, residence address and business address of each person who will:

(1) If the applicant is not a natural person, have an interest in the mortgage broker as a principal, partner, officer, director or trustee, specifying the capacity and title of each such person.

(2) Be associated with or employed by the mortgage broker as a mortgage agent.

(d) Include a general business plan and a description of the policies and procedures that the mortgage broker and his mortgage agents will follow to arrange and service loans and to conduct business pursuant to this chapter.

(e) State the length of time the applicant has been engaged in the business of a broker.

(f) Include a financial statement of the applicant and, if applicable, satisfactory proof that the applicant will be able to maintain continuously the net worth required pursuant to NRS 645B.115.

(g) Include all information required to complete the application.

(h) Include any other information required pursuant to the regulations adopted by the Commissioner or an order of the Commissioner.

2. If a mortgage broker will conduct business at one or more branch offices within this State, the mortgage broker must apply for a license for each such branch office.

3. Except as otherwise provided in this chapter, the Commissioner shall issue a license to an applicant as a mortgage broker if:

(a) The application is verified by the Commissioner and complies with the requirements of this chapter; and

(b) The applicant and each general partner, officer or director of the applicant, if the applicant is a partnership, corporation or unincorporated association:

(1) Has ~~[a good reputation for honesty, trustworthiness and integrity and displays competence to transact the business of a mortgage broker in a manner which safeguards the interests of the general public. The applicant must submit satisfactory proof of these qualifications to the Commissioner.]~~ ***demonstrated financial responsibility, character and general fitness so as to command the confidence of the community and warrant a determination that he will operate honestly, fairly and efficiently for the purposes of this chapter.***

(2) Has not been convicted of, or entered a plea of ***guilty or*** nolo contendere to, a felony ~~[relating to the practice of mortgage brokers or any crime involving fraud, misrepresentation or moral turpitude.]~~ ***in a domestic, foreign or military court within the 7 years immediately preceding the date of the application, or at any time if such felony involved an act of fraud, dishonesty or a breach of trust, or money laundering.***

(3) Has not made a false statement of material fact on his application.

(4) Has ~~[not had a license that was issued pursuant to the provisions of this chapter or chapter 645E of NRS suspended or revoked within the 10 years immediately preceding the date of his application.]~~ ***never had a license or registration as a mortgage agent, mortgage banker, mortgage broker or residential mortgage loan originator revoked in this State or any other jurisdiction or had a financial services license suspended or revoked within the immediately preceding 10 years.***

(5) ~~Has not had a license that was issued in any other state, district or territory of the United States or any foreign country suspended or revoked within the 10 years immediately preceding the date of his application.~~

~~(6)~~ Has not violated any provision of this chapter or chapter 645E of NRS, a regulation adopted pursuant thereto or an order of the Commissioner.

Sec. 50.3. NRS 645B.0243 is hereby amended to read as follows:

645B.0243 The Commissioner may refuse to issue a license to an applicant if the Commissioner has reasonable cause to believe that the applicant or any general partner, officer or director of the applicant has, after October 1, 1999, employed or proposed to employ a person as a mortgage agent or authorized or proposed to authorize a person to be associated with a mortgage broker as a mortgage agent at a time when the applicant or the general partner, officer or director knew or, in light of all the surrounding facts and circumstances, reasonably should have known that the person ~~is~~

~~1. Had been convicted of, or entered a plea of nolo contendere to:~~

~~(a) A felony relating to the practice of mortgage agents; or~~

~~(b) Any crime involving fraud, misrepresentation or moral turpitude; or~~

~~2. Had a financial services license or registration suspended or revoked within the immediately preceding 20 years.]~~ ***has committed any act or omission that would be cause for refusing to issue a license to a mortgage agent.***

Sec. 50.4. NRS 645B.050 is hereby amended to read as follows:

645B.050 1. A license as a mortgage broker issued pursuant to this chapter expires each year on June 30, unless it is renewed. To renew such a license, the licensee must submit to the Commissioner on or before May 31 of each year:

(a) An application for renewal;

(b) The fee required to renew the license pursuant to this section;

(c) The information required pursuant to NRS 645B.051; and

(d) All information required to complete the renewal.

2. If the licensee fails to submit any item required pursuant to subsection 1 to the Commissioner on or before May 31 of any year, the license is cancelled as of June 30 of that year. The Commissioner may reinstate a cancelled license if the licensee submits to the Commissioner:

(a) An application for renewal;

(b) The fee required to renew the license pursuant to this section;

(c) The information required pursuant to NRS 645B.051;

(d) Except as otherwise provided in this section, a reinstatement fee of not more than \$200; and

(e) All information required to complete the reinstatement.

3. Except as otherwise provided in NRS 645B.016, a certificate of exemption issued pursuant to this chapter expires each year on December 31, unless it is renewed. To renew a certificate of exemption, a person must submit to the Commissioner on or before November 30 of each year:

(a) An application for renewal that includes satisfactory proof that the person meets the requirements for an exemption from the provisions of this chapter; and

(b) The fee required to renew the certificate of exemption.

4. If the person fails to submit any item required pursuant to subsection 3 to the Commissioner on or before November 30 of any year, the certificate of exemption is cancelled as of December 31 of that year. Except as otherwise provided in NRS 645B.016, the Commissioner may reinstate a cancelled certificate of exemption if the person submits to the Commissioner:

(a) An application for renewal that includes satisfactory proof that the person meets the requirements for an exemption from the provisions of this chapter;

(b) The fee required to renew the certificate of exemption; and

(c) Except as otherwise provided in this section, a reinstatement fee of not more than \$100.

5. Except as otherwise provided in this section, a person must pay the following fees to apply for, to be issued or to renew a license as a mortgage broker pursuant to this chapter:

(a) To file an original application for a license, not more than \$1,500 for the principal office and not more than \$40 for each branch office. The person must also pay such additional expenses incurred in the process of investigation as the Commissioner deems necessary.

(b) To be issued a license, not more than \$1,000 for the principal office and not more than \$60 for each branch office.

(c) To renew a license, not more than \$500 for the principal office and not more than \$100 for each branch office.

6. Except as otherwise provided in this section, a person must pay the following fees to apply for or to renew a certificate of exemption pursuant to this chapter:

(a) To file an application for a certificate of exemption, not more than \$200.

(b) To renew a certificate of exemption, not more than \$100.

7. To be issued a duplicate copy of any license or certificate of exemption, a person must make a satisfactory showing of its loss and pay a fee of not more than \$10.

8. Except as otherwise provided in this chapter, all fees received pursuant to this chapter ***are in addition to any fee required to be paid to the Registry and*** must be deposited in the Fund for Mortgage Lending created by NRS 645F.270.

9. The Commissioner may, by regulation, adjust any fee ***or date*** set forth in this section if the Commissioner determines that such an adjustment is necessary for the Commissioner to carry out his duties pursuant to this chapter. The amount of any adjustment in a fee pursuant to this subsection must not exceed the amount determined to be necessary for the Commissioner to carry out his duties pursuant to this chapter.

Sec. 50.5. NRS 645B.410 is hereby amended to read as follows:

645B.410 1. To obtain a license as a mortgage agent, a person must:

- (a) Be a natural person;
- (b) File a written application for a license as a mortgage agent with the Office of the Commissioner;
- (c) Comply with the applicable requirements of this chapter; and
- (d) Pay an application fee set by the Commissioner of not more than \$185.

2. An application for a license as a mortgage agent must:

- (a) State the name and residence address of the applicant;
- (b) Include a provision by which the applicant gives his written consent to an investigation of his credit history, criminal history and background;
- (c) Include a complete set of fingerprints which the Division may forward to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report;

(d) ~~Include~~ ***If he is not licensed as a mortgage broker or mortgage banker pursuant to chapter 645B or 645E of NRS, include*** a verified statement from the mortgage broker ***or mortgage banker*** with whom the applicant will be associated that expresses the intent of that mortgage broker ***or mortgage agent*** ~~banker~~ to associate the applicant with the mortgage broker ***or mortgage agent*** ~~banker~~ and to be responsible for the activities of the applicant as a mortgage agent; and

(e) Include any other information or supporting materials required pursuant to the regulations adopted by the Commissioner or by an order of the Commissioner. Such information or supporting materials may include, without limitation, other forms of identification of the person.

3. Except as otherwise provided in this chapter, the Commissioner shall issue a license as a mortgage agent to an applicant if:

(a) The application is verified by the Commissioner and complies with the applicable requirements of this chapter; and

(b) The applicant:

(1) Has not been convicted of, or entered a plea of ***guilty or*** nolo contendere to, a felony ~~[relating to the practice of mortgage agents or any crime involving fraud, misrepresentation or moral turpitude;]~~ ***in a domestic, foreign or military court within the 7 years immediately preceding the date of the application, or at any time if such felony involved an act of fraud, dishonesty or a breach of trust, or money laundering;***

(2) Has ~~not~~ ***never had a license or registration as a mortgage agent, mortgage banker, mortgage broker or residential mortgage loan originator revoked in this State or any other jurisdiction, or*** had a financial services license suspended or revoked within the immediately preceding 10 years;

(3) Has not made a false statement of material fact on his application;

(4) Has not violated any provision of this chapter or chapter 645E of NRS, a regulation adopted pursuant thereto or an order of the Commissioner; and

(5) Has ~~[a good reputation for honesty, trustworthiness and integrity and displays competence to transact the business of a mortgage agent in a manner which safeguards the interests of the general public. The applicant must submit satisfactory proof of these qualifications to the Commissioner.]~~ ***demonstrated financial responsibility, character and general fitness so as to command the confidence of the community and warrant a determination that he will operate honestly, fairly and efficiently for the purposes of this chapter.***

4. Money received by the Commissioner pursuant to this section *is in addition to any fee required to be paid to the Registry and* must be deposited in the Fund for Mortgage Lending created by NRS 645F.270.

Sec. 50.6. NRS 645B.430 is hereby amended to read as follows:

645B.430 1. A license as a mortgage agent issued pursuant to NRS 645B.410 expires 1 year after the date the license is issued, unless it is renewed. To renew a license as a mortgage agent, the holder of the license must submit to the Commissioner each year, on or before the date the license expires:

(a) An application for renewal;

(b) Except as otherwise provided in this section, satisfactory proof that the holder of the license as a mortgage agent attended at least 10 hours of certified courses of continuing education during the 12 months immediately preceding the date on which the license expires; and

(c) A renewal fee set by the Commissioner of not more than \$170.

2. If the holder of the license as a mortgage agent fails to submit any item required pursuant to subsection 1 to the Commissioner each year on or before the date the license expires, the license is cancelled. The Commissioner may reinstate a cancelled license if the holder of the license submits to the Commissioner:

(a) An application for renewal;

(b) The fee required to renew the license pursuant to this section; and

(c) A reinstatement fee of \$75.

3. To be issued a duplicate copy of a license as a mortgage agent, a person must make a satisfactory showing of its loss and pay a fee of \$10.

4. To change the mortgage broker with whom the mortgage agent is associated, a person must pay a fee of \$10.

5. Money received by the Commissioner pursuant to this section *is in addition to any fee that must be paid to the Registry and* must be deposited in the Fund for Mortgage Lending created by NRS 645F.270.

6. The Commissioner may provide by regulation that any hours of a certified course of continuing education attended during a 12-month period, but not needed to satisfy a requirement set forth in this section for the 12-month period in which the hours were taken, may be used to satisfy a requirement set forth in this section for a later 12-month period.

7. As used in this section, “certified course of continuing education” has the meaning ascribed to it in NRS 645B.051.

Sec. 50.7. NRS 645B.460 is hereby amended to read as follows:

645B.460 1. A mortgage broker shall exercise reasonable supervision over the activities of his mortgage agents ~~[]~~ **and must also be licensed as a mortgage agent if required pursuant to section 8 of this act.** Such reasonable supervision must include, as appropriate:

(a) The establishment of written or oral policies and procedures for his mortgage agents; ~~and~~

(b) The establishment of a system to review, oversee and inspect the activities of his mortgage agents, including, without limitation:

(1) Transactions handled by his mortgage agents pursuant to this chapter;

(2) Communications between his mortgage agents and a party to such a transaction;

(3) Documents prepared by his mortgage agents that may have a material effect upon the rights or obligations of a party to such a transaction; and

(4) The handling by his mortgage agents of any fee, deposit or money paid to the mortgage broker or his mortgage agents or held in trust by the mortgage broker or his mortgage agents pursuant to this chapter ~~[]~~; **and**

(c) The establishment of a system of reporting to the Division of any fraudulent activity engaged in by any of his mortgage agents.

2. The Commissioner shall allow a mortgage broker to take into consideration the total number of mortgage agents associated with or employed by the mortgage broker when the mortgage broker determines the form and extent of the policies and procedures for those mortgage agents and the system to review, oversee and inspect the activities of those mortgage agents.

3. The Commissioner may adopt regulations prescribing standards for determining whether a mortgage broker has exercised reasonable supervision over the activities of a mortgage agent pursuant to this section.

Sec. 51. (Deleted by amendment.)

Sec. 52. (Deleted by amendment.)

Sec. 53. (Deleted by amendment.)

Sec. 54. (Deleted by amendment.)

Sec. 55. NRS 645B.670 is hereby amended to read as follows:

645B.670 Except as otherwise provided in NRS 645B.690:

1. For each violation committed by an applicant for a license issued pursuant to this chapter, whether or not he is issued a license, the Commissioner may impose upon the applicant an administrative fine of not more than ~~[\$10,000.]~~ **\$25,000**, if the applicant:

(a) Has knowingly made or caused to be made to the Commissioner any false representation of material fact;

(b) Has suppressed or withheld from the Commissioner any information which the applicant possesses and which, if submitted by him, would have

rendered the applicant ineligible to be licensed pursuant to the provisions of this chapter; or

(c) Has violated any provision of this chapter, a regulation adopted pursuant to this chapter or an order of the Commissioner in completing and filing his application for a license or during the course of the investigation of his application for a license.

2. For each violation committed by a mortgage broker, the Commissioner may impose upon the mortgage broker an administrative fine of not more than ~~[\$10,000,]~~ **\$25,000**, may suspend, revoke or place conditions upon his license, or may do both, if the mortgage broker, whether or not acting as such:

(a) Is insolvent;

(b) Is grossly negligent or incompetent in performing any act for which he is required to be licensed pursuant to the provisions of this chapter;

(c) Does not conduct his business in accordance with law or has violated any provision of this chapter, a regulation adopted pursuant to this chapter or an order of the Commissioner;

(d) Is in such financial condition that he cannot continue in business with safety to his customers;

(e) Has made a material misrepresentation in connection with any transaction governed by this chapter;

(f) Has suppressed or withheld from a client any material facts, data or other information relating to any transaction governed by the provisions of this chapter which the mortgage broker knew or, by the exercise of reasonable diligence, should have known;

(g) Has knowingly made or caused to be made to the Commissioner any false representation of material fact or has suppressed or withheld from the Commissioner any information which the mortgage broker possesses and which, if submitted by him, would have rendered the mortgage broker ineligible to be licensed pursuant to the provisions of this chapter;

(h) Has failed to account to persons interested for all money received for a trust account;

(i) Has refused to permit an examination by the Commissioner of his books and affairs or has refused or failed, within a reasonable time, to furnish any information or make any report that may be required by the Commissioner pursuant to the provisions of this chapter or a regulation adopted pursuant to this chapter;

(j) Has been convicted of, or entered a plea of ***guilty or nolo contendere*** to, a felony ~~[relating to the practice of mortgage brokers or any crime involving fraud, misrepresentation or moral turpitude;]~~ ***in a domestic, foreign or military court within the 7 years immediately preceding the date of the application, or at any time if such felony involved an act of fraud, dishonesty or a breach of trust, or money laundering.***

(k) Has refused or failed to pay, within a reasonable time, any fees, assessments, costs or expenses that the mortgage broker is required to pay pursuant to this chapter or a regulation adopted pursuant to this chapter;

(l) Has failed to satisfy a claim made by a client which has been reduced to judgment;

(m) Has failed to account for or to remit any money of a client within a reasonable time after a request for an accounting or remittal;

(n) Has commingled the money or other property of a client with his own or has converted the money or property of others to his own use;

(o) Has engaged in any other conduct constituting a deceitful, fraudulent or dishonest business practice;

(p) Has repeatedly violated the policies and procedures of the mortgage broker;

(q) Has failed to exercise reasonable supervision over the activities of a mortgage agent as required by NRS 645B.460;

(r) Has instructed a mortgage agent to commit an act that would be cause for the revocation of the license of the mortgage broker, whether or not the mortgage agent commits the act;

(s) Has employed a person as a mortgage agent or authorized a person to be associated with the mortgage broker as a mortgage agent at a time when the mortgage broker knew or, in light of all the surrounding facts and circumstances, reasonably should have known that the person:

(1) Had been convicted of, or entered a plea of *guilty or* nolo contendere to, a felony ~~[relating to the practice of mortgage agents or any crime involving fraud, misrepresentation or moral turpitude;]~~ *in a domestic, foreign or military court within the 7 years immediately preceding the date of application, or at any time if such felony involved an act of fraud, dishonesty or a breach of trust, or money laundering;* or

(2) Had a ~~[financial services]~~ license or registration *as a mortgage agent, mortgage banker, mortgage broker or residential mortgage loan originator revoked in this State or any other jurisdiction or had a financial services license or registration* suspended or revoked within the immediately preceding 10 years;

(t) Has failed to pay a tax as required pursuant to the provisions of chapter 363A of NRS; or

(u) Has not conducted verifiable business as a mortgage broker ~~for residential mortgage loan originator]~~ for 12 consecutive months, except in the case of a new applicant. The Commissioner shall determine whether a mortgage broker ~~for residential mortgage loan originator]~~ is conducting business by examining the monthly reports of activity submitted by the mortgage broker ~~for residential mortgage loan originator]~~ or by conducting an examination of the mortgage broker ~~for residential mortgage loan originator]~~.

3. For each violation committed by a mortgage agent, the Commissioner may impose upon the mortgage agent an administrative fine of not more than

~~[\$10,000,] \$25,000~~ may suspend, revoke or place conditions upon his license, or may do both, if the mortgage agent, whether or not acting as such:

(a) Is grossly negligent or incompetent in performing any act for which he is required to be licensed pursuant to the provisions of this chapter;

(b) Has made a material misrepresentation in connection with any transaction governed by this chapter;

(c) Has suppressed or withheld from a client any material facts, data or other information relating to any transaction governed by the provisions of this chapter which the mortgage agent knew or, by the exercise of reasonable diligence, should have known;

(d) Has knowingly made or caused to be made to the Commissioner any false representation of material fact or has suppressed or withheld from the Commissioner any information which the mortgage agent possesses and which, if submitted by him, would have rendered the mortgage agent ineligible to be licensed pursuant to the provisions of this chapter;

(e) Has been convicted of, or entered a plea of *guilty or nolo contendere* to, a felony ~~[relating to the practice of mortgage agents or any crime involving fraud, misrepresentation or moral turpitude,] in a domestic, foreign or military court within the 7 years immediately preceding the date of the application, or at any time if such felony involved an act of fraud, dishonesty or a breach of trust, or money laundering.~~

(f) Has failed to account for or to remit any money of a client within a reasonable time after a request for an accounting or remittal;

(g) Has commingled the money or other property of a client with his own or has converted the money or property of others to his own use;

(h) Has engaged in any other conduct constituting a deceitful, fraudulent or dishonest business practice;

(i) Has repeatedly violated the policies and procedures of the mortgage broker with whom he is associated or by whom he is employed; or

(j) Has violated any provision of this chapter, a regulation adopted pursuant to this chapter or an order of the Commissioner or has assisted or offered to assist another person to commit such a violation.

Sec. 56. (Deleted by amendment.)

Sec. 57. (Deleted by amendment.)

Sec. 58. (Deleted by amendment.)

Sec. 59. Chapter 645E of NRS is hereby amended by adding thereto the provisions set forth as sections 59.1 to 59.7, inclusive, of this act.

Sec. 59.1. *1. Any person licensed as a mortgage banker under this chapter and who engages in activities as a residential mortgage loan originator or who supervises a mortgage agent who engages in activities as a residential mortgage loan originator, and any employee or independent contractor of a mortgage banker who engages in activities as a residential mortgage loan originator, must be licensed as a mortgage agent pursuant to the provisions of NRS 645B.400 to 645B.460, inclusive.*

2. *As used in this section, "residential mortgage loan originator" has the meaning ascribed to it in section 6 of this act.*

Sec. 59.3. 1. *A mortgage banker shall exercise reasonable supervision over the activities of his mortgage agents and must also be licensed as a mortgage agent if required pursuant to section 8 of this act. Such reasonable supervision must include, as appropriate:*

(a) The establishment of written or oral policies and procedures for his mortgage agents;

(b) The establishment of a system to review, oversee and inspect the activities of his mortgage agents, including, without limitation:

(1) Transactions handled by his mortgage agents pursuant to this chapter;

(2) Communications between his mortgage agents and a party to such a transaction;

(3) Documents prepared by his mortgage agents that may have a material effect upon the rights or obligations of a party to such a transaction; and

(4) The handling by his mortgage agents of any fee, deposit or money paid to the mortgage banker or his mortgage agents or held in trust by the mortgage banker or his mortgage agents pursuant to this chapter; and

(c) The establishment of a system of reporting to the Division of any fraudulent activity engaged in by any of his mortgage agents.

2. *The Commissioner shall allow a mortgage banker to take into consideration the total number of mortgage agents associated with or employed by the mortgage broker when the mortgage broker determines the form and extent of the policies and procedures for those mortgage agents and the system to review, oversee and inspect the activities of those mortgage agents.*

3. *The Commissioner may adopt regulations prescribing standards for determining whether a mortgage broker has exercised reasonable supervision over the activities of a mortgage agent pursuant to this section.*

Sec. 59.5. *If a mortgage agent terminates his association or employment with a mortgage banker for any reason, the mortgage banker shall, not later than 3 business days following knowledge of the date of termination:*

1. *Deliver to the mortgage agent or send by certified mail to the last known residence address of the mortgage agent a written statement which advises him that his termination is being reported to the Division; and*

2. *Deliver or send by certified mail to the Division:*

(a) The license or license number of the mortgage agent;

(b) A written statement of the circumstances surrounding the termination; and

(c) A copy of the written statement that the mortgage banker delivers or mails to the mortgage agent pursuant to subsection 1.

Sec. 59.7. 1. *If a person offers or provides any of the services of a mortgage banker or mortgage agent or otherwise engages in, carries on or holds himself out as engaging in or carrying on the business of a mortgage banker or mortgage agent and, at the time:*

(a) The person was required to have a license pursuant to this chapter and the person did not have such a license; or

(b) The person's license was suspended or revoked pursuant to this chapter,

↪ the Commissioner shall impose upon the person an administrative fine of not more than \$10,000 for each violation and, if the person has a license, the Commissioner shall revoke it.

2. *If a mortgage banker violates subsection 1 of NRS 645E.350 and the mortgage banker fails, without reasonable cause, to remedy the violation within 20 business days after being ordered by the Commissioner to do so or within such later time as prescribed by the Commissioner, or if the Commissioner orders a mortgage banker to provide information, make a report or permit an examination of his books or affairs pursuant to this chapter and the mortgage banker fails, without reasonable cause, to comply with the order within 20 business days or within such later time as prescribed by the Commissioner, the Commissioner shall:*

(a) Impose upon the mortgage banker an administrative fine of not more than \$10,000 for each violation;

(b) Suspend or revoke the license of the mortgage banker; and

(c) Conduct a hearing to determine whether the mortgage banker is conducting business in an unsafe and injurious manner that may result in danger to the public and whether it is necessary for the Commissioner to take possession of the property of the mortgage banker pursuant to NRS 645E.630.

Sec. 60. (Deleted by amendment.)

Sec. 61. Chapter 645F of NRS is hereby amended by adding thereto the provisions set forth as sections 62 to 77.5, inclusive, of this act.

Sec. 62. (Deleted by amendment.)

Sec. 63. (Deleted by amendment.)

Sec. 64. (Deleted by amendment.)

Sec. 65. (Deleted by amendment.)

Sec. 66. (Deleted by amendment.)

Sec. 67. (Deleted by amendment.)

Sec. 68. (Deleted by amendment.)

Sec. 69. (Deleted by amendment.)

Sec. 70. (Deleted by amendment.)

Sec. 71. (Deleted by amendment.)

Sec. 72. (Deleted by amendment.)

Sec. 73. *"Nationwide Mortgage Licensing System and Registry" or "Registry" have the meanings ascribed to them in section 2 of this act.*

Sec. 74. (Deleted by amendment.)

Sec. 75. (Deleted by amendment.)

Sec. 75.3. *The Commissioner shall adopt such regulations as necessary to comply with the requirements of the federal Secure and Fair Enforcement for Mortgage Licensing Act of 2008.*

Sec. 75.7. *The Commissioner shall adopt regulations:*

1. *Establishing minimum net worth or surety bonding requirements that reflect the dollar amount of loans originated by a residential mortgage loan originator, as defined in section 6 of this act; or*

2. *Requiring a percentage of the fees collected for the issuance or renewal of a license pursuant to chapter 645B or 645E of NRS to be deposited in a mortgage recovery fund, and setting forth the methods by which a person may make a claim against and be paid from the fund.*

Sec. 76. 1. *The Commissioner shall adopt regulations to carry out the provisions of the federal Secure and Fair Enforcement for Mortgage Licensing Act of 2008.*

2. *The regulations must include, without limitation:*

(a) *A method by which to allow for reporting regularly violations of the relevant provisions of chapter 645B or 645E of NRS, enforcement actions and other relevant information to the Registry; and*

(b) *A process whereby a person may challenge information reported to the Registry by the Commissioner.*

Sec. 77. 1. *Except as otherwise provided in section 1512 of Public Law 110-289, the requirements under any federal law or NRS 645B.060 and 645B.092 regarding the confidentiality of any information or material provided to the Registry, and any privilege arising under federal laws of this State with respect to such information or material, continue to apply to such information or material after it has been disclosed to the Registry. Such information and material may be shared with federal and state regulatory officials with mortgage industry oversight without the loss of privilege or the loss of confidentiality protections provided by federal law or the provisions of NRS 645B.060 and 645B.092.*

2. *Information or material that is subject to a privilege or confidentiality under subsection 1 is not subject to:*

(a) *Disclosure under any federal or state law governing the disclosure to the public of information held by an officer or agency of the Federal Government or the State of Nevada; and*

(b) *Subpoena or discovery, or admission into evidence, in any private civil action or administrative process, unless with respect to any privilege held by the Registry with respect to such information or material, the person to whom such information or material waives, in whole or in part, that privilege.*

3. *This section does not apply to information or material relating to:*

(a) *The employment history of; and*

(b) *Publicly adjudicated disciplinary and enforcement actions against,*

↪ *residential mortgage loan originators included in the Registry for access by the public.*

Sec. 77.5. *For the purpose of carrying out the provisions of section 77 of this act, the Commissioner may by regulation or order enter into agreements with other governmental agencies, the Conference of State Bank Supervisors, the American Association of Residential Mortgage Regulators or other associations representing governmental agencies.*

Sec. 78. NRS 645F.010 is hereby amended to read as follows:

645F.010 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 645F.020 to 645F.060, inclusive, *and section 73 of this act* have the meanings ascribed to them in those sections.

Sec. 79. (Deleted by amendment.)

Sec. 80. (Deleted by amendment.)

Sec. 81. (Deleted by amendment.)

Sec. 82. NRS 645F.290 is hereby amended to read as follows:

645F.290 1. The Commissioner shall collect an assessment pursuant to this section from each:

(a) Escrow agency that is supervised pursuant to chapter 645A of NRS;

(b) Mortgage broker that is supervised pursuant to chapter 645B of NRS;

~~and~~

(c) *Mortgage agent that is supervised pursuant to chapter 645B or 645E of NRS; and*

(d) Mortgage banker that is supervised pursuant to chapter 645E of NRS.

2. The Commissioner shall determine the total amount of all assessments to be collected from the entities identified in subsection 1, but that amount must not exceed the amount necessary to recover the cost of legal services provided by the Attorney General to the Commissioner and to the Division. The total amount of all assessments collected must be reduced by any amounts collected by the Commissioner from an entity for the recovery of the costs of legal services provided by the Attorney General in a specific case.

3. The Commissioner shall collect from each entity identified in subsection 1 an assessment that is based on:

(a) An equal basis; or

(b) Any other reasonable basis adopted by the Commissioner.

4. The assessment required by this section is in addition to any other assessment, fee or cost required by law to be paid by an entity identified in subsection 1.

5. Money collected by the Commissioner pursuant to this section must be deposited in the Fund for Mortgage Lending created by NRS 645F.270.

Sec. 83. (Deleted by amendment.)

Sec. 84. (Deleted by amendment.)

Sec. 84.5. Chapter 658 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Any person authorized to engage in activities as a residential mortgage loan originator on behalf of a privately insured institution or organization licensed under title 55 or 56 of NRS shall obtain and maintain a license as a mortgage agent.

2. As used in subsection 1:

(a) "Mortgage agent" has the meaning ascribed to in NRS 645B.0125; and

(b) "Residential mortgage loan originator" has the meaning ascribed to it in section 6 of this act.

Sec. 85. Notwithstanding the amendatory provisions of this act:

1. A person who holds a license as a mortgage broker under chapter 645B of NRS or as a mortgage banker under chapter 645E of NRS on or before July 31, 2009, and who, because of his lawful activities, is required to be licensed as a mortgage agent, may continue his activities without obtaining a license as a mortgage agent until July 1, 2011 ~~or~~, or such other date as the Commissioner of Mortgage Lending may prescribe by regulation if necessary to comply with federal law.

2. A person who does not hold a license as a mortgage broker under chapter 645B of NRS or as a mortgage banker under chapter 645E of NRS on or before July 31, 2009, and who, because of his lawful activities, is required to be licensed as a mortgage agent, may continue his activities without obtaining a license as a mortgage agent until July 1, 2010.

Sec. 85.5. NRS 645B.455 of NRS is hereby repealed.

Sec. 86. This act becomes effective upon passage and approval for the purpose of adopting regulations and for licensure pursuant to section 85 of this act and on October 1, 2009, for all other purposes.

TEXT OF REPEALED SECTION

645B.455 License issued on behalf of professional corporation or limited-liability company; limitations on license; automatic expiration of license.

1. Any natural person who meets the qualifications of a mortgage agent and:

(a) Except as otherwise provided in subsection 2, is the sole shareholder of a corporation organized pursuant to the provisions of chapter 89 of NRS; or

(b) Is the manager of a limited-liability company organized pursuant to the provisions of chapter 86 of NRS,

↪ may be licensed on behalf of the corporation or limited-liability company for the purpose of associating with a licensed mortgage broker in the capacity of a mortgage agent.

2. The spouse of the owner of the corporation who has a community interest in any shares of the corporation shall not be deemed a second shareholder of the corporation for the purposes of paragraph (a) of subsection 1, if the spouse does not vote any of those shares.

3. A license issued pursuant to this section entitles only the sole shareholder of the corporation or the manager of the limited-liability company to act as a mortgage agent, and only as an officer or agent of the corporation or limited-liability company and not on his own behalf. The licensee shall not do or deal in any act, acts or transactions included within the definition of a mortgage broker in NRS 645B.0127, except as that activity is permitted pursuant to this chapter to licensed mortgage agents.

4. The corporation or limited-liability company shall, within 30 days after a license is issued on its behalf pursuant to this section and within 30 days after any change in its ownership, file an affidavit with the Division stating:

(a) For a corporation, the number of issued and outstanding shares of the corporation and the names of all persons to whom the shares have been issued.

(b) For a limited-liability company, the names of members who have an interest in the company.

5. A license issued pursuant to this section automatically expires upon:

(a) The death of the licensed shareholder in the corporation or the manager of the limited-liability company; or

(b) The issuance of shares in the corporation to more than one person other than the spouse.

6. This section does not alter any of the rights, duties or liabilities which otherwise arise in the legal relationship between a mortgage broker or mortgage agent and a person who deals with him.

Assemblyman Conklin moved that the Assembly do not concur in the Senate amendment to Assembly Bill No. 523.

Remarks by Assemblyman Conklin.

Motion carried.

Bill ordered transmitted to the Senate.

REPORTS OF CONFERENCE COMMITTEES

Madam Speaker:

The Conference Committee concerning Senate Bill No. 389, consisting of the undersigned members, has met and reports that:

It has agreed to recommend that Amendment No. 760 of the Assembly be concurred in.

MO DENIS
MARILYN DONDERO LOOP
LYNN STEWART

Assembly Conference Committee

VALERIE WIENER
SHIRLEY BREEDEN
DENNIS NOLAN

Senate Conference Committee

Assemblyman Denis moved that the Assembly adopt the report of the Conference Committee concerning Senate Bill No. 389.

Motion carried by a constitutional majority.

Madam Speaker:

The Conference Committee concerning Senate Bill No. 218, consisting of the undersigned members, has met and reports that:

It has agreed to recommend that Amendment Nos. 742 and 881 of the Assembly be concurred in.

RUBEN KIHUEN
KELVIN ATKINSON
MELISSA WOODBURY
Assembly Conference Committee

DAVID PARKS
TERRY CARE
RANDOLPH TOWNSEND
Senate Conference Committee

Assemblyman Kihuen moved that the Assembly adopt the report of the Conference Committee concerning Senate Bill No. 218.

Motion carried by a constitutional majority.

Madam Speaker:

The Conference Committee concerning Assembly Bill No. 130, consisting of the undersigned members, has met and reports that:

It has agreed to recommend that Amendment No. 792 of the Senate be concurred in.

DAVID BOBZIEN
PEGGY PIERCE

JOHN LEE
STEVEN HORSFORD

Assembly Conference Committee

Senate Conference Committee

Assemblyman Bobzien moved that the Assembly adopt the report of the Conference Committee concerning Assembly Bill No. 130.

Motion carried by a constitutional majority.

CONSIDERATION OF SENATE AMENDMENTS

Assembly Bill No. 148.

The following Senate amendment was read:

Amendment No. 959.

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

Legislative Counsel's Digest:

Section 10 of this bill requires: (1) supervisory employees working on a construction site to complete a specified 30-hour health and safety course not later than 15 days after being hired; and (2) all other construction workers working on the construction site to complete a specified 10-hour course not later than 15 days after being hired.

Section 8 of this bill requires the Division of Industrial Relations of the Department of Business and Industry to adopt regulations approving courses which may be used to fulfill the requirements of **section 10**. **Section 8.5** of this bill requires providers of approved courses to display the card evidencing their authorization by the Occupational Safety and Health Administration of the United States Department of Labor to provide such a course at the location at which the course is being provided.

Section 11 of this bill requires employers to suspend or terminate the employment of an employee on a construction site who fails to provide proof of obtaining the required training not later than 15 days after being hired.

Section 12 of this bill provides for administrative fines for employers who

~~continue to employ~~ **fail to suspend or terminate** certain employees on a construction site after the 15-day period if those employees have not obtained the required training.

Section 15 of this bill: (1) allows employees to satisfy the requirements of **section 10** of this bill by completing an alternative course offered by their employer; (2) requires an employee that satisfies the requirements of **section 10** by completing an alternative course to take an approved course before January 1, 2011; and (3) requires an employer to maintain and make available to the Division of Industrial Relations a record of all employees that have completed an alternative course until a date to be established by the Division by regulation.

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

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

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

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

Sec. 3.5. 1. *"Construction worker" means a person who actually performs physical work at a construction site:*

(a) That results in the construction, alteration or destruction involved in the construction project, including, without limitation, painting and decorating; or

(b) Who supervises any person engaged in work described in paragraph (a).

2. *The term does not include a person to the extent that the person performs or supervises another person who performs work which is conducted:*

(a) For the upkeep of an existing property for which a certificate of occupancy has been issued by the appropriate building inspector or other authority; and

(b) To prevent the property from degrading, to maintain the property in its original condition or to maintain the operational soundness of the property, including, without limitation, by repairing components of the property or by replacing components of the property with the same or similar components.

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

Sec. 5. *"OSHA-30 course" means a 30-hour course in construction industry safety and health hazard recognition and prevention developed by*

the Occupational Safety and Health Administration of the United States Department of Labor.

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

Sec. 6.5. *The provisions of sections 2 to 12, inclusive, of this act do not apply to:*

- 1. The Department of Transportation; or*
- 2. An employee of the Department of Transportation while performing his duties as an employee of the Department.*

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

Sec. 8. *1. The Division shall, by regulation, approve OSHA-10 courses and OSHA-30 courses for the purposes of fulfilling the requirements of section 10 of this act.*

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

3. The Division shall adopt regulations that set forth guidelines for job-specific training to qualify as continuing education for the purposes of section 10 of this act.

Sec. 8.5. *1. Each trainer shall display his trainer card in a conspicuous manner at each location where he provides an OSHA-10 course or OSHA-30 course.*

2. No person other than a trainer may provide an OSHA-10 course or OSHA-30 course.

3. As used in this section:

(a) "Trainer" means a person who is currently authorized by the Occupational Safety and Health Administration of the United States Department of Labor as a trainer, including, without limitation, a person who has completed OSHA 500, the Trainer Course for the Construction Industry.

(b) "Trainer card" means the card issued upon completion of OSHA 500, the Trainer Course for the Construction Industry, which reflects the authorization of the holder by the Occupational Safety and Health Administration of the United States Department of Labor to provide OSHA-10 courses and OSHA-30 courses.

Sec. 9. (Deleted by amendment.)

Sec. 10. *1. Not later than 15 days after the date a construction worker other than a supervisory employee is hired, the construction worker must:*

(a) Obtain a completion card for an OSHA-10 course which is issued upon completion of a course approved by the Division pursuant to section 8 of this act; or

(b) Complete an OSHA-10 alternative course which is offered by his employer.

2. Not later than 15 days after the date a supervisory employee is hired, the supervisory employee must:

(a) Obtain a completion card for an OSHA-30 course which is issued upon completion of a course approved by the Division pursuant to section 8 of this act; or

(b) Complete an OSHA-30 alternative course which is offered by his employer.

3. Any completion card used to satisfy the requirements of this section expires 5 years after the date it is issued and may be renewed by:

(a) Completing an OSHA-10 course or OSHA-30 course, as applicable, within the previous 5 years; or

(b) Providing proof satisfactory to the Division that the construction worker has completed continuing education within the previous 5 years consisting of job-specific training that meets the guidelines established by the Division pursuant to section 8 of this act in an amount of:

(1) For a completion card issued for an OSHA-10 course, not less than 5 hours; or

(2) For a completion card issued for an OSHA-30 course, not less than 15 hours.

4. As used in this section:

(a) "OSHA-10 alternative course" means a 10-hour course offered to the employees of an employer that:

(1) Is approved by the safety committee of the employer established pursuant to NRS 618.383; and

(2) Meets or exceeds the guidelines issued by the Occupational Safety and Health Administration of the United States Department of Labor for an OSHA-10 course, including, without limitation, federal safety and health regulatory requirements specific to the industry in which the employer participates.

(b) "OSHA-30 alternative course" means a 30-hour course offered to the employees of an employer that:

(1) Is approved by the safety committee of the employer established pursuant to NRS 618.383; and

(2) Meets or exceeds the guidelines issued by the Occupational Safety and Health Administration of the United States Department of Labor for an OSHA-30 course, including, without limitation, federal safety and

health regulatory requirements specific to the industry in which the employer participates.

Sec. 11. 1. *If a construction worker other than a supervisory employee fails to:*

(a) Present his employer with a current and valid completion card for an OSHA-10 course; or

(b) Complete an OSHA-10 alternative course offered by his employer, ↪ not later than 15 days after being hired, his employer shall suspend or terminate his employment.

2. *If a supervisory employee on a construction site fails to:*

(a) Present his employer with a current and valid completion card for an OSHA-30 course; or

(b) Complete an OSHA-30 alternative course offered by his employer, ↪ not later than 15 days after being hired, his employer shall suspend or terminate his employment.

3. *As used in this section:*

(a) "OSHA-10 alternative course" means a 10-hour course offered to the employees of an employer that:

(1) Is approved by the safety committee of the employer established pursuant to NRS 618.383; and

(2) Meets or exceeds the guidelines issued by the Occupational Safety and Health Administration of the United States Department of Labor for an OSHA-10 course, including, without limitation, federal safety and health regulatory requirements specific to the industry in which the employer participates.

(b) "OSHA-30 alternative course" means a 30-hour course offered to the employees of an employer that:

(1) Is approved by the safety committee of the employer established pursuant to NRS 618.383; and

(2) Meets or exceeds the guidelines issued by the Occupational Safety and Health Administration of the United States Department of Labor for an OSHA-30 course, including, without limitation, federal safety and health regulatory requirements specific to the industry in which the employer participates.

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

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

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

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

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

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

Sec. 13. Section 10 of this act is hereby amended to read as follows:

Sec. 10. 1. Not later than 15 days after the date a construction worker other than a supervisory employee is hired, the construction worker must

~~(a) Obtain~~ **obtain** a completion card for an OSHA-10 course which is issued upon completion of a course approved by the Division pursuant to section 8 of this act.

~~(b) Complete an OSHA 10 alternative course which is offered by his employer.~~

2. Not later than 15 days after the date a supervisory employee is hired, the supervisory employee must

~~(a) Obtain~~ **obtain** a completion card for an OSHA-30 course which is issued upon completion of a course approved by the Division pursuant to section 8 of this act.

~~(b) Complete an OSHA 30 alternative course which is offered by his employer.~~

3. Any completion card used to satisfy the requirements of this section expires 5 years after the date it is issued and may be renewed by:

(a) Completing an OSHA-10 course or OSHA-30 course, as applicable, within the previous 5 years; or

(b) Providing proof satisfactory to the Division that the construction worker has completed continuing education within the previous 5 years consisting of job-specific training that meets the guidelines established by the Division pursuant to section 8 of this act in an amount of:

(1) For a completion card issued for an OSHA-10 course, not less than 5 hours; or

(2) For a completion card issued for an OSHA-30 course, not less than 15 hours.

Sec. 14. Section 11 of this act is hereby amended to read as follows:

Sec. 11. 1. If a construction worker other than a supervisory employee fails to

~~(a) Present~~ **present** his employer with a current and valid completion card for an OSHA-10 course

~~(b) Complete an OSHA 10 alternative course offered by his employer,~~

not later than 15 days after being hired, his employer shall suspend or terminate his employment.

2. If a supervisory employee on a construction site fails to ~~present~~ *present* his employer with a current and valid completion card for an OSHA-30 course ~~or~~ ~~complete an OSHA 30 alternative course offered by his employer,~~ not later than 15 days after being hired, his employer shall suspend or terminate his employment.

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

~~(a) "OSHA 10 alternative course" means a 10 hour course offered to the employees of an employer that:~~

~~(1) Is approved by the safety committee of the employer established pursuant to NRS 618.383; and~~

~~(2) Meets or exceeds the guidelines issued by the Occupational Safety and Health Administration of the United States Department of Labor for an OSHA 10 course, including, without limitation, federal safety and health regulatory requirements specific to the industry in which the employer participates.~~

~~(b) "OSHA 30 alternative course" means a 30 hour course offered to the employees of an employer that:~~

~~(1) Is approved by the safety committee of the employer established pursuant to NRS 618.383; and~~

~~(2) Meets or exceeds the guidelines issued by the Occupational Safety and Health Administration of the United States Department of Labor for an OSHA 30 course, including, without limitation, federal safety and health regulatory requirements specific to the industry in which the employer participates.]~~

Sec. 15. 1. Not later than January 1, 2011, an employee that satisfies the requirements of subsection 1 or 2 of section 10 of this act by completing an OSHA-10 alternative course or OSHA-30 alternative course, as defined in section 10 of this act, must complete an OSHA-10 course or OSHA-30 course, as defined in sections 4 and 5 of this act, as applicable, in order to continue to satisfy the requirements of subsection 1 or 2 of section 10 of this act.

2. An employer shall maintain a record of all employees that have completed an OSHA-10 alternative course or OSHA-30 alternative course offered by the employer and the date upon which the employee completed the course. The employer shall make the record available at all times for inspection by the Division of Industrial Relations of the Department of Business and Industry and its authorized agents.

3. The Division of Industrial Relations shall, by regulation, establish the length of time that an employer must maintain the record described in subsection 2.

Sec. 16. 1. This section and sections 1 to 12, inclusive, and 15 of this act become effective on January 1, 2010.

2. Sections 13 and 14 of this act become effective on January 1, 2011.

Assemblyman Conklin moved that the Assembly concur in the Senate amendment to Assembly Bill No. 148.

Remarks by Assemblyman Conklin.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

RECEDE FROM ASSEMBLY AMENDMENTS

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

Motion carried.

APPOINTMENT OF CONFERENCE COMMITTEES

Madam Speaker appointed Assemblymen Segerblom, Kihuen, and Hambrick as a Conference Committee to meet with a like committee of the Senate for the further consideration of Senate Bill No. 182.

CONSIDERATION OF SENATE AMENDMENTS

Assembly Bill No. 65.

The following Senate amendment was read:

Amendment No. 961.

AN ACT relating to courts; providing for the collection and disposition of additional court fees; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 2 of this bill: (1) authorizes a district court to charge and collect certain additional filing fees; (2) requires the fees to be deposited into a special county account maintained for the benefit of the court; and (3) provides that the fees may be used only for court staffing, capital costs, debt service, renovation, furniture, fixtures, equipment, technology, and in counties whose population is less than 100,000 (currently counties other than Clark and Washoe Counties), for court appointed special advocate programs.

Section 3 of this bill authorizes a board of county commissioners to impose by ordinance a filing fee of not more than \$20 to be paid on the commencement of any civil action or proceeding in the district court and provides that the fee may be used only for programs for court security or for reimbursement of capital costs for maintaining new judicial departments and must not supplant existing budgets for bailiffs or deputy marshals assigned to work in a courtroom. **Section 5** of this bill requires a county recorder to collect a fee of \$50 upon the filing of any notice of default and election to sell and provides that such fees must be deposited in a special account to support a program of foreclosure mediation established by Supreme Court Rule. However, **section 5** also provides that 1.5 percent of the fees collected may be placed in a special account for use by the office of the county recorder. (NRS 107.080)

Section 6 of this bill provides that notwithstanding the uses provided for the fees in **section 2** of this bill, the fees collected pursuant to **section 2** must also be used to fund the cost of the salary and benefits of any district judge added by Assembly Bill No. 64 of this session for the period from January 1, 2011, through June 30, 2011.

Section 7 of this bill requires the county treasurer of a county in which a district judge is added by Assembly Bill No. 64 of this session to remit, from the special account administered and maintained pursuant to **section 2** of this bill, an amount equal to \$104,104 to the State Controller for credit to the District Judges' Salary Account of the Supreme Court for each judge added in that county.

Section 8 of this bill provides that **sections 6 and 7** of this bill become effective if, and only if, Assembly Bill No. 64 of this session is enacted by the Legislature and becomes effective.

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

Section 1. Chapter 19 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.

Sec. 2. **1. Except as otherwise provided by specific statute and in addition to any other fee required by law, each clerk of the court or county clerk, as appropriate, shall charge and collect the following fees:**

(a) On the commencement of any action or proceeding in the district court, other than those listed in paragraphs (c), (e) and (f), or on the transfer of any action or proceeding from a district court of another county, to be paid by the party commencing the action, proceeding or transfer \$99

(b) On the appearance of any defendant or any number of defendants answering jointly, to be paid upon the filing of the first paper in the action by him or them \$99

(c) On the filing of a petition for letters testamentary, letters of administration or a guardianship, which fee does not include the court fee prescribed by NRS 19.020, to be paid by the petitioner:

(1) Where the stated value of the estate is \$200,000 or more \$352

(2) Where the stated value of the estate is more than \$20,000 but less than \$200,000 \$99

(3) Where the stated value of the estate is \$20,000 or less, no fee may be charged or collected.

(d) On the filing of a motion for summary judgment or a joinder thereto..... \$200

**(e) On the commencement of an action defined as a business matter pursuant to the local rules of practice and on the answer or appearance of any party in any such action or proceeding, to be paid by the party commencing, answering or appearing in the action or proceeding thereto...
..... \$1,359**

(f) On the commencement of:

(1) An action for a constructional defect pursuant to NRS 40.600 to 40.695, inclusive; or

(2) Any other action defined as “complex” pursuant to the local rules of practice,

↪ and on the answer or appearance of any party in any such action or proceeding, to be paid by the party commencing, answering or appearing in the action or proceeding \$349

(g) On the filing of a third-party complaint, to be paid by the filing party \$135

(h) On the filing of a motion to certify or decertify a class, to be paid by the filing party \$349

(i) For the issuance of any writ of attachment, writ of garnishment, writ of execution or any other writ designed to enforce any judgment of the court \$10

2. ~~Except as otherwise provided in subsection 4, fees~~ Fees collected pursuant to this section must be deposited into a special account administered by the county and maintained for the benefit of the court. The money in that account must be used only:

(a) To offset the costs for adding and maintaining new judicial departments, including, without limitation, the cost for additional staff;

(b) To reimburse the county for any capital costs incurred for maintaining any judicial departments that are added by the 75th Session of the Nevada Legislature; and

(c) If any money remains in the account in a fiscal year after satisfying the purposes set forth in paragraphs (a) and (b), to:

(1) Acquire land on which to construct additional facilities for the district court or a regional justice center that includes the district court;

(2) Construct or acquire additional facilities for the district court or a regional justice center that includes the district court;

(3) Renovate or remodel existing facilities for the district court or a regional justice center that includes the district court;

(4) Acquire furniture, fixtures and equipment necessitated by the construction or acquisition of additional facilities or the renovation of an existing facility for the district court or a regional justice center that includes the district court;

(5) Acquire advanced technology;

(6) Pay debt service on any bonds issued pursuant to subsection 3 of NRS 350.020 for the acquisition of land or facilities or the construction or renovation of facilities for the district court or a regional justice center that includes the district court;

(7) In a county whose population is less than 100,000, support court appointed special advocate programs for children, at the discretion of the judges of the judicial district; or

(8) Be carried forward to the next fiscal year.

3. *Except as otherwise provided by specific statute, all fees prescribed in this section are payable in advance if demanded by the clerk of the court or county clerk.*

4. *Each clerk of the court or county clerk shall, on or before the fifth day of each month, account for and pay to the county treasurer ~~for~~*

~~(a) An amount equal to \$20 of each fee collected pursuant to paragraphs (a) and (b) of subsection 1 during the preceding month. The county treasurer shall remit quarterly to the organization operating a program for legal services as set forth in NRS 19.031 all the money received from the clerk of the court or county clerk pursuant to this subsection.~~

~~(b) All remaining~~ all *fees collected pursuant to this section during the preceding month.*

Sec. 3. 1. *In any county, the board of county commissioners may, in addition to any other fee required by law, impose by ordinance a filing fee of not more than \$20 to be paid on the commencement of any civil action or proceeding in the district court for which a filing fee is required and on the filing of any answer or appearance in any such action or proceeding for which a filing fee is required, except as otherwise required pursuant to NRS 19.034.*

2. *On or before the fifth day of each month, in a county where a fee has been imposed pursuant to subsection 1, the clerk of the court shall account for and pay over to the county treasurer any such fees collected by him during the preceding month for credit to an account for programs for court security in the county general fund. The money in that account must be administered by the county and:*

(a) *May be used only for programs for court security or to reimburse the county for any capital costs incurred for maintaining any judicial departments that are added by the 75th Session of the Nevada Legislature;*

(b) *Must not be used to supplant existing budgets for bailiffs or deputy marshals who are assigned to work in a courtroom; and*

(c) *If any balance remains, may be carried forward to the next fiscal year.*

3. *As used in this section, "programs for court security" includes, without limitation:*

(a) *Funding for additional positions for bailiffs, marshals, security guards or similar personnel;*

(b) *Supplementing existing funding used to pay bailiffs, marshals, security guards and similar personnel;*

(c) *Acquiring necessary capital goods for court security;*

(d) *Providing security training and education to personnel;*

(e) *Conducting security audits; and*

(f) *Acquiring or using appropriate technology relating to court security.*

Sec. 4. (Deleted by amendment.)

Sec. 5. NRS 107.080 is hereby amended to read as follows:

107.080 1. Except as otherwise provided in NRS 107.085, if any transfer in trust of any estate in real property is made after March 29, 1927, to secure the performance of an obligation or the payment of any debt, a power of sale is hereby conferred upon the trustee to be exercised after a breach of the obligation for which the transfer is security.

2. The power of sale must not be exercised, however, until:

(a) In the case of any trust agreement coming into force:

(1) On or after July 1, 1949, and before July 1, 1957, the grantor, or his successor in interest, a beneficiary under a subordinate deed of trust or any other person who has a subordinate lien or encumbrance of record on the property, has for a period of 15 days, computed as prescribed in subsection 3, failed to make good the deficiency in performance or payment; or

(2) On or after July 1, 1957, the grantor, or his successor in interest, a beneficiary under a subordinate deed of trust or any other person who has a subordinate lien or encumbrance of record on the property, has for a period of 35 days, computed as prescribed in subsection 3, failed to make good the deficiency in performance or payment;

(b) The beneficiary, the successor in interest of the beneficiary or the trustee first executes and causes to be recorded in the office of the recorder of the county wherein the trust property, or some part thereof, is situated a notice of the breach and of his election to sell or cause to be sold the property to satisfy the obligation; and

(c) Not less than 3 months have elapsed after the recording of the notice.

3. The 15- or 35-day period provided in paragraph (a) of subsection 2 commences on the first day following the day upon which the notice of default and election to sell is recorded in the office of the county recorder of the county in which the property is located and a copy of the notice of default and election to sell is mailed by registered or certified mail, return receipt requested and with postage prepaid to the grantor, and to the person who holds the title of record on the date the notice of default and election to sell is recorded, at their respective addresses, if known, otherwise to the address of the trust property. The notice of default and election to sell must describe the deficiency in performance or payment and may contain a notice of intent to declare the entire unpaid balance due if acceleration is permitted by the obligation secured by the deed of trust, but acceleration must not occur if the deficiency in performance or payment is made good and any costs, fees and expenses incident to the preparation or recordation of the notice and incident to the making good of the deficiency in performance or payment are paid within the time specified in subsection 2.

4. The trustee, or other person authorized to make the sale under the terms of the trust deed or transfer in trust, shall, after expiration of the 3-month period following the recording of the notice of breach and election to sell, and before the making of the sale, give notice of the time and place thereof by recording the notice of sale and by:

(a) Providing the notice to each trustor and any other person entitled to notice pursuant to this section by personal service or by mailing the notice by registered or certified mail to the last known address of the trustor and any other person entitled to such notice pursuant to this section;

(b) Posting a similar notice particularly describing the property, for 20 days successively, in three public places of the township or city where the property is situated and where the property is to be sold; and

(c) Publishing a copy of the notice three times, once each week for 3 consecutive weeks, in a newspaper of general circulation in the county where the property is situated.

5. Every sale made under the provisions of this section and other sections of this chapter vests in the purchaser the title of the grantor and his successors in interest without equity or right of redemption. A sale made pursuant to this section may be declared void by any court of competent jurisdiction in the county where the sale took place if:

(a) The trustee or other person authorized to make the sale does not substantially comply with the provisions of this section;

(b) Except as otherwise provided in subsection 6, an action is commenced in the county where the sale took place within 90 days after the date of the sale; and

(c) A notice of lis pendens providing notice of the pendency of the action is recorded in the office of the county recorder of the county where the sale took place within 30 days after commencement of the action.

6. If proper notice is not provided pursuant to subsection 3 or paragraph (a) of subsection 4 to the grantor, to the person who holds the title of record on the date the notice of default and election to sell is recorded, to each trustor or to any other person entitled to such notice, the person who did not receive such proper notice may commence an action pursuant to subsection 5 within 120 days after the date on which the person received actual notice of the sale.

7. The sale of a lease of a dwelling unit of a cooperative housing corporation vests in the purchaser title to the shares in the corporation which accompany the lease.

8. *The county recorder shall, in addition to any other fee, at the time of recording a notice of default and election to sell collect the sum of \$50 for deposit in the Account for Foreclosure Mediation, which is hereby created in the State General Fund. The fees collected must be paid over to the county treasurer by the county recorder on or before the fifth day of each month for the preceding calendar month, and, except as otherwise provided in this subsection, must be placed to the credit of the Account. The county recorder may direct that 1.5 percent of the fees collected by the county recorder be transferred into a special account for use by the office of the county recorder. The county treasurer shall, on or before the 15th day of each month, remit the fees deposited by the county recorder for the Account for Foreclosure Mediation to the State Controller for credit to the*

Account. The Account must be administered by the Court Administrator, and the money in the Account may be expended only for the purpose of supporting a program of foreclosure mediation established by Supreme Court Rule.

Sec. 6. Notwithstanding any provision of section 2 of this act to the contrary, the fees collected pursuant to section 2 of this act and deposited in the special account administered by the county and maintained for the benefit of the court must be used to fund the cost of the salary and benefits of any district judge added by Assembly Bill No. 64 of this session for the period from January 1, 2011, through June 30, 2011, and this money is hereby authorized for expenditure.

Sec. 7. In a county in which a district judge is added by Assembly Bill No. 64 of this session, the county treasurer is hereby required to, on or before the first Monday in January 2011, remit, from the special account administered and maintained pursuant to section 2 of this act, an amount equal to \$104,104 to the State Controller for credit to the District Judges' Salary Account of the Supreme Court for each judge added in that county.

Sec. 8. 1. This section and sections 1 to 5, inclusive, of this act become effective on July 1, 2009.

2. Sections 6 and 7 of this act become effective on July 1, 2009, if, and only if, Assembly Bill No. 64 of this session is enacted by the Legislature and becomes effective.

Assemblyman Anderson moved that the Assembly concur in the Senate amendment to Assembly Bill No. 65.

Remarks by Assemblyman Anderson.

Assemblyman Anderson requested that his remarks be entered in the Journal.

Thank you, Madam Speaker. I move the Assembly concur in Senate Amendment No. 961 to Assembly Bill 65.

This bill continues to trouble me. The amendment deletes \$20 of fees to be collected for legal services. This is a very important piece of legislation and an opportunity to keep the judiciary alive and fund several different court functions. The concern that I have remains with this bill—I want to keep it very clear for the record—it sets the Judicial Branch of government adrift on the river by itself with no need to come to either this body or to the local county commissions in order to fulfill the physical need for their buildings, plans, and marshals. That concerns me because I think the operation of government works best when there is an interrelationship between all three branches and each is treated with respect.

I think, however, the bill carries, during these economic times, the opportunity to at least help the courts over a short period of time and the needed expansion in several counties. White Pine should get some help from this and the Second and Eighth Judicial Districts—Washoe and Clark Counties—with the need for extra judges which may be supported with this piece of legislation.

The need for judges is truly there. I have a real difficulty, however, in having the county commissions be responsible and the local taxpayer carry the burden of the court system, and I think that this is a mistake. However, I think the other is an overriding feature and needs to be supported. I am going to ask my colleagues to concur in this amendment.

Conflict of interest declared by Assemblywomen Buckley and Dondero Loop.

Motion carried by a constitutional majority.
Bill ordered to enrollment.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Conklin moved that Senate Bill No. 395 be taken from the General File and placed on the Chief Clerk's desk.

Motion carried.

Assemblyman Ocegüera moved that the Assembly recess until 3 p.m.
Motion carried.

Assembly in recess at 12:41 p.m.

ASSEMBLY IN SESSION

At 4:08 p.m.

Madam Speaker presiding.
Quorum present.

REPORTS OF COMMITTEES

Madam Speaker:

Your Committee on Commerce and Labor, to which was referred Senate Bill No. 242, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

MARCUS CONKLIN, *Chairman*

MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, May 30, 2009

To the Honorable the Assembly:

I have the honor to inform your honorable body that the Senate amended, and on this day passed, as amended, Assembly Bill No. 521, Amendments Nos. 970, 971; Assembly Bill No. 561, Amendment No. 973, and respectfully requests your honorable body to concur in said amendments.

Also, I have the honor to inform your honorable body that the Senate on this day concurred in the Assembly Amendment No. 712 to Senate Bill No. 293 and respectfully refused to concur in Assembly Amendment No. 949 to Senate Bill No. 293.

Also, I have the honor to inform your honorable body that the Senate on this day appointed Senators Care, Washington and Wiener as a Conference Committee concerning Senate Bill No. 68.

Also, I have the honor to inform your honorable body that the Senate on this day appointed Senators Care, Parks and McGinness as a Conference Committee concerning Senate Bill No. 183.

SHERRY L. RODRIGUEZ
Assistant Secretary of the Senate

SECOND READING AND AMENDMENT

Senate Bill No. 242.
Bill read second time.

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

Amendment No. 978.

SUMMARY—Enacts provisions relating to energy efficiency, ~~and renewable energy and building construction.~~ (BDR 58-378)

AN ACT relating to energy; requiring ~~certain contractors to offer upgrades for renewable energy and energy efficiency; requiring certain contractors assisting buyers in obtaining financing to offer, or work with lenders that offer, energy efficient mortgages; requiring licensees of the Real Estate Division of the Department of Business and Industry to make certain information about energy efficiency in residential property available to each party to a real estate transaction; revising continuing education requirements relating to energy efficiency for real estate brokers, real estate broker salesmen, real estate salesmen, mortgage brokers and certified or licensed real estate appraisers.~~ the Director of the Office of Energy within the Office of the Governor to adopt regulations setting forth standards of efficiency for certain appliances; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

~~Section 4 of this bill: (1) requires a contractor to offer certain upgrades for renewable energy and energy efficiency to a person who negotiates to purchase a single family residence which will be built by the contractor as part of a development of 25 or more single family residences; and (2) requires a contractor to offer information about retrofitting certain upgrades for renewable energy and energy efficiency to a person who negotiates to purchase a single family residence which has already been built by the contractor as part of a development of 25 or more single family residences. Section 5 of this bill requires a contractor who arranges financing for the purchase of a single family residence which is built by the contractor as part of a development of 25 or more single family residences to offer, or work with a lender that offers, the option for the buyer to apply for an energy efficient mortgage. If the contractor does not arrange financing for buyers, section 5 requires the contractor to provide information to buyers concerning energy efficient mortgages.~~

~~Section 8 of this bill requires licensees of the Real Estate Division of the Department of Business and Industry to distribute free of charge to each party to a real estate transaction written information which is available publicly and which is designed to assist in the identification, evaluation and selection of energy efficiency and conservation features in residential property. Sections 11, 12 and 13 of this bill amend the continuing education requirements for real estate brokers, real estate broker salesmen, real estate salesmen, mortgage brokers and certified or licensed real estate appraisers to include a requirement for training in energy efficiency and conservation features in residential property. (NRS 645.575, 645B.051, 645C.440)~~

~~Sections 11.5 and 13.5 of this bill allow a new component of not more than 1 hour of instruction concerning energy efficiency in residential property to be added to an existing course of continuing education without the Division charging accreditation or approval fees for the addition of the new component to the course. (NRS 645.830, 645C.450)} **This bill requires the Director of the Office of Energy within the Office of the Governor to adopt, for the sole purpose of qualifying for any rebates, regulations setting forth minimum standards of efficiency for appliances that have not received an Energy Star label in accordance with federal law.**~~

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

Section 1. (Deleted by amendment.)

Sec. 2. (Deleted by amendment.)

Sec. 3. ~~{Chapter 624 of NRS is hereby amended by adding thereto the provisions set forth as sections 4 and 5 of this act.} (Deleted by amendment.)~~

Sec. 4. ~~{1. A contractor shall offer a choice of upgrades for renewable energy and energy efficiency to a person who negotiates to purchase a single family residence which will be built by the contractor as part of a development of 25 or more single family residences. The upgrades may be offered in a package, but the contractor shall allow the person to select individual upgrades and shall not require the selection of an entire package. Qualifying upgrades include, without limitation:~~

~~(a) Awnings and shutters;~~

~~(b) Cool roof coatings;~~

~~(c) Energy efficient appliances;~~

~~(d) A ground source heat pump;~~

~~(e) Low emissivity windows;~~

~~(f) A programmable thermostat;~~

~~(g) Ridge vents;~~

~~(h) A system for solar energy that:~~

~~(1) Consists of a photovoltaic solar collector, or other device for photovoltaic solar energy, that has a primary purpose of providing for the collection, storage and distribution of solar energy for the generation of electricity; and~~

~~(2) Produces an average of at least 2 kilowatts of alternating current of electricity;~~

~~(i) A system for solar thermal energy that has a primary purpose of providing for the collection, storage and distribution of solar energy for the production of hot water or air for space heating or water heating; and~~

~~(j) A charging station for an electric vehicle.~~

~~2. A contractor shall provide information on retrofitting qualifying upgrades for renewable energy and energy efficiency set forth in subsection 1 to a person who negotiates to purchase a single family~~

~~residence which the contractor has already built as part of a development of 25 or more single family residences.}] (Deleted by amendment.)~~

Sec. 5. ~~[A contractor who:~~

~~(a) Directly or through an affiliate, subsidiary or other related entity arranges financing for the purchase of a single family residence which is built by the contractor as part of a development of 25 or more single family residences shall offer, or work with a lender that offers, the option for the buyer to apply for an energy efficient mortgage.~~

~~(b) Does not arrange financing for the purchase of a single family residence specified in paragraph (a) shall provide to the purchaser, free of charge, written information concerning energy efficient mortgages which must include, without limitation, the information concerning energy efficient mortgages available publicly from the United States Department of Energy, the Environmental Protection Agency, the Federal Housing Administration and the Department of Housing and Urban Development.~~

~~2. As used in this section, "energy efficient mortgage" means a mortgage which credits the energy efficiency of a home in the mortgage by providing borrowers with the opportunity to finance cost effective and energy saving measures as part of a single mortgage and by increasing debt to income qualifying ratios on loans.}] (Deleted by amendment.)~~

Sec. 6. ~~[Chapter 645 of NRS is hereby amended by adding thereto the provisions set forth as sections 7 and 8 of this act.}] (Deleted by amendment.)~~

Sec. 7. ~~["Residential property" has the meaning ascribed to it in NRS 113.100.}] (Deleted by amendment.)~~

Sec. 8. ~~[A licensee shall provide, free of charge, to each party to a real estate transaction written information which is available publicly and which is designed to assist a person in the identification, evaluation and selection of energy efficiency and conservation features in residential property. The written information must include, without limitation, information relating to:~~

- ~~1.—Appliances;~~
- ~~2.—Building materials used in homes;~~
- ~~3.—Cool roofs;~~
- ~~4.—Energy efficient mortgages and financing;~~
- ~~5.—"Green" home certification programs;~~
- ~~6.—Heating and cooling systems, including water heating systems;~~
- ~~7.—Home energy audits and ratings;~~
- ~~8.—Insulation;~~
- ~~9.—Landscaping;~~
- ~~10.—Lighting and day lighting;~~
- ~~11.—Passive solar heating;~~
- ~~12.—Solar electricity;~~
- ~~13.—Water conserving devices; and~~
- ~~14.—Windows.}] (Deleted by amendment.)~~

Sec. 9. ~~[NRS 645.0005 is hereby amended to read as follows:~~

~~645.0005—As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 645.001 to 645.042, inclusive, and section 7 of this act have the meanings ascribed to them in those sections.]~~

~~(Deleted by amendment.)~~

Sec. 10. ~~[NRS 645.194 is hereby amended to read as follows:~~

~~645.194—1.—The Division shall prepare a booklet that provides relevant information concerning the disclosures that are required by federal, state and local laws and regulations by a buyer and a seller in a transaction involving the sale of residential property.~~

~~2.—The Division shall make copies of the booklet prepared pursuant to subsection 1 available to licensees which the licensee must distribute to prospective buyers and sellers in the sale of residential property in accordance with the regulations adopted by the Commission.~~

~~3.—The Commission shall approve the format and content of the information that must be included in the booklet.~~

~~[4.—As used in this section, “residential property” has the meaning ascribed to it in NRS 113.100.] (Deleted by amendment.)~~

Sec. 11. ~~[NRS 645.575 is hereby amended to read as follows:~~

~~645.575—1.—The Commission shall adopt regulations that prescribe the standards for the continuing education of persons licensed pursuant to this chapter.~~

~~2.—The standards adopted pursuant to subsection 1 must permit alternatives of subject material, taking cognizance of specialized areas of practice and alternatives in sources of programs considering availability in area and time. The standards must include, where qualified, generally accredited educational institutions, private vocational schools, educational programs and seminars of professional societies and organizations, other organized educational programs on technical subjects, or equivalent offerings. The Commission shall qualify only those educational courses that it determines address the appropriate subject matter and are given by an accredited university or community college. Subject to the provisions of this section, the Commission has exclusive authority to determine what is an appropriate subject matter for qualification as a continuing education course.~~

~~3.—In addition to any other standards for continuing education that the Commission adopts by regulation pursuant to this section, the Commission may, without limitation, adopt by regulation standards for continuing education that:~~

~~(a) Establish a postlicensing curriculum of continuing education which must be completed by a person within the first year immediately after initial licensing of the person;~~

~~(b) Require a person whose license as a real estate broker or real estate broker salesman has been placed on inactive status for any reason for 1 year or more or has been suspended or revoked to complete a course of instruction in broker management that is designed to fulfill the educational requirements~~

for issuance of a license which are described in paragraph (d) of subsection 2 of NRS 645.343 [.] before the person's license is reissued or reinstated.

~~4. In addition to any other standards for continuing education that the Commission adopts by regulation pursuant to this section, the Commission shall adopt by regulation standards for continuing education that require a person who holds a license as a real estate broker, real estate broker-salesman or real estate salesman to complete instruction in energy efficiency in residential property which includes, without limitation, instruction concerning each energy efficiency and conservation feature set forth in section 8 of this act.~~

~~5. Except as otherwise provided in this subsection, the license of a real estate broker, broker-salesman or salesman must not be renewed or reinstated unless the Administrator finds that the applicant for the renewal license or for reinstatement to active status has completed the continuing education required by this chapter. Any amendment or repeal of a regulation does not operate to prevent an applicant from complying with this section for the next licensing period following the amendment or repeal. (Deleted by amendment.)~~

Sec. 11.5. [NRS 645.830 is hereby amended to read as follows:

~~645.830 1. [The] Except as otherwise provided in subsection 3, the following fees must be charged by and paid to the Division:~~

~~For each original real estate broker's, broker-salesman's or corporate broker's license \$105~~

~~For each original real estate salesman's license 85~~

~~For each original branch office license 120~~

~~For real estate education, research and recovery to be paid at the time an application for an original license is filed \$40~~

~~For real estate education, research and recovery to be paid at the time an application for renewal of a license is filed 40~~

~~For each renewal of a real estate broker's, broker-salesman's or corporate broker's license 180~~

~~For each renewal of a real estate salesman's license 140~~

~~For each renewal of a real estate branch office license 110~~

~~For each penalty for late filing of a renewal for a broker's, broker-salesman's or corporate broker's license 95~~

~~For each penalty for late filing of a renewal for a salesman's license 75~~

~~For each change of name or address 20~~

~~For each transfer of a real estate salesman's or broker-salesman's license and change of association or employment 20~~

~~For each duplicate license where the original license is lost or destroyed, and an affidavit is made thereof 20~~

~~For each change of broker status from broker to broker-salesman 20~~

~~For each change of broker status from broker-salesman to broker 40~~

~~For each reinstatement to active status of an inactive real estate~~

~~broker's, broker salesman's or salesman's license 20~~
~~For each reinstatement of a real estate broker's license when~~
~~the licensee fails to give immediate written notice to the~~
~~Division of a change of name or business location 30~~
~~For each reinstatement of a real estate salesman's or broker-~~
~~salesman's license when he fails to notify the Division of a~~
~~change of broker within 30 days of termination by previous~~
~~broker 30~~
~~For each original registration of an owner-developer 125~~
~~For each annual renewal of a registration of an owner-~~
~~developer 125~~
~~For each enlargement of the area of an owner-developer's~~
~~registration 50~~
~~For each cooperative certificate issued to an out-of-state~~
~~broker licensee for 1 year or fraction thereof 150~~
~~For each original accreditation of a course of continuing~~
~~education \$100~~
~~For each renewal of accreditation of a course of continuing~~
~~education 50~~
~~For each annual approval of a course of instruction offered~~
~~in preparation for an original license or permit 100~~

~~2.—The fees prescribed by this section for courses of instruction offered in preparation for an original license or permit or for courses of continuing education do not apply to:~~

- ~~(a) Any university, state college or community college of the Nevada System of Higher Education;~~
- ~~(b) Any agency of the State;~~
- ~~(c) Any regulatory agency of the Federal Government.~~

~~3.—The Division shall not charge and collect a fee for the original or renewal accreditation of an existing course of continuing education solely on the basis that a new component consisting of not more than 1 hour of instruction concerning energy efficiency in residential property is added to the curriculum of the existing course of continuing education.~~

~~4.—The Commission shall adopt regulations which establish the fees to be charged and collected by the Division to pay the costs of any investigation of a person's background. (Deleted by amendment.)~~

Sec. 12. [NRS 645B.051 is hereby amended to read as follows:

~~645B.051 1. Except as otherwise provided in this section, in addition to the requirements set forth in NRS 645B.050, to renew a license as a mortgage broker:~~

- ~~(a) If the licensee is a natural person, the licensee must submit to the Commissioner satisfactory proof that the licensee attended at least 10 hours of certified courses of continuing education during the 12 months immediately preceding the date on which the license expires.~~

~~(b) If the licensee is not a natural person, the licensee must submit to the Commissioner satisfactory proof that each natural person who supervises the daily business of the licensee attended at least 10 hours of certified courses of continuing education during the 12 months immediately preceding the date on which the license expires.~~

~~2. The Commissioner may provide by regulation that if a person attends more than 10 hours of certified courses of continuing education during a 12-month period, the extra hours may be used to satisfy the requirement for the immediately following 12-month period and for that immediately following 12-month period only.~~

~~3. In addition to any other standards for continuing education that the Commissioner adopts by regulation pursuant to NRS 645B.0138, the Commissioner shall adopt by regulation standards for continuing education that require a licensee to complete a course of instruction which includes, without limitation, instruction related to energy efficient mortgages and financing.~~

~~4. As used in this section, "certified course of continuing education" means a course of continuing education which relates to the mortgage industry or mortgage transactions and which meets the requirements set forth by the Commissioner by regulation pursuant to NRS 645B.0138. (Deleted by amendment.)~~

Sec. 12.5. [NRS 645C.340 is hereby amended to read as follows:

~~645C.340 1. Each application for an examination for a certificate or license must be accompanied by the fees established by the Division pursuant to subsection [2] 3 of NRS 645C.450.~~

~~2. The examination must test the applicant on his knowledge and understanding of:~~

~~(a) Subjects applicable to the type of certificate or license for which he is applying; and~~

~~(b) Laws regarding the practice of preparing and communicating appraisals, including the provisions of this chapter and any regulations adopted pursuant thereto.~~

~~3. The Division may hire a professional testing organization to create, administer or score the examination. (Deleted by amendment.)~~

Sec. 13. [NRS 645C.440 is hereby amended to read as follows:

~~645C.440 1. The Commission shall adopt regulations governing the continuing education of certified or licensed appraisers. The regulations must include the criteria for approving each course and the requirements for submission of proof of attendance at a course.~~

~~2. In approving courses for continuing education, the Commission shall authorize a variety of subjects and give consideration to specialized areas of practice and the availability of programs. An appropriate educational course given by an accredited university or community college must be approved by the Commission.~~

~~3. In addition to any other standards for continuing education that the Commission adopts by regulation pursuant to this section, the Commission shall adopt by regulation standards for continuing education that require a certified or licensed appraiser to complete instruction in energy efficiency in residential property which includes, without limitation, instruction concerning each energy efficiency and conservation feature set forth in section 8 of this act. (Deleted by amendment.)~~

Sec. 13.5. ~~NRS 645C.450 is hereby amended to read as follows:~~

~~645C.450 1. [The] Except as otherwise provided in subsection 2, the following fees may be charged and collected by the Division:~~

- ~~Application for a certificate, license or registration card \$100~~
- ~~Issuance or renewal of a certificate or license as a residential appraiser 200~~
- ~~Issuance or renewal of a certificate as a general appraiser 300~~
- ~~Issuance of a permit 115~~
- ~~Issuance or renewal of a registration card 100~~
- ~~Issuance of a duplicate certificate or license for an additional office 50~~
- ~~Change in the name or location of a business 20~~
- ~~Reinstatement of an inactive certificate or license 30~~
- ~~Annual approval of a course of instruction offered in preparation for an initial certificate or license 100~~
- ~~Original approval of a course of instruction offered for continuing education 100~~
- ~~Renewal of approval of a course of instruction offered for continuing education 50~~

~~2. The Division shall not charge and collect a fee for the original or renewal accreditation of an existing course of continuing education solely on the basis that a new component consisting of not more than 1 hour of instruction concerning energy efficiency in residential property is added to the curriculum of the existing course of instruction for continuing education.~~

~~3. The Division shall adopt regulations which establish the fees to be charged and collected by the Division to pay the costs of:~~

~~(a) Any examination for a certificate or license, including any costs which are necessary for the administration of such an examination;~~

~~(b) Any investigation of a person's background.] (Deleted by amendment.)~~

Sec. 14. (Deleted by amendment.)

Sec. 14.3. Chapter 701 of NRS is hereby amended by adding thereto a new section to read as follows:

In accordance with, and out of any money received pursuant to, the American Recovery and Reinvestment Act of 2009, Public Law 111-5, or any grants or gifts, the Director shall, for the sole purpose of qualifying for any rebates, adopt regulations setting forth minimum standards of

efficiency for appliances that have not received an Energy Star label in accordance with the program established pursuant to 42 U.S.C. §§ 6294a et seq.

Sec. 14.7. Notwithstanding the provisions of NRS 701.250, until such time as the regulations described in NRS 701.250 are adopted by the Nevada Energy Commissioner, any program for evaluating the energy consumption of residential property in this State:

1. Must utilize the standards established by the American Building Rating Performance System of the Residential Energy Services Network or its successor; and

2. Must not assign a rating or score to any residential property in this State based on the energy consumption of that particular property.

Sec. 15. ~~[1.] This [section and section 14 of this act become] act~~ becomes effective upon passage and approval.

~~[2. Section 8 of this act becomes effective~~

~~(a) Upon passage and approval for the purpose of taking any actions required by a licensee to provide written information concerning energy efficiency and conservation specified in that section; and~~

~~(b) On October 1, 2009, for all other purposes.~~

~~3. Sections 1, 11, 11.5, 12, 13 and 13.5 of this act become effective upon passage and approval for the purpose of adopting regulations and on October 1, 2009, for all other purposes.~~

~~4. Sections 2 to 5, inclusive, 6, 7, 9, 10 and 12.5 of this act become effective on October 1, 2009.]~~

Assemblyman Conklin moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Ocegüera moved that all rules be suspended and the Assembly dispense with the reprinting of Senate Bill No. 242.

Motion carried.

Assemblyman Ocegüera moved that all rules be suspended and that Senate Bill No. 242 be declared an emergency measure under the *Constitution* and placed at the top of General File for third reading and final passage.

Motion carried.

GENERAL FILE AND THIRD READING

Senate Bill No. 242.

Bill read third time.

Roll call on Senate Bill No. 242:

YEAS—41.

NAYS—None.

EXCUSED—Ohrenschaal.

Senate Bill No. 242 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

UNFINISHED BUSINESS

REPORTS OF CONFERENCE COMMITTEES

Madam Speaker:

The Conference Committee concerning Assembly Bill No. 309, consisting of the undersigned members, has met and reports that:

It has agreed to recommend that Amendment No. 876 of the Senate be concurred in.

It has agreed to recommend that the bill be further amended as set forth in Conference Amendment No. 10, which is attached to and hereby made a part of this report.

BONNIE PARNELL
MARILYN DONDERO LOOP
JOHN HAMBRICK

Assembly Conference Committee

MARK AMODEI
TERRY CARE
VALERIE WIENER

Senate Conference Committee

Conference Amendment No. 10.

AN ACT relating to crimes; revising provisions relating to the crime of stalking; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law prohibits stalking and authorizes the issuance of a temporary or extended order restricting certain conduct related to the crime of stalking, aggravated stalking or harassment. (NRS 200.575, 200.591) ~~[This bill adds.]~~
Section 1 of this bill includes within the definition of the crime of stalking a course of conduct which would cause a reasonable person to feel fearful for the immediate safety of a member of the person's family or household and which actually causes a victim to feel such fear. Sections 1, 3 and 4 of this bill add text messaging to the existing crime of stalking with the use of a communication device, which is punishable as a category C felony.

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

Section 1. NRS 200.575 is hereby amended to read as follows:

200.575 1. A person who, without lawful authority, willfully or maliciously engages in a course of conduct that would cause a reasonable person to feel terrorized, frightened, intimidated, ~~[or]~~ harassed ~~[,]~~ **or fearful for the immediate safety of a family or household member,** and that actually causes the victim to feel terrorized, frightened, intimidated, ~~[or]~~ harassed ~~[,]~~ **or fearful for the immediate safety of a family or household member,** commits the crime of stalking. Except where the provisions of subsection 2 or 3 are applicable, a person who commits the crime of stalking:

- (a) For the first offense, is guilty of a misdemeanor.
- (b) For any subsequent offense, is guilty of a gross misdemeanor.

2. A person who commits the crime of stalking and in conjunction therewith threatens the person with the intent to cause him to be placed in reasonable fear of death or substantial bodily harm commits the crime of aggravated stalking. A person who commits the crime of aggravated stalking shall be punished for a category B felony by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 15 years, and may be further punished by a fine of not more than \$5,000.

3. A person who commits the crime of stalking with the use of an Internet or network site, ~~or~~ electronic mail, *text messaging* or any other similar means of communication to publish, display or distribute information in a manner that substantially increases the risk of harm or violence to the victim shall be punished for a category C felony as provided in NRS 193.130.

4. Except as otherwise provided in subsection 2 of NRS 200.571, a criminal penalty provided for in this section may be imposed in addition to any penalty that may be imposed for any other criminal offense arising from the same conduct or for any contempt of court arising from the same conduct.

5. The penalties provided in this section do not preclude the victim from seeking any other legal remedy available.

6. As used in this section:

(a) "Course of conduct" means a pattern of conduct which consists of a series of acts over time that evidences a continuity of purpose directed at a specific person.

(b) **"Family or household member" means a spouse, a former spouse, a parent or other person who is related by blood or marriage or is or was actually residing with the person.**

(c) "Internet or network site" has the meaning ascribed to it in NRS 205.4744.

~~(c)~~ (d) "Network" has the meaning ascribed to it in NRS 205.4745.

~~(d)~~ (e) "Provider of Internet service" has the meaning ascribed to it in NRS 205.4758.

~~(e)~~ (f) ***"Text messaging" means a communication in the form of electronic text or one or more electronic images sent from a telephone or computer to another person's telephone or computer by addressing the communication to the recipient's telephone number.***

~~(f)~~ (g) "Without lawful authority" includes acts which are initiated or continued without the victim's consent. The term does not include acts which are otherwise protected or authorized by constitutional or statutory law, regulation or order of a court of competent jurisdiction, including, but not limited to:

(1) Picketing which occurs during a strike, work stoppage or any other labor dispute.

(2) The activities of a reporter, photographer, cameraman or other person while gathering information for communication to the public if that

person is employed or engaged by or has contracted with a newspaper, periodical, press association or radio or television station and is acting solely within that professional capacity.

(3) The activities of a person that are carried out in the normal course of his lawful employment.

(4) Any activities carried out in the exercise of the constitutionally protected rights of freedom of speech and assembly.

Sec. 2. (Deleted by amendment.)

Sec. 3. NRS 176A.413 is hereby amended to read as follows:

176A.413 1. Except as otherwise provided in subsection 2, if a defendant is convicted of stalking with the use of an Internet or network site, ~~for~~ electronic mail, *text messaging* or any other similar means of communication pursuant to subsection 3 of NRS 200.575, an offense involving pornography and a minor pursuant to NRS 200.710 to 200.730, inclusive, or luring a child or a person with mental illness through the use of a computer, system or network pursuant to paragraph (a) or (b) of subsection 4 of NRS 201.560 and the court grants probation or suspends the sentence, the court shall, in addition to any other condition ordered pursuant to NRS 176A.400, order as a condition of probation or suspension that the defendant not own or use a computer, including, without limitation, use electronic mail, a chat room or the Internet.

2. The court is not required to impose a condition of probation or suspension of sentence set forth in subsection 1 if the court finds that:

(a) The use of a computer by the defendant will assist a law enforcement agency or officer in a criminal investigation;

(b) The defendant will use the computer to provide technological training concerning technology of which the defendant has a unique knowledge; or

(c) The use of the computer by the defendant will assist companies that require the use of the specific technological knowledge of the defendant that is unique and is otherwise unavailable to the company.

3. Except as otherwise provided in subsection 1, if a defendant is convicted of an offense that involved the use of a computer, system or network and the court grants probation or suspends the sentence, the court may, in addition to any other condition ordered pursuant to NRS 176A.400, order as a condition of probation or suspension that the defendant not own or use a computer, including, without limitation, use electronic mail, a chat room or the Internet.

4. As used in this section:

(a) "Computer" has the meaning ascribed to it in NRS 205.4735.

(b) "Network" has the meaning ascribed to it in NRS 205.4745.

(c) "System" has the meaning ascribed to it in NRS 205.476.

(d) "Text messaging" has the meaning ascribed to it in NRS 200.575.

Sec. 4. NRS 213.1258 is hereby amended to read as follows:

213.1258 1. Except as otherwise provided in subsection 2, if the Board releases on parole a prisoner convicted of stalking with the use of an Internet

or network site , ~~for~~ electronic mail , *text messaging* or any other similar means of communication pursuant to subsection 3 of NRS 200.575, an offense involving pornography and a minor pursuant to NRS 200.710 to 200.730, inclusive, or luring a child or a person with mental illness through the use of a computer, system or network pursuant to paragraph (a) or (b) of subsection 4 of NRS 201.560, the Board shall, in addition to any other condition of parole, require as a condition of parole that the parolee not own or use a computer, including, without limitation, use electronic mail, a chat room or the Internet.

2. The Board is not required to impose a condition of parole set forth in subsection 1 if the Board finds that:

(a) The use of a computer by the parolee will assist a law enforcement agency or officer in a criminal investigation;

(b) The parolee will use the computer to provide technological training concerning technology of which the defendant has a unique knowledge; or

(c) The use of the computer by the parolee will assist companies that require the use of the specific technological knowledge of the parolee that is unique and is otherwise unavailable to the company.

3. Except as otherwise provided in subsection 1, if the Board releases on parole a prisoner convicted of an offense that involved the use of a computer, system or network, the Board may, in addition to any other condition of parole, require as a condition of parole that the parolee not own or use a computer, including, without limitation, use electronic mail, a chat room or the Internet.

4. As used in this section:

(a) "Computer" has the meaning ascribed to it in NRS 205.4735.

(b) "Network" has the meaning ascribed to it in NRS 205.4745.

(c) "System" has the meaning ascribed to it in NRS 205.476.

(d) "Text messaging" has the meaning ascribed to it in NRS 200.575.

Assemblywoman Parnell moved that the Assembly adopt the report of the Conference Committee concerning Assembly Bill No. 309.

Motion carried by a constitutional majority.

RECEDE FROM ASSEMBLY AMENDMENTS

Assemblyman Arberry moved that the Assembly do not recede from its action on Senate Bill No. 403, that a conference be requested, and that Madam Speaker appoint a first Conference Committee consisting of three members to meet with a like committee of the Senate.

Motion carried.

APPOINTMENT OF CONFERENCE COMMITTEES

Madam Speaker appointed Assemblymen Leslie, Arberry, and Gansert as a Conference Committee to meet with a like committee of the Senate for the further consideration of Senate Bill No. 403.

JOURNAL OF THE ASSEMBLY

COMMUNICATIONS
OFFICE OF THE GOVERNOR

May 29, 2009

THE HONORABLE BARBARA BUCKLEY, *Speaker of the Assembly*, Legislative Building, 401
South Carson Street, Carson City, NV 89701

RE: Assembly Bill No. 22 of the 75th Legislative Session

DEAR SPEAKER BUCKLEY:

I am herewith forwarding to you, for filing within the constitutional time limit and without my approval, Assembly Bill 22, which is entitled:

AN ACT relating to trade practices; providing that certain persons may bring a civil action for various deceptive trade practices or other violations; providing that various actions related to certain persons with an inability to reasonably protect their rights or interests constitute a deceptive trade practice; allowing equitable relief for certain actions related to consumer fraud; revising provisions governing the State's system for the registration and protection of trademarks, trade names and service marks; making various changes regarding administration of the system by the Secretary of State; authorizing the Secretary of State to prescribe certain fees; prohibiting certain misleading and deceptive practices; providing remedies and penalties; and providing other matters properly relating thereto.

Assembly Bill 22 relates to deceptive trade practices. Although protecting consumers is a noble goal, this bill fundamentally alters the existing laws pertaining to deceptive trade practices in Nevada. For example, Assembly Bill 22 creates a private right of action for deceptive trade practices but shifts the traditional burden of proof in civil litigation. This would require the entity accused of a deceptive trade practice to prove their innocence, rather than requiring the accusing party to prove their case. Such a shift sets a dangerous precedent by altering the time-honored tradition of requiring a plaintiff to establish wrongdoing.

Additionally, this shift will dramatically increase the cost and frequency of litigation, particularly to defendants subject to these types of cases. For these reasons, I hereby exercise my constitutional grant of authority and veto Assembly Bill 22.

Sincerely,
JIM GIBBONS
Governor

OFFICE OF THE GOVERNOR

May 29, 2009

THE HONORABLE BARBARA BUCKLEY, *Speaker of the Assembly*, Legislative Building, 401
South Carson Street, Carson City, NV 89701

RE: Assembly Bill No. 25 of the 75th Legislative Session

DEAR SPEAKER BUCKLEY:

I am herewith forwarding to you, for filing within the constitutional time limit and without my approval, Assembly Bill 25, which is entitled:

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

Assembly Bill 25 would lower the age threshold from 25 to 21 years old to receive an exemption from testing requirements when a new Nevada resident receives a driver's license and

already possesses a valid license from another state. This change is appropriate. Unfortunately, this bill also imposes a new \$25 fee for administering examinations for driver's licenses in the State of Nevada. It also imposes a new \$10 fee for subsequent examinations to the same person. This would nearly triple the cost of a driver's license for a senior citizen in Nevada, and more than double the cost to someone under the age of 65.

For these reasons, I hereby exercise my constitutional grant of authority and veto Assembly Bill 25.

Sincerely,
JIM GIBBONS
Governor

OFFICE OF THE GOVERNOR

May 25, 2009

THE HONORABLE BARBARA BUCKLEY, *Speaker of the Assembly*, Legislative Building, 401
South Carson Street, Carson City, NV 89701

RE: Assembly Bill No. 119 of the 75th Legislative Session

DEAR SPEAKER BUCKLEY:

I am herewith forwarding to you for filing within the constitutional time limit and without my approval, Assembly Bill 119, which is entitled:

AN ACT relating to planning; requiring the comprehensive regional plan in certain counties to include provisions concerning the sustainability of certain water resources; and providing other matters properly relating thereto.

This bill makes changes to regional planning in Washoe County with respect to water use. Regional planning in Washoe County is handled by the Regional Planning Commission and its Governing Board, both of which are composed of various local government officials. Existing law mandates that regional planning in Washoe County address various aspects of conservation, including the use and protection of water resources. NRS § 278.0274(2). Moreover, regional planning must address the availability of natural resources, including water, before approving any expanded development. NRS § 278.0274(4). Assembly Bill 119 is redundant and unnecessary as current law already limits development in areas that do not have adequate water resources. Furthermore, the Regional Planning Commission and its Governing Board, as bodies of local government, are the entities that are best equipped to represent the citizens of Washoe County and make determinations on responsible expansion of development and the resulting impact on limited water resources. Regional planning should be handled by local governments, who are the most knowledgeable with respect to local planning. Assembly Bill 119 represents an unnecessary intrusion into a well-established regional planning program.

For these reasons, I hereby exercise my constitutional grant of authority and veto Assembly Bill 119.

Sincerely,
JIM GIBBONS
Governor

OFFICE OF THE GOVERNOR

May 23, 2009

THE HONORABLE BARBARA BUCKLEY, *Speaker of the Assembly*, Legislative Building, 401
South Carson Street, Carson City, NV 89701

RE: Assembly Bill No. 121 of the 75th Legislative Session

DEAR SPEAKER BUCKLEY:

I am herewith forwarding to you, for filing within the constitutional time limit and without my approval, Assembly Bill 121, which is entitled:

AN ACT relating to health care facilities; requiring certain hospitals in larger counties to establish a staffing committee; requiring certain

health care facilities to make available to the Health Division of the Department of Health and Human Services a documented staffing plan: and providing other matters properly relating thereto.

This bill mandates that each hospital in larger counties form a staffing committee to establish a staffing plan that addresses certain items such as nurse staffing ratios. A hospital's license to operate is conditioned on the submission of such a staffing plan.

Although Assembly Bill 121 purports to address hospital staffing needs to ensure adequate patient care, the bill instead unnecessarily legislates in an area that should be addressed by medical professionals and health care management. Assembly Bill 121 could dramatically increase the costs of health care without a corresponding increase in levels and quality of service.

For these reasons, I hereby exercise my constitutional grant of authority and veto Assembly Bill 121.

Sincerely,
JIM GIBBONS
Governor

OFFICE OF THE GOVERNOR

May 29, 2009

THE HONORABLE BARBARA BUCKLEY, *Speaker of the Assembly*, Legislative Building, 401
South Carson Street, Carson City, NV 89701

RE: Assembly Bill No. 135 of the 75th Legislative Session

DEAR SPEAKER BUCKLEY:

I am herewith forwarding to you, for filing within the constitutional time limit and without my approval, Assembly Bill 135, which is entitled:

AN ACT relating to state obligations; requiring the State Treasurer to review and the State Board of Finance to approve certain state financial obligations before the obligations are issued or incurred; and providing other matters properly relating thereto.

Assembly Bill 135 would require any state agency or department issuing financial obligations to review the proposal with the State Treasurer and require the State Treasurer to issue a written report on the proposed obligations. This legislation provides an additional, unnecessary layer of government bureaucracy. While the goal of requiring additional review of certain government financial transactions is well intentioned, Assembly Bill 135 will likely have unintended consequences. For example, this bill will impede certain state agencies' ability to negotiate public-private partnerships for various projects. Also, the legislation is unclear as to the role the State Treasurer would play when the state enters into a design-build infrastructure project. These are critical contracts ensuring the taxpayers receive quality infrastructure at the best price possible, and I worry this legislation would restrict the state's ability to enter into such contracts.

For these reasons, I hereby exercise my constitutional grant of authority and veto Assembly Bill 135.

Sincerely,
JIM GIBBONS
Governor

OFFICE OF THE GOVERNOR

May 29, 2009

THE HONORABLE BARBARA BUCKLEY, *Speaker of the Assembly*, Legislative Building, 401
South Carson Street, Carson City, NV 89701

RE: Assembly Bill No. 141 of the 75th Legislative Session

DEAR SPEAKER BUCKLEY:

I am herewith forwarding to you, for filing within the constitutional time limit and without my approval, Assembly Bill 141, which is entitled:

AN ACT relating to mortgage lending; establishing a recovery fund for persons defrauded by mortgage brokers, mortgage agents or mortgage bankers; and providing other matters properly relating thereto.

Assembly Bill 141 would create the Mortgage Education, Research and Recovery Fund to assist people defrauded by mortgage brokers, mortgage agents or mortgage bankers.

The collapse of the housing market in Nevada and nationally was clearly the first of many breakdowns in our economy that have led to our current fiscal struggles. Much of this collapse, however, was not due to fraud, but rather to poor lending practices within the scope of legal authority.

As such, I have signed Assembly Bill 149 and Assembly Bill 152 that came out of the 75th Legislative Session. These bills provide ample regulation pertaining to loans, as well as mediation for distressed homeowners. Although Assembly Bill 141 has laudable goals for the protection of consumers against fraudulent business activities, remedies are still available to victims through the court system, and the additional fees included in this legislation did not have the support of the industry.

For these reasons, I hereby exercise my constitutional grant of authority and veto Assembly Bill 141.

Sincerely,
JIM GIBBONS
Governor

OFFICE OF THE GOVERNOR

May 29, 2009

THE HONORABLE BARBARA BUCKLEY, *Speaker of the Assembly*, Legislative Building, 401
South Carson Street, Carson City, NV 89701

RE: Assembly Bill No. 147 of the 75th Legislative Session

DEAR SPEAKER BUCKLEY:

I am herewith forwarding to you, for filing within the constitutional time limit and without my approval, Assembly Bill 147, which is entitled:

AN ACT relating to purchasing by local governments; requiring local governments, under certain circumstances, to grant a preference to local bidders bidding on certain contracts for goods or services for a temporary period; and providing other matters properly relating thereto.

Assembly Bill 147 would require local governments to spend more money on public works and other contracts by giving a 5 percent preference to local companies. While there is a justifiable interest in promoting local companies to support our economy and help local workers, Nevada's local governments will be hard pressed to meet this additional fiscal burden on contracting. During this difficult economic time for the state and local governments, it's not appropriate to place this burden on local governments in this way.

For these reasons, I hereby exercise my constitutional grant of authority and veto Assembly Bill 147.

Sincerely,
JIM GIBBONS
Governor

OFFICE OF THE GOVERNOR

May 28, 2009

THE HONORABLE BARBARA BUCKLEY, *Speaker of the Assembly*, Legislative Building, 401
South Carson Street, Carson City, NV 89701

RE: Assembly Bill No. 246 of the 75th Legislative Session

DEAR SPEAKER BUCKLEY:

I am herewith forwarding to you, for filing within the constitutional time limit and without my approval, Assembly Bill 246 which is entitled:

AN ACT relating to wildlife; providing for the issuance of an apprentice hunting license; prohibiting an apprentice hunter from hunting in this State unless he is accompanied and directly supervised by a mentor hunter; providing an exception from requirements concerning the completion of a course in the responsibilities of hunters; requiring the Board of Wildlife Commissioners to establish a program for the issuance of additional big game tags to be known as "Dream Tags" authorizing the Board to establish an additional kind of drawing for the existing allotment of big game tags and wild turkey tags; providing a penalty; and providing other matters properly relating thereto.

Assembly Bill 246 would do several things, including create an apprentice hunting license, create the Silver State Tag Drawing program and establish a Dream Tag program to help aid wildlife and habitat conservation and restoration. These are all sound programs as concepts, and I support their general intent.

Unfortunately, I cannot endorse the unnecessary, burdensome structure created to implement the Dream Tag program. I am particularly concerned with the fact that the Dream Tag program would be administered by a specific non-profit corporation. I believe the Nevada Board of Wildlife Commissioners should have the flexibility to determine the best entity to administer the program. Assembly Bill 246 also creates an Advisory Committee to administer the funds generated by the Dream Tag Program. Again, I believe the Nevada Board of Wildlife Commissioners should have the authority to determine the best use of the avenues from the program. I am also concerned that adequate audits and oversight will not be utilized for the Advisory Committee, whereas the Board of Wildlife Commissioners and the Department of Wildfire are subject to routine audits. If these defects had been addressed in Assembly Bill 246, I would have been proud to sign the bill into law. However, the lack of flexibility and oversight in this bill, combined with unnecessary bureaucracy, has precluded my support.

For these reasons, I hereby exercise my constitutional grant of authority and veto Assembly Bill 246.

Sincerely,
JIM GIBBONS
Governor

OFFICE OF THE GOVERNOR

May 28, 2009

THE HONORABLE BARBARA BUCKLEY, *Speaker of the Assembly*, Legislative Building, 401
South Carson Street, Carson City, NV 89701

RE: Assembly Bill No. 267 of the 75th Legislative Session

DEAR SPEAKER BUCKLEY:

I am herewith forwarding to you, for filing within the constitutional time limit and without my approval, Assembly Bill 267, which is entitled:

AN ACT relating to the taxation of property; requiring certain golf courses assessed as open-space real property to be designated as open-space real property under applicable zoning ordinances; and providing other matters properly relating thereto.

Assembly Bill 267 is a bill that relates to the property tax assessment of golf courses. Under existing law, golf courses are assessed for property tax purposes as open-space real property. This bill does not change the existing tax assessment for most golf courses. However, it appears to target one particular business. It is bad public policy to enact legislation that singles out individual businesses.

For these reasons, I hereby exercise my constitutional grant of authority and veto Assembly Bill 267.

Sincerely,
JIM GIBBONS
Governor

OFFICE OF THE GOVERNOR

May 29, 2009

THE HONORABLE BARBARA BUCKLEY, *Speaker of the Assembly*, Legislative Building, 401
South Carson Street, Carson City, NV 89701

RE: Assembly Bill No. 304 of the 75th Legislative Session

DEAR SPEAKER BUCKLEY:

I am herewith forwarding to you, for filing within the constitutional time limit and without my approval, Assembly Bill 304, which is entitled:

AN ACT relating to development; making various changes pertaining to the preservation of historic neighborhoods; revising certain provisions concerning the Southern Nevada Enterprise Community; requiring the City of Las Vegas and the Nevada Department of Transportation to cooperate to reopen a certain street; and providing other matters properly relating thereto.

Assembly Bill 304 would force the Nevada Department of Transportation, the City of Las Vegas and the Southern Nevada Regional Transportation Commission to design and construct a grade separation to open F Street in Las Vegas.

It is estimated that the total cost of this design and construction project could approach \$70 million. Of that, \$20 million is required from the City of Las Vegas. The bill states that "the Nevada Department of Transportation shall work with the City of Las Vegas to seek other sources for the remaining portion of the construction costs based on the bridge design documents, including federal funding *or additional revenue enhancements* provided by the Nevada Department of Transportation." [emphasis added] This mandate upon the state to find the funding could easily result in an additional tax levy to fund this project.

Aside from the cost and mandate upon local government, this bill dictates the construction of a project without going through the project prioritization process as approved by the 2007 Legislature. NDOT is required to prioritize projects based on a cost benefit ratio and work with the local Regional Transportation Commissions and local agencies. This project should go through the normal process outlined in state law.

The Interstate 15 widening project has been ongoing for more than a decade. The project went through the normal process of public hearings and public notifications prior to the start of construction, as well as the City of Las Vegas public process to modify its master plan to close F Street. Additionally, the project was approved in a public meeting by the Nevada Board of Transportation with F Street being closed. It is counterintuitive to add up to \$70 million to the cost of this project now after it had been fully vetted, approved and built.

For these reasons, I hereby exercise my constitutional grant of authority and veto Assembly Bill 304.

Sincerely,
JIM GIBBONS
Governor

OFFICE OF THE GOVERNOR

May 28, 2009

THE HONORABLE BARBARA BUCKLEY, *Speaker of the Assembly*, Legislative Building, 401
South Carson Street, Carson City, NV 89701

RE: Assembly Bill No. 307 of the 75th Legislative Session

DEAR SPEAKER BUCKLEY:

I am herewith forwarding to you, for filing within the constitutional time limit and without my approval, Assembly Bill 307, which is entitled:

AN ACT relating to property taxes; revising provisions governing the publication of certain information relating to property taxes for counties; and providing other matters properly relating thereto.

Assembly Bill 307 would eliminate the long-standing requirement that the secured tax roll of each county be published annually in newspapers of general circulation and instead allow for the information to be made available through the Internet.

This change poses several potential problems and could very well restrict access to this vital information for some members of the public. While the Internet is obviously a very popular communications medium and is readily accessible in urban areas, there are large portions of Nevada's rural areas where Internet access is not available or available only in dial-up form. This would make it particularly difficult for citizens in these areas to access this information. Levels of Internet use also vary greatly based on race and income levels. Overall, I believe that putting this information exclusively online would restrict access for certain populations, rather than enhance it.

As can easily be seen in the ongoing dispute between residents of Incline Village and the Washoe County government, property assessment and taxation remains an issue that's important to the people of Nevada. As such, providing that information to them, rather than forcing them to seek it out, remains the preferable manner of public disclosure. The continued publishing of these rolls in newspapers of general circulation is the best way to accomplish this noble goal.

For these reasons, I hereby exercise my constitutional grant of authority and veto Assembly Bill 307.

Sincerely,
JIM GIBBONS
Governor

OFFICE OF THE GOVERNOR

May 29, 2009

THE HONORABLE BARBARA BUCKLEY, *Speaker of the Assembly*, Legislative Building, 401
South Carson Street, Carson City, NV 89701

RE: Assembly Bill No. 319 of the 75th Legislative Session

DEAR SPEAKER BUCKLEY:

I am herewith forwarding to you, for filing within the constitutional time limit and without my approval, Assembly Bill 319, which is entitled:

AN ACT relating to education; prescribing certain rights for school employees; revising provisions relating to certain licensed employees who are reinstated after dismissal from employment; and providing other matters properly relating thereto.

Assembly Bill 319 would implement a new procedure a school administrator would be forced to follow if he or she wanted to have a meeting with a school employee when that meeting may result in disciplinary action against the employee.

In an environment where school administrators are required to deal with a myriad of issues on a daily basis, creating a burdensome process for launching even the most preliminary inquiry into an allegation against an employee is unnecessary and would make it even more difficult for administrators to take the control of their schools necessary to ensure student success.

Requiring a 48-hour waiting period before any meeting could be held is also troubling. If someone had willingly done something inappropriate, giving that person a 48-hour window to "get their story straight" would seriously hinder any investigation that's necessary. It also establishes a barrier for an employee who would want to stand up and vigorously defend themselves against erroneous allegations, which also occur in school environments.

A 48-hour noticing requirement also removes any flexibility an administrator possesses to handle problems as they arise in their school, and more significantly, nip in the bud any problems before they escalate into larger and more cumbersome situations that expose the school to greater potential risk and liability.

For these reasons, I hereby exercise my constitutional grant of authority and veto Assembly Bill 319.

Sincerely,
JIM GIBBONS
Governor

OFFICE OF THE GOVERNOR

May 29, 2009

THE HONORABLE BARBARA BUCKLEY, *Speaker of the Assembly*, Legislative Building, 401
South Carson Street, Carson City, NV 89701

RE: Assembly Bill No. 381 of the 75th Legislative Session

DEAR SPEAKER BUCKLEY:

I am herewith forwarding to you, for filing within the constitutional time limit and without my approval, Assembly Bill 381, which is entitled:

AN ACT relating to trade practices; making provisions in certain contracts that require arbitration void and unenforceable under certain circumstances; requiring certain disclosures by arbitral organizations; requiring certain disclosures in agreements to arbitrate; and providing other matters properly relating thereto.

Assembly Bill 381 changes the well-established practice in Nevada favoring the use of alternate dispute resolution procedures that allows the parties to a contract agree on a private, nonjudicial forum for the resolution of disputes.

Not only will this bill potentially affect existing contracts, but it will also likely force many disputes into our already overburdened judicial system when they could have been resolved through arbitration under existing law. This will drive up costs for all litigants and extend the length of disputes.

Overall, I believe this legislation makes unnecessary changes to a system that currently works as designed.

For these reasons, I hereby exercise my constitutional grant of authority and veto Assembly Bill 381.

Sincerely,
JIM GIBBONS
Governor

OFFICE OF THE GOVERNOR

May 28, 2009

THE HONORABLE BARBARA BUCKLEY, *Speaker of the Assembly*, Legislative Building, 401
South Carson Street, Carson City, NV 89701

RE: Assembly Bill No. 446 of the 75th Legislative Session

DEAR SPEAKER BUCKLEY:

I am herewith forwarding to you, for filing within the constitutional time limit and without my approval, Assembly Bill 446, which is entitled:

AN ACT relating to state financial administration; revising certain requirements for the proposed budget of the Executive Department of the State Government; and providing other matters properly relating thereto.

Assembly Bill 446 would change the depth and scope of the performance measures contained within the Executive Budget the Governor delivers to the Legislature prior to each biennial session.

The budgetary methods used in evaluating the performance of state government need improvement, and this legislation would work to that end if the Department of Administration was given the tools necessary to implement the bill as it was intended. Unfortunately, the Department's fiscal note was ignored when the Legislature approved this bill and no appropriation was made to implement the requirements of this legislation. As such, I do not believe the Department of Administration could reasonably fulfill the requirements of the law with the spirit in which the bill is intended.

For these reasons, I hereby exercise my constitutional grant of authority and veto Assembly Bill 446.

Sincerely,
JIM GIBBONS
Governor

OFFICE OF THE GOVERNOR

May 28, 2009

THE HONORABLE BARBARA BUCKLEY, *Speaker of the Assembly*, Legislative Building, 401
South Carson Street, Carson City, NV 89701

RE: Assembly Bill No. 458 of the 75th Legislative Session

DEAR SPEAKER BUCKLEY:

I am herewith forwarding to you, for filing within the constitutional time limit and without my approval, Assembly Bill 458, which is entitled:

AN ACT relating to public financial administration; creating the K-12 Public Education Stabilization Account; 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.

Assembly Bill 458 is based on the laudable goal of creating a specific rainy day fund for K-12 education in Nevada. I agree that such a fund should be created. However, I disapprove of this bill because it does not create similar funds for other areas of state government. I proposed Assembly Bill 520, which would have created stabilization funds for not only K-12 education, but also for Higher Education, Health and Human Services and for general government services. I am disappointed that Assembly Bill 520 received only token attention from the Legislature. Because I feel that Assembly Bill 458 is not broad enough to adequately protect other areas of state government, I cannot approve this bill.

For these reasons, I hereby exercise my constitutional grant of authority and veto Assembly Bill 458.

Sincerely,
JIM GIBBONS
Governor

OFFICE OF THE GOVERNOR

May 29, 2009

THE HONORABLE BARBARA BUCKLEY, *Speaker of the Assembly*, Legislative Building, 401
South Carson Street, Carson City, NV 89701

RE: Assembly Bill No. 463 of the 75th Legislative Session

DEAR SPEAKER BUCKLEY:

I am herewith forwarding to you, for filing within the constitutional time limit and without my approval, Assembly Bill 463, which is entitled:

AN ACT relating to governmental administration; restricting a department, division or other agency of this State from employing a person as a consultant; providing certain exceptions; requiring certain entities to submit to the Interim Finance Committee a report concerning each consultant employed by the entity; requiring that contracts with temporary employment services be awarded by open competitive bidding; requiring that information concerning the use of consultants and temporary employment services be included and explained in the budget process by a state agency; requiring the Legislative Auditor to conduct

an audit concerning the use of contracts with consultants by state agencies; and providing other matters properly relating thereto.

Assembly Bill 463 would restrict state government's ability to hire consultants, including former state employees who now work in the private sector. While it is important to ensure there are strong protections against double dipping by state employees, this bill has two major problems.

First, granting the Legislative Branch of government, through the Interim Finance Committee, the right to oversee, approve or reject employment in the Executive Branch of government is an unwarranted encroachment on the autonomy of the Executive Branch and flies in the face of the separation of powers doctrine within the Nevada Constitution.

In addition, this bill appears to only impose these employment restrictions only on the Executive Branch of government. If there is something improper about hiring consultants or former state employees serving as consultants, this policy should apply to all areas of government, including the Legislature and the Nevada System of Higher Education.

For these reasons, I hereby exercise my constitutional grant of authority and veto Assembly Bill 463.

Sincerely,
JIM GIBBONS
Governor

OFFICE OF THE GOVERNOR

May 29, 2009

THE HONORABLE BARBARA BUCKLEY, *Speaker of the Assembly*, Legislative Building, 401
South Carson Street, Carson City, NV 89701
RE: Assembly Bill No. 467 of the 75th Legislative Session

DEAR SPEAKER BUCKLEY:

I am herewith forwarding to you, for filing within the constitutional time limit and without my approval, Assembly Bill 467, which is entitled:

AN ACT relating to governmental financial administration; revising provisions relating to the prevailing wage requirements; and providing other matters properly relating thereto.

Assembly Bill 467 would expand prevailing wage requirements for lease-purchase and installment-purchase agreements entered into by local governments. This legislation will have a significant impact on local governments, driving up the overall cost of entering into lease-purchase or installment-purchase agreements. It also will significantly increase the amount of staff time and expense in implementing the prevailing wage requirements. Washoe County, for example, submitted that including prevailing wage requirements increases the overall cost of a project by 10 percent to 18 percent. Also, prevailing wage requirements consume between 25 percent and 50 percent of a project manager's time. And while this Legislature has reallocated revenues from the counties to the state help balance the budget, this bill asks for the counties, other local governments and, by extension, taxpayers, to pay above market rate for infrastructure acquired in lease-purchase or installment-purchase.

For these reasons, I hereby exercise my constitutional grant of authority and veto Assembly Bill 467.

Sincerely,
JIM GIBBONS
Governor

OFFICE OF THE GOVERNOR

May 25, 2009

THE HONORABLE BARBARA BUCKLEY, *Speaker of the Assembly*, Legislative Building, 401
South Carson Street, Carson City, NV 89701
RE: Assembly Bill No. 473 of the 75th Legislative Session

DEAR SPEAKER BUCKLEY:

I am herewith forwarding to you, for filing within the constitutional time limit and without my approval, Assembly Bill 473, which is entitled:

AN ACT relating to prisons; requiring the Department of Corrections to adopt regulations relating to medical emergencies and the provision of medical and dental services to prisoners; and providing other matters properly relating thereto.

This bill purports to impose certain requirements on the Director of the Department of Corrections with respect to medical treatment for inmates. In reality, the additional requirements set forth in this bill are already encompassed within existing law.

For example, the bill requires the Director to establish regulations governing staff training in medical emergency response and reporting. However, existing law already requires the Director to take "proper measures to protect the health and safety of staff and offenders in the institutions and facilities of the Department." NRS § 209.131 (7). The bill also requires the Director to maintain an inventory of essential medical and dental equipment at each institution or facility. However, the Director is already required to establish standards for personal hygiene of offenders as well as standards for medical and dental services at each institution and facility. NRS § 209.381(2).

Furthermore, the head of the Department of Corrections is the Board of Prison Commissioners. NRS § 209.101(2). The Board of Prison Commissioners is authorized to promulgate any necessary regulations to carry on the business of the Department of Corrections. NRS § 209.111(3). Pursuant to this global authority, the Board of Prison Commissioners is already authorized to enact any of the requirements set forth in Assembly Bill 473, should it deem fit to do so. In sum, Assembly Bill 473 is redundant and unnecessary legislation.

For these reasons, I hereby exercise my constitutional grant of authority and veto Assembly Bill 473.

Sincerely,
JIM GIBBONS
Governor

OFFICE OF THE GOVERNOR

May 28, 2009

THE HONORABLE BARBARA BUCKLEY, *Speaker of the Assembly*, Legislative Building, 401
South Carson Street, Carson City, NV 89701

RE: Assembly Bill No. 491 of the 75th Legislative Session

DEAR SPEAKER BUCKLEY:

I am herewith forwarding to you, for filing within the constitutional time limit and without my approval, Assembly Bill 491, which is entitled:

AN ACT relating to civil actions; providing that a certain amount of money held in a bank that is likely to be exempt from execution is not subject to a writ of execution or garnishment; providing a procedure to execute on property held in a safe-deposit box; revising the procedure for claiming an exemption from execution on certain property; making various other changes to provisions governing writs of execution, attachment and garnishment; and providing other matters properly relating thereto.

Assembly Bill 491 would put up additional barriers to small businesses collecting debts legitimately owed to them. Nevada's laws already provide strong protections for debtors, and the average rate of debt collection in Nevada is about 20 percent. Making the "wildcard exemption" of \$1,000 automatic instead of requiring the debtor to file for the exemption will make it even more burdensome for businesses to collect what is rightfully theirs.

Of additional concern is the effect this legislation could have on the already tight credit market. Debtors already have many protections from collectors, including 75 percent of their weekly wages, the existing "wildcard exemption" and many personal items, among other

protections. Putting up additional barriers to creditors collecting their debts could lead to further restrictions on lending and hinder economic activity in Nevada.

For these reasons, I hereby exercise my constitutional grant of authority and veto Assembly Bill 491.

Sincerely,
JIM GIBBONS
Governor

OFFICE OF THE GOVERNOR

May 28, 2009

THE HONORABLE BARBARA BUCKLEY, *Speaker of the Assembly*, Legislative Building, 401
South Carson Street, Carson City, NV 89701

RE: Assembly Bill No. 493 of the 75th Legislative Session

DEAR SPEAKER BUCKLEY:

I am herewith forwarding to you, for filing within the constitutional time limit and without my approval, Assembly Bill 493, which is entitled:

AN ACT relating to public retirement systems; requiring the Public Employees' Retirement Board to identify and report concerning investments of money from the Public Employees' Retirement System in certain scrutinized companies with certain business activities or connections to Iran's petroleum sector; and providing other matters properly relating thereto.

Assembly Bill 493 is a bill that relates to the Public Employees' Retirement System (PERS). PERS is a constitutionally created trust fund. It is administered by a board of trustees for the benefit of its members and beneficiaries. In 1996, the voters of Nevada approved an amendment to the Nevada Constitution that effectively prohibits the PERS Retirement Board from basing its investment decisions on social policies, no matter how admirable.

This bill requires the PERS board to study and identify certain investments in companies that transact business with the country of Iran. Due to the constitutional issues, the finding of this study, or any study of this nature, cannot impact the investment strategy with respect to funds invested on behalf of the PERS Board. Simply put, this study is not necessary.

For these reasons, I hereby exercise my constitutional grant of authority and veto Assembly Bill 493.

Sincerely,
JIM GIBBONS
Governor

MOTIONS, RESOLUTIONS AND NOTICES

Assemblywoman Parnell moved to rescind the action whereby the Assembly adopted the report of the first conference committee for Assembly Bill No. 309.

Motion carried.

UNFINISHED BUSINESS

CONSIDERATION OF SENATE AMENDMENTS

Assembly Bill No. 561.

The following Senate amendment was read:

Amendment No. 973.

AN ACT relating to reorganization of State Government; temporarily eliminating the Consumer Affairs Division of the Department of Business

and Industry; temporarily eliminating the position of Commissioner of Consumer Affairs; transferring certain duties and powers of the Division and the Commissioner; **providing for administration of the Uniform Debt-Management Services Act by the Commissioner of Mortgage Lending**; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires the chief of each division of the Department of Business and Industry to administer the provisions of law relating to his division, subject to the administrative supervision of the Director of the Department. (NRS 232.530) **Sections 3 and 4** of this bill temporarily eliminate the Consumer Affairs Division of the Department and the position of Commissioner of Consumer Affairs for the 2009-2011 biennium.

Existing law provides for the regulation of garages, garagemen and body shops by the Commissioner of Consumer Affairs and for the registration or licensure of garages, garagemen and body shops with the Department of Motor Vehicles. (NRS 487.530-487.570, 487.600-487.690, 597.480-597.590) **Sections 8-26** of this bill transfer authority for the regulation of garages, garagemen and body shops to the Department of Motor Vehicles and provide for the enforcement of those provisions by the Director of the Department. **Section 6** of this bill allows the Department of Motor Vehicles to impose a fine on a person who engages in certain deceptive trade practices relating to the sale or lease of a vehicle under certain circumstances. **Section 1** of this bill creates a revolving account administered by the Consumer's Advocate, to be used to pay the costs of conducting certain undercover investigations.

Existing law requires the Consumer Affairs Division to administer certain provisions of law governing credit service organizations. (NRS 598.701-598.787) **Sections 52-56** of this bill transfer the powers and duties of the Consumer Affairs Division relating to credit service organizations to the Division of Mortgage Lending of the Department of Business and Industry.

Sections 36-47 and 49 of this bill temporarily transfer the powers and duties of the Commissioner of Consumer Affairs relating to deceptive trade practices to the Attorney General.

Existing law requires the Consumer Affairs Division to administer certain provisions of law governing sellers of travel, sightseeing tours, organizations for buying goods or services, and dance studios and health clubs. (NRS 598.305-598.966) **Section 51** of this bill provides that complaints concerning the charges for a sightseeing tour may be directed to the Attorney General. **Sections 57-61** of this bill temporarily authorize the Attorney General solely to enforce certain provisions relating to organizations for buying goods or services at a discount, dance studios and health clubs.

Sections 63-75 of this bill authorize the Attorney General to enforce certain provisions relating to solicitation by telephone.

Section 76.5 of this bill amends Senate Bill No. 355 of this session to provide for the administration of the Uniform Debt-Management Services Act by the Commissioner of Mortgage Lending.

Section 80 of this bill restores the Consumer Affairs Division, the position of the Commissioner of Consumer Affairs and the powers and duties of the Division and the Commissioner relating to deceptive trade practices, sellers of travel, sightseeing tours, organizations for buying goods or services, and dance studios and health clubs effective July 1, 2011.

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

Section 1. Chapter 228 of NRS is hereby amended by adding thereto a new section to read as follows:

1. There is hereby created a revolving account for the Bureau of Consumer Protection in the sum of \$7,500, which must be used for the payment of expenses relating to conducting an undercover investigation of a person who is allegedly engaging in a deceptive trade practice or violating any provision of sections 10 to 26, inclusive, of this act.

2. The Consumer's Advocate shall deposit the money in the revolving account in a bank or credit union qualified to receive deposits of public money as provided by law, and the deposit must be secured by a depository bond satisfactory to the State Board of Examiners.

3. The Consumer's Advocate or his designee may:

- (a) Sign all checks drawn upon the revolving account; and*
- (b) Make withdrawals of cash from the revolving account.*

4. Payments made from the revolving account must be promptly reimbursed from the legislative appropriation, if any, to the Consumer's Advocate for the expenses relating to conducting an undercover investigation of a person who is allegedly engaging in a deceptive trade practice or violating any provision of sections 10 to 26, inclusive, of this act. The claim for reimbursement must be processed and paid as other claims against the State are paid.

5. The Consumer's Advocate shall:

- (a) Approve any disbursement from the revolving account; and*
- (b) Maintain records of any such disbursement.*

Sec. 2. NRS 228.300 is hereby amended to read as follows:

228.300 As used in NRS 228.300 to 228.390, inclusive, **and section 1 of this act**, unless the context otherwise requires, the words and terms defined in NRS 228.302 to 228.308, inclusive, have the meanings ascribed to them in those sections.

Sec. 3. NRS 232.510 is hereby amended to read as follows:

232.510 1. The Department of Business and Industry is hereby created.

2. The Department consists of a Director and the following:

- (a) ~~Consumer Affairs Division.~~
- ~~(b)~~ Division of Financial Institutions.

~~[(e)]~~ (b) Housing Division.

~~[(d)]~~ (c) Manufactured Housing Division.

~~[(e)]~~ (d) Real Estate Division.

~~[(f)]~~ (e) Division of Insurance.

~~[(g)]~~ (f) Division of Industrial Relations.

~~[(h)]~~ (g) Office of Labor Commissioner.

~~[(i)]~~ (h) Taxicab Authority.

~~[(j)]~~ (i) Nevada Athletic Commission.

~~[(k)]~~ (j) Office of the Nevada Attorney for Injured Workers.

~~[(l)]~~ (k) Nevada Transportation Authority.

~~[(m)]~~ (l) Division of Mortgage Lending.

~~[(n)]~~ (m) Any other office, commission, board, agency or entity created or placed within the Department pursuant to a specific statute, the budget approved by the Legislature or an executive order, or an entity whose budget or activities have been placed within the control of the Department by a specific statute.

Sec. 4. NRS 232.520 is hereby amended to read as follows:

232.520 The Director:

1. Shall appoint a chief or executive director, or both of them, of each of the divisions, offices, commissions, boards, agencies or other entities of the Department, unless the authority to appoint such a chief or executive director, or both of them, is expressly vested in another person, board or commission by a specific statute. In making the appointments, the Director may obtain lists of qualified persons from professional organizations, associations or other groups recognized by the Department, if any. The ~~chief of the Consumer Affairs Division is the Commissioner of Consumer Affairs, the~~ chief of the Division of Financial Institutions is the Commissioner of Financial Institutions, the chief of the Housing Division is the Administrator of the Housing Division, the chief of the Manufactured Housing Division is the Administrator of the Manufactured Housing Division, the chief of the Real Estate Division is the Real Estate Administrator, the chief of the Division of Insurance is the Commissioner of Insurance, the chief of the Division of Industrial Relations is the Administrator of the Division of Industrial Relations, the chief of the Office of Labor Commissioner is the Labor Commissioner, the chief of the Taxicab Authority is the Taxicab Administrator, the chief of the Nevada Transportation Authority is the Chairman of the Authority, the chief of the Division of Mortgage Lending is the Commissioner of Mortgage Lending and the chief of any other entity of the Department has the title specified by the Director, unless a different title is specified by a specific statute.

2. Is responsible for the administration of all provisions of law relating to the jurisdiction, duties and functions of all divisions and other entities within the Department. The Director may, if he deems it necessary to carry out his administrative responsibilities, be considered as a member of the staff of any division or other entity of the Department for the purpose of budget

administration or for carrying out any duty or exercising any power necessary to fulfill the responsibilities of the Director pursuant to this subsection. This subsection does not allow the Director to preempt any authority or jurisdiction granted by statute to any division or other entity within the Department or to act or take on a function that would contravene a rule of court or a statute.

3. May:

(a) Establish uniform policies for the Department, consistent with the policies and statutory responsibilities and duties of the divisions and other entities within the Department, relating to matters concerning budgeting, accounting, planning, program development, personnel, information services, dispute resolution, travel, workplace safety, the acceptance of gifts or donations, the management of records and any other subject for which a uniform departmental policy is necessary to ensure the efficient operation of the Department.

(b) Provide coordination among the divisions and other entities within the Department, in a manner which does not encroach upon their statutory powers and duties, as they adopt and enforce regulations, execute agreements, purchase goods, services or equipment, prepare legislative requests and lease or use office space.

(c) Define the responsibilities of any person designated to carry out the duties of the Director relating to financing, industrial development or business support services.

4. May, within the limits of the financial resources made available to him, promote, participate in the operation of, and create or cause to be created, any nonprofit corporation, pursuant to chapter 82 of NRS, which he determines is necessary or convenient for the exercise of the powers and duties of the Department. The purposes, powers and operation of the corporation must be consistent with the purposes, powers and duties of the Department.

5. For any bonds which he is otherwise authorized to issue, may issue bonds the interest on which is not exempt from federal income tax or excluded from gross revenue for the purposes of federal income tax.

6. May, except as otherwise provided by specific statute, adopt by regulation a schedule of fees and deposits to be charged in connection with the programs administered by him pursuant to chapters 348A and 349 of NRS. Except as otherwise provided by specific statute, the amount of any such fee or deposit must not exceed 2 percent of the principal amount of the financing.

7. May designate any person within the Department to perform any of the duties or responsibilities, or exercise any of the authority, of the Director on his behalf.

8. May negotiate and execute agreements with public or private entities which are necessary to the exercise of the powers and duties of the Director or the Department.

9. May establish a trust account in the State Treasury for depositing and accounting for money that is held in escrow or is on deposit with the Department for the payment of any direct expenses incurred by the Director in connection with any bond programs administered by the Director. The interest and income earned on money in the trust account, less any amount deducted to pay for applicable charges, must be credited to the trust account. Any balance remaining in the account at the end of a fiscal year may be:

(a) Carried forward to the next fiscal year for use in covering the expense for which it was originally received; or

(b) Returned to any person entitled thereto in accordance with agreements or regulations of the Director relating to those bond programs.

Sec. 5. NRS 482.5434 is hereby amended to read as follows:

482.5434 "Body shop" has the meaning ascribed to it in ~~[NRS 487.600.]~~
section 8 of this act.

Sec. 6. NRS 482.554 is hereby amended to read as follows:

482.554 1. The Department may impose an administrative fine of not more than \$10,000 against any person who engages in a deceptive trade practice. The Department shall afford to any person so fined an opportunity for a hearing pursuant to the provisions of NRS 233B.121.

2. For the purposes of this section, a person shall be deemed to be engaged in a "deceptive trade practice" if, in the course of his business or occupation, he:

(a) Enters into a contract for the sale of a vehicle on credit with a customer, exercises a valid option to cancel the vehicle sale and then, after the customer returns the vehicle with no damage other than reasonable wear and tear, the seller:

(1) Fails to return any down payment or other consideration in full, including, returning a vehicle accepted in trade;

(2) Knowingly makes a false representation to the customer that the customer must sign another contract for the sale of the vehicle on less favorable terms; or

(3) Fails to use the disclosure as required in subsection 3.

(b) Uses a contract for the sale of the vehicle or a security agreement that materially differs from the form prescribed by law.

(c) Engages in any deceptive trade practice, as defined in NRS 598.0915 to 598.0925, inclusive, that involves the purchase and sale or lease of a motor vehicle.

(d) Engages in any other acts prescribed by the Department by regulation as a deceptive trade practice.

3. If a seller of a vehicle exercises a valid option to cancel the sale of a vehicle to a customer, the seller must provide a disclosure, and the customer must sign that disclosure, before the seller and customer may enter into a new agreement for the sale of the same vehicle on different terms, or for the sale of a different vehicle. The Department shall prescribe the form of the disclosure by regulation.

4. All administrative fines collected by the Department pursuant to this section must be deposited with the State Treasurer to the credit of the State Highway Fund.

5. ~~[Except as otherwise provided in this subsection, the]~~ *The* administrative remedy provided in this section is not exclusive and is ~~[intended to supplement existing law. The Department may not impose a fine pursuant to this section against any person who engages in a deceptive trade practice if a fine has previously been imposed against that person pursuant to NRS 598.0903 to 598.0999, inclusive, for the same act.]~~ *in addition to any other remedy provided by law.* The provisions of this section do not deprive a person injured by a deceptive trade practice from resorting to any other legal remedy.

Sec. 7. Chapter 487 of NRS is hereby amended by adding thereto the provisions set forth as sections 8 to 26, inclusive, of this act.

Sec. 8. *"Body shop" means any place where the body of a motor vehicle is painted, fixed, repaired or replaced for compensation.*

Sec. 9. *"Person authorizing repairs" means a person who uses the services of a garage. The term includes an insurance company, its agents or its representatives authorizing repairs to motor vehicles under a policy of insurance.*

Sec. 10. 1. *Each garageman shall display conspicuously in those areas of his place of business frequented by persons seeking repairs on motor vehicles a sign, not less than 22 inches by 28 inches in size, setting forth in boldface letters the following:*

**STATE OF NEVADA
REGISTERED GARAGE**

**THIS GARAGE IS REGISTERED WITH THE DEPARTMENT OF
MOTOR VEHICLES**

NEVADA AUTOMOTIVE REPAIR CUSTOMER BILL OF RIGHTS

AS A CUSTOMER IN NEVADA:

*YOU have the right to receive repairs from a business that is **REGISTERED** with the Department of Motor Vehicles that will ensure the proper repair of your vehicle. (cite to this section of this act)*

*YOU have the right to receive a **WRITTEN ESTIMATE** of charges for repairs made to your vehicle which exceed \$50. (cite to section 12 of this act)*

*YOU have the right to read and understand all documents and warranties **BEFORE YOU SIGN THEM.** (cite to this section of this act)*

YOU have the right to INSPECT ALL REPLACED PARTS and accessories that are covered by a warranty and for which a charge is made. (cite to section 17 of this act)

YOU have the right to request that all replaced parts and accessories that are not covered by a warranty BE RETURNED TO YOU AT THE TIME OF SERVICE. (cite to section 17 of this act)

YOU have the right to require authorization BEFORE any additional repairs are made to your vehicle if the charges for those repairs exceed 20% of the original estimate or \$100, whichever is less. (cite to section 13 of this act)

YOU have the right to receive a COMPLETED STATEMENT OF CHARGES for repairs made to your vehicle. (cite to section 23 of this act)

**FOR MORE INFORMATION PLEASE CONTACT:
THE DEPARTMENT OF MOTOR VEHICLES**

2. Each body shop shall display conspicuously in those areas of its place of business frequented by persons seeking repairs on motor vehicles a sign, not less than 22 inches by 28 inches in size, setting forth in boldface letters the following:

**STATE OF NEVADA
LICENSED BODY SHOP**

**THIS BODY SHOP IS LICENSED BY THE DEPARTMENT OF MOTOR
VEHICLES**

NEVADA AUTOMOTIVE REPAIR CUSTOMER BILL OF RIGHTS

AS A CUSTOMER IN NEVADA:

YOU have the right to receive repairs from a business that is LICENSED with the Department of Motor Vehicles that will ensure the proper repair of your vehicle. (cite to this section of this act)

YOU have the right to receive a WRITTEN ESTIMATE of charges for repairs made to your vehicle which exceed \$50. (cite to section 12 of this act)

YOU have the right to read and understand all documents and warranties BEFORE YOU SIGN THEM. (cite to this section of this act)

YOU have the right to INSPECT ALL REPLACED PARTS and accessories that are covered by a warranty and for which a charge is made. (cite to section 17 of this act)

*YOU have the right to request that all replaced parts and accessories that are not covered by a warranty **BE RETURNED TO YOU AT THE TIME OF SERVICE.** (cite to section 17 of this act)*

*YOU have the right to require authorization **BEFORE** any additional repairs are made to your vehicle if the charges for those repairs exceed 20% of the original estimate or \$100, whichever is less. (cite to section 13 of this act)*

*YOU have the right to receive a **COMPLETED STATEMENT OF CHARGES** for repairs made to your vehicle. (cite to section 23 of this act)*

**FOR MORE INFORMATION PLEASE CONTACT:
THE DEPARTMENT OF MOTOR VEHICLES**

3. The sign required pursuant to the provisions of subsection 1 or 2 must include a replica of the Great Seal of the State of Nevada. The Seal must be 2 inches in diameter and be centered on the face of the sign directly above the words "STATE OF NEVADA."

4. Any person who violates the provisions of this section is guilty of a misdemeanor.

Sec. 11. Whenever any body shop or garageman accepts or assumes control of a motor vehicle for the purpose of making or completing any repair, the body shop or garageman shall comply with the provisions of sections 12 to 24, inclusive, of this act.

Sec. 12. 1. Except as otherwise provided in section 14 of this act, a person requesting or authorizing the repair of a motor vehicle that is more than \$50 must be furnished a written estimate or statement signed by the person making the estimate or statement on behalf of the body shop or garageman indicating the total charge for the performance of the work necessary to accomplish the repair, including the charge for labor and all parts and accessories necessary to perform the work.

2. If the estimate is for the purpose of diagnosing a malfunction, the estimate must include the cost of:

(a) Diagnosis and disassembly; and

(b) Reassembly, if the person does not authorize the repair.

3. The provisions of this section do not require a body shop or garageman to reassemble a motor vehicle if the body shop or garageman determines that the reassembly of the motor vehicle would render the vehicle unsafe to operate.

Sec. 13. Except as otherwise provided in section 14 of this act, if it is determined that additional charges are required to perform the repair authorized, and those additional charges exceed, by 20 percent or \$100, whichever is less, the amount set forth in the estimate or statement required to be furnished pursuant to the provisions of section 12 of this act, the body shop or garageman shall notify the owner and insurer of the motor vehicle of the amount of those additional charges.

Sec. 14. *The person authorizing the repairs may waive the estimate or statement required pursuant to the provisions of section 12 of this act or the notification required by section 13 of this act by executing a written waiver of that requirement or notification. The waiver must be executed by the person authorizing the repairs at the time he authorizes those repairs.*

Sec. 15. *If a body shop or garage performs repairs on a motor vehicle, the body shop or garage shall perform the repairs in accordance with any specifications of the manufacturer of the motor vehicle and the written estimate or statement of the cost of the repairs that is most recently agreed upon by the body shop or garage and the person authorizing the repairs.*

Sec. 16. 1. *An owner and the insurer of a motor vehicle who have been notified of additional charges pursuant to section 13 of this act shall:*

(a) *Authorize the performance of the repair at the additional expense; or*
(b) *Without delay, and upon payment of the authorized charges, take possession of the motor vehicle.*

2. *Until the election provided for in subsection 1 has been made, the body shop or garageman shall not undertake any repair which would involve such additional charges.*

3. *If the owner or insurer of the motor vehicle elects to take possession of the motor vehicle but fails to take possession within 24 hours after the election, the body shop or garageman may charge for storage of the vehicle.*

Sec. 17. 1. *Whenever the repair work performed on a motor vehicle requires the replacement of any parts or accessories, the body shop or garageman shall, at the request of the person authorizing the repairs or any person entitled to possession of the motor vehicle, deliver to the person all parts and accessories replaced as a result of the work done.*

2. *The provisions of subsection 1 do not apply to parts or accessories which must be returned to a manufacturer or distributor under a warranty arrangement or which are subject to exchange, but the customer, on request, is entitled to be shown the warranty parts for which a charge is made.*

Sec. 18. *The body shop or garageman shall retain copies of any estimate, statement or waiver required by sections 12 to 24, inclusive, of this act as an ordinary business record of the body shop or garage, for a period of not less than 1 year after the date the estimate, statement or waiver is signed.*

Sec. 19. *In every instance where charges are made for the repair of a motor vehicle by a garageman, the garageman making the repairs shall comply with the provisions of sections 12 to 24, inclusive, of this act. A garageman is not entitled to detain a motor vehicle by virtue of any common law or statutory lien, or otherwise enforce such a lien, or to sue on any contract for repairs made by him unless he has complied with the requirements of sections 12 to 24, inclusive, of this act.*

Sec. 20. *A person shall be deemed to be engaged in a “deceptive trade practice” if, in the course of his business or occupation, he:*

1. *Engages in any deceptive trade practice, as defined in NRS 598.0915 to 598.0925, inclusive, that involves the repair of a motor vehicle; or*

2. *Engages in any other acts prescribed by the Director by regulation as a deceptive trade practice.*

Sec. 21. 1. *The Director may request an undercover investigation of a person who is allegedly engaging in a deceptive trade practice or violating the provisions of sections 10 to 26, inclusive, of this act.*

2. *The Bureau of Consumer Protection in the Office of the Attorney General may conduct an undercover investigation of a person who is allegedly engaging in a deceptive trade practice or violating the provisions of sections 10 to 26, inclusive, of this act on its own motion or upon a request received pursuant to subsection 1. Nothing in this subsection requires the Bureau to conduct an undercover investigation.*

Sec. 22. 1. *In addition to any other remedy or penalty, the Director may impose an administrative fine of not more than \$10,000 against any person who engages in a deceptive trade practice as set forth in section 20 of this act. The Director shall provide to any person so fined an opportunity for a hearing pursuant to the provisions of NRS 233B.121.*

2. *All administrative fines collected by the Director pursuant to this section must be deposited with the State Treasurer to the credit of the State Highway Fund.*

3. *The administrative remedy provided in this section is not exclusive and is in addition to any other remedy provided by law. The provisions of this section do not deprive a person injured by a deceptive trade practice from resorting to any other legal remedy.*

Sec. 23. 1. *If charges are made for the repair of a motor vehicle, the garageman or body shop making the charges shall present to the person authorizing repairs or the person entitled to possession of the motor vehicle a statement of the charges setting forth the following information:*

(a) *The name and signature of the person authorizing repairs;*

(b) *A statement of the total charges;*

(c) *An itemization and description of all parts used to repair the motor vehicle indicating the charges made for labor; and*

(d) *A description of all other charges.*

2. *Any person violating this section is guilty of a misdemeanor.*

3. *In the case of a motor vehicle registered in this State, no lien for labor or materials provided under NRS 108.265 to 108.367, inclusive, may be enforced by sale or otherwise unless a statement as described in subsection 1 has been given by delivery in person or by certified mail to the last known address of the registered and the legal owner of the motor vehicle. In all other cases, the notice must be made to the last known address of the registered owner and any other person known to have or to claim an interest in the motor vehicle.*

Sec. 24. 1. *On or before December 31 of each year, the Director shall prepare a report concerning garages, garagemen and body shops. The report must include:*

(a) The number of complaints relating to garages, garagemen and body shops made to and acted upon by the Department during the year for which the report is prepared;

(b) The number of investigations conducted during that year by the Department relating to garages, garagemen and body shops; and

(c) The outcome of each investigation specified in paragraph (b) and the extent to which any information relating to each investigation is subject to disclosure to the members of the public.

2. *On or before December 31 of each odd-numbered year, the Director shall submit the report required pursuant to subsection 1 to the Legislative Commission. On or before December 31 of each even-numbered year, the Director of the Department shall submit the report to the Director of the Legislative Counsel Bureau for transmittal to:*

(a) The Senate Standing Committee on Transportation; and

(b) The Assembly Standing Committee on Transportation.

Sec. 25. *The Attorney General or any district attorney may bring an action in any court of competent jurisdiction in the name of the State of Nevada on the complaint of the Director, or of any person allegedly aggrieved by a violation of the provisions of sections 12 to 24, inclusive, of this act, to enjoin any violation of the provisions of sections 12 to 24, inclusive, of this act.*

Sec. 26. *Any person who knowingly violates any provision of sections 11 to 24, inclusive, of this act is liable, in addition to any other penalty or remedy which may be provided by law, to a civil penalty of not more than \$500 for each offense, which may be recovered by civil action on complaint of the Director or the district attorney.*

Sec. 27. NRS 487.002 is hereby amended to read as follows:

487.002 1. The Advisory Board on Automotive Affairs, consisting of seven members appointed by the Governor, is hereby created within the Department.

2. The Governor shall appoint to the Board:

(a) One representative of the Department;

(b) One representative of licensed operators of body shops;

(c) One representative of licensed automobile wreckers;

(d) One representative of registered garagemen;

(e) One representative of licensed operators of salvage pools; and

(f) Two representatives of the general public.

3. After the initial terms, each member of the Board serves a term of 4 years. The members of the Board shall annually elect from among their number a Chairman and a Vice Chairman. The Department shall provide secretarial services for the Board.

4. The Board shall meet regularly at least twice each year and may meet at other times upon the call of the Chairman. Each member of the Board is entitled to the per diem allowance and travel expenses provided for state officers and employees generally.

5. The Board shall:

(a) Study the regulation of garagemen, automobile wreckers and operators of body shops and salvage pools, including, without limitation, the registration or licensure of such persons and the methods of disciplinary action against such persons;

(b) Analyze and advise the Department relating to any consumer complaints ~~[provided to the Department by the Consumer Affairs Division of the Department of Business and Industry pursuant to NRS 598.985 or otherwise]~~ received by the Department concerning garagemen, automobile wreckers or operators of body shops or salvage pools;

(c) Make recommendations to the Department for any necessary regulations or proposed legislation pertaining to paragraph (a) or (b);

(d) On or before January 15 of each odd-numbered year, prepare and submit a report concerning its activities and recommendations to the Governor and to the Director of the Legislative Counsel Bureau for transmission to the Legislature; and

(e) Perform any other duty assigned by the Department.

Sec. 28. NRS 487.530 is hereby amended to read as follows:

487.530 As used in NRS 487.530 to ~~[487.570,]~~ **487.690**, inclusive, *and sections 8 to 26, inclusive, of this act*, unless the context otherwise requires, the words and terms defined in NRS ~~[487.535]~~ **487.540** to 487.550, inclusive, *and sections 8 and 9 of this act* have the meanings ascribed to them in those sections.

Sec. 29. NRS 487.555 is hereby amended to read as follows:

487.555 The provisions of NRS 487.530 to ~~[487.570,]~~ **487.690**, inclusive, *and sections 8 to 26, inclusive, of this act* do not apply to a service station that is exclusively engaged in the business of selling motor vehicle fuel, lubricants or goods unrelated to the repair of motor vehicles.

Sec. 30. NRS 487.563 is hereby amended to read as follows:

487.563 1. Each person who submits an application for registration pursuant to the provisions of NRS 487.560 shall file with the Department a bond in the amount of \$5,000, with a corporate surety for the bond that is licensed to do business in this State. The form of the bond must be approved by the Attorney General and be conditioned upon whether the applicant conducts his business as an owner or operator of a garage without fraud or fraudulent representation and in compliance with the provisions of *sections 10 to 26, inclusive, of this act and* NRS 487.530 to ~~[487.570,]~~ **487.567**, inclusive. ~~[, and 597.480 to 597.590, inclusive.]~~

2. The bond must be continuous in form and the total aggregate liability on the bond must be limited to the payment of the total amount of the bond.

3. The bond must provide that any person injured by the action of the garageman may:

(a) Apply to the Director for compensation from the bond. The Director, for good cause shown and after notice and opportunity for hearing, may determine the amount of compensation and the person to whom it is to be paid. The surety shall then make payment.

(b) Present to the Director an order of a court requiring the Director to pay to the person an amount of compensation from the bond. The Director shall inform the surety, and the surety shall then make payment.

4. In lieu of a bond required to be filed pursuant to the provisions of subsection 1, a person may deposit with the Department, pursuant to the terms prescribed by the Department:

(a) A like amount of money or bonds of the United States or of the State of Nevada of an actual market value of not less than the amount fixed by the Department; or

(b) A savings certificate of a bank or savings and loan association located in this State, which must indicate an account of an amount equal to the amount of the bond that would otherwise be required pursuant to this section and that the amount is unavailable for withdrawal except upon order of the Department. Interest earned on the certificate accrues to the account of the applicant.

5. A deposit made pursuant to subsection 4 may be disbursed by the Director, for good cause shown and after notice and opportunity for hearing, in an amount determined by him to compensate a person injured by an action of the garageman or released upon receipt of:

(a) An order of a court requiring the Director to release all or a specified portion of the deposit; or

(b) A statement signed by the person under whose name the deposit is made and acknowledged before any person authorized to take acknowledgments in this State, requesting that the Director release the deposit, or a specified portion thereof, and stating the purpose for which the release is requested.

6. If a person fails to comply with an order of a court that relates to the repair of a motor vehicle, or fails to pay or otherwise discharge any final judgment rendered and entered against him or any court order issued and arising out of the repair of a motor vehicle in the operation of a garage, the Department shall revoke or refuse to renew the certificate of registration of the person who failed to comply with the order or satisfy the judgment.

7. The Department may reinstate or renew a certificate of registration that is revoked pursuant to the provisions of subsection 6 if the person whose certificate of registration is revoked complies with the order of the court.

8. A garageman whose registration has been revoked pursuant to the provisions of subsection 6 shall furnish to the Department a bond in the amount specified in subsection 1 before the reinstatement of his registration.

Sec. 31. NRS 487.564 is hereby amended to read as follows:

487.564 1. The Department may refuse to issue a registration or may suspend, revoke or refuse to renew a registration to operate a garage upon any of the following grounds:

(a) A false statement of a material fact in a certification for a salvage vehicle required pursuant to NRS 487.800.

(b) A false statement or certification for an inspection pursuant to NRS 487.800 which attests to the mechanical fitness or safety of a salvage vehicle.

(c) The Director determines that the garage or garageman has engaged in a deceptive trade practice or violated the provisions of ~~[NRS 597.480 to 597.590, inclusive.]~~ **sections 10 to 26, inclusive, of this act.**

(d) Evidence of unfitness of the applicant or registrant pursuant to NRS 487.165.

(e) A violation of any regulation adopted by the Department governing the operation of a garage.

(f) A violation of any statute or regulation that constitutes fraud in conjunction with the repair of a motor vehicle or operation of a garage.

2. A person for whom a certificate of registration has been suspended or revoked pursuant to the provisions of this section, subsection 6 of NRS 487.563 or similar provisions of the laws of any other state or territory of the United States shall not be employed by, or in any manner affiliated with, the operation of a garage subject to registration in this State.

3. As used in this section, "salvage vehicle" has the meaning ascribed to it in NRS 487.770.

Sec. 32. NRS 487.600 is hereby amended to read as follows:

487.600 As used in NRS 487.600 to ~~[487.690,]~~ **487.687**, inclusive, unless the context otherwise requires, the words and terms defined in NRS ~~[487.602]~~ **487.604** to 487.608, inclusive, have the meanings ascribed to them in those sections.

Sec. 33. NRS 487.640 is hereby amended to read as follows:

487.640 1. No license may be issued to an operator of a body shop until he procures and files with the Department a good and sufficient bond in the amount of \$10,000, with a corporate surety thereon licensed to do business in the State of Nevada, approved as to form by the Attorney General, and conditioned that the applicant shall conduct his business as an operator of a body shop without fraud or fraudulent representation, and in compliance with the provisions of **sections 10 to 26, inclusive, of this act and** NRS 487.600 to ~~[487.690,]~~ **487.687**, inclusive. ~~[, and 597.480 to 597.590, inclusive.]~~ The Department may, by agreement with any operator of a body shop who has been licensed by the Department for 5 years or more, allow a reduction in the amount of the bond of the operator, if the business of the operator has been conducted satisfactorily for the preceding 5 years, but no bond may be in an amount less than \$1,000.

2. The bond may be continuous in form and the total aggregate liability on the bond must be limited to the payment of the total amount of the bond.

3. The bond must provide that any person injured by the action of the operator of the body shop in violation of any of the provisions of *sections 10 to 26, inclusive, of this act and* NRS 487.600 to ~~[487.690,]~~ **487.687**, inclusive, ~~[and 597.480 to 597.590, inclusive,]~~ may apply to the Director for compensation from the bond. The Director, for good cause shown and after notice and opportunity for hearing, may determine the amount of compensation and the person to whom it is to be paid. The surety shall then make the payment.

4. In lieu of a bond an operator of a body shop may deposit with the Department, under the terms prescribed by the Department:

(a) A like amount of money or bonds of the United States or of the State of Nevada of an actual market value of not less than the amount fixed by the Department; or

(b) A savings certificate of a bank, credit union or savings and loan association situated in Nevada, which must indicate an account of an amount equal to the amount of the bond which would otherwise be required by this section and that this amount is unavailable for withdrawal except upon order of the Department. Interest earned on the certificate accrues to the account of the applicant.

5. A deposit made pursuant to subsection 4 may be disbursed by the Director, for good cause shown and after notice and opportunity for hearing, in an amount determined by him to compensate a person injured by an action of the licensee, or released upon receipt of:

(a) An order of a court requiring the Director to release all or a specified portion of the deposit; or

(b) A statement signed by the person under whose name the deposit is made and acknowledged before any person authorized to take acknowledgments in this State, requesting the Director to release the deposit, or a specified portion thereof, and stating the purpose for which the release is requested.

6. When a deposit is made pursuant to subsection 4, liability under the deposit is in the amount prescribed by the Department. If the amount of the deposit is reduced or there is an outstanding judgment of a court for which the licensee is liable under the deposit, the license is automatically suspended. The license must be reinstated if the licensee:

(a) Files an additional bond pursuant to subsection 1;

(b) Restores the deposit with the Department to the original amount required under this section; or

(c) Satisfies the outstanding judgment for which he is liable under the deposit.

7. A deposit made pursuant to subsection 4 may be refunded:

(a) By order of the Director, 3 years after the date the licensee ceases to be licensed by the Department, if the Director is satisfied that there are no outstanding claims against the deposit; or

(b) By order of court, at any time within 3 years after the date the licensee ceases to be licensed by the Department, upon evidence satisfactory to the court that there are no outstanding claims against the deposit.

8. Any money received by the Department pursuant to subsection 4 must be deposited with the State Treasurer for credit to the Motor Vehicle Fund.

Sec. 34. NRS 487.650 is hereby amended to read as follows:

487.650 1. The Department may refuse to issue a license or may suspend, revoke or refuse to renew a license to operate a body shop upon any of the following grounds:

(a) Failure of the applicant or licensee to have or maintain an established place of business in this State.

(b) Conviction of the applicant or licensee or an employee of the applicant or licensee of a felony, or of a misdemeanor or gross misdemeanor for a violation of a provision of this chapter.

(c) Any material misstatement in the application for the license.

(d) Willful failure of the applicant or licensee to comply with the motor vehicle laws of this State and *sections 10 to 26, inclusive, of this act or* NRS 487.600 to ~~487.690,~~ **487.687**, inclusive . ~~[, or 597.480 to 597.590, inclusive.]~~

(e) Failure or refusal by the licensee to pay or otherwise discharge any final judgment against him arising out of the operation of the body shop.

(f) Failure or refusal to provide to the Department an authorization for the disclosure of financial records for the business as required pursuant to subsection 2.

(g) A finding of guilty or guilty but mentally ill by a court of competent jurisdiction in a case involving a fraudulent inspection, purchase, sale or transfer of a salvage vehicle by the applicant or licensee or an employee of the applicant or licensee.

(h) An improper, careless or negligent inspection of a salvage vehicle pursuant to NRS 487.800 by the applicant or licensee or an employee of the applicant or licensee.

(i) A false statement of material fact in a certification of a salvage vehicle pursuant to NRS 487.800 or a record regarding a salvage vehicle by the applicant or licensee or an employee of the applicant or licensee.

(j) The display of evidence of unfitness for a license pursuant to NRS 487.165.

2. Upon the receipt of any report or complaint alleging that an applicant or a licensee has engaged in financial misconduct or has failed to satisfy financial obligations related to the operation of a body shop, the Department may require the applicant or licensee to submit to the Department an authorization for the disclosure of financial records for the business as provided in NRS 239A.090. The Department may use any information obtained pursuant to such an authorization only to determine the suitability of the applicant or licensee for initial or continued licensure. Information obtained pursuant to such an authorization may be disclosed only to those

employees of the Department who are authorized to issue a license to an applicant pursuant to NRS 487.600 to ~~487.690,~~ **487.687**, inclusive, or to determine the suitability of an applicant or a licensee for licensure.

3. As used in this section, "salvage vehicle" has the meaning ascribed to it in NRS 487.770.

Sec. 35. NRS 487.690 is hereby amended to read as follows:

487.690 Any person who violates any of the provisions of *sections 10 to 26, inclusive, of this act* or NRS ~~487.600~~ **487.530** to 487.680, inclusive, is guilty of a misdemeanor.

Sec. 35.1. Chapter 598 of NRS is hereby amended by adding thereto the provisions set forth as sections 35.2 to 35.95, inclusive, of this act.

Sec. 35.2. **1. Each organization for buying goods or services at a discount regulated by the provisions of this section, NRS 598.840 to 598.930, inclusive, and sections 35.3, 35.4 and 35.5 of this act shall apply for registration on the form prescribed by the Division.**

2. At the time of application for registration, the applicant must pay to the Division an administrative fee of \$25 and deposit the required security with the Division.

3. Upon receipt of the security in the proper form and the payment of the administrative fee required by this section, the Division shall issue a certificate of registration to the applicant. A certificate of registration:

- (a) Is not transferable or assignable; and**
- (b) Expires 1 year after it is issued.**

4. A registrant must renew a certificate of registration issued pursuant to this section before the certificate expires by submitting to the Division an application for the renewal of the certificate on a form prescribed by the Division.

Sec. 35.3. **1. Each registrant shall deposit with the Division:**

(a) A bond executed by a corporate surety approved by the Commissioner and licensed to do business in this State;

(b) An irrevocable letter of credit for which the registrant is the obligor, issued by a bank whose deposits are federally insured; or

(c) A certificate of deposit in a financial institution which is doing business in this State and which is federally insured or insured by a private insurer approved pursuant to NRS 678.755. The certificate of deposit may be withdrawn only on the order of the Commissioner, except that the interest may accrue to the registrant.

2. The term of the bond, letter of credit or certificate of deposit, or any renewal thereof, must be not less than 1 year.

3. If the registrant deposits a bond, the registrant shall keep accurate records of the bond and the payments made on the premium. The records must be open to inspection by the Division during business hours. The registrant shall notify the Division not later than 30 days before the date of expiration of the bond and provide written proof of the renewal of the bond to the Division.

4. *The Commissioner may reject any bond, letter of credit or certificate of deposit which fails to conform to the requirements of this section, NRS 598.840 to 598.930, inclusive, and sections 35.2, 35.4 and 35.5 of this act.*

5. *A registrant may change the form of security which he has deposited with the Division. If the registrant changes the form of the security, the Commissioner may retain for not more than 1 year any portion of the security previously deposited by the registrant as security for claims arising during the time the previous security was in effect.*

6. *If the amount of the deposited security falls below the amount required by this section, NRS 598.840 to 598.930, inclusive, and sections 35.2, 35.4 and 35.5 of this act for that security, the registrant shall be deemed not to be registered as required by section 35.2 of this act for the purposes of this section, NRS 598.840 to 598.930, inclusive, and sections 35.2, 35.4 and 35.5 of this act.*

Sec. 35.4. 1. *The security required to be deposited by a registrant pursuant to section 35.3 of this act must be held in trust for consumers injured by the bankruptcy of the registrant or the registrant's breach of any agreement entered into in his capacity as a registrant.*

2. *A consumer so injured may bring and maintain an action in any court of competent jurisdiction to recover against the security.*

3. *The Division may bring an action for interpleader against all claimants upon the security. If the Division brings such an action, the Division shall publish notice of the action at least once each week for 2 weeks in a newspaper of general circulation in the county in which the organization has its principal place of business. The Division may deduct its costs of the action, including the costs of the publication of the notice, from the amount of the security. All claims against the security have equal priority. If the security is insufficient to pay all the claims in full, the claims must be paid pro rata. If the registrant has posted a bond with the Division, the surety is then relieved of all liability under the bond.*

4. *The Division may, in lieu of bringing an action for interpleader pursuant to subsection 3, conduct a hearing to determine the distribution of the security to claimants. The Division shall adopt regulations to provide for adequate notice and the conduct of the hearing. If the registrant has posted a bond with the Division, distribution pursuant to this subsection relieves the surety of all liability under the bond.*

5. *If the security is sufficient to pay all claims against the security in full, the Division may deduct from the amount of the security, the cost of any investigation or hearing it conducted to determine the distribution of the security.*

Sec. 35.5. 1. *If no claims have been filed against the security deposited with the Division pursuant to section 35.3 of this act within 6 months after the registrant ceases to operate or his registration expires, whichever occurs later, the Commissioner shall release the security to the*

registrant and shall not audit any claims filed against the security thereafter by consumers.

2. If one or more claims have been filed against the security within 6 months after the registrant ceases to operate or his registration expires, whichever occurs later, the proceeds must not be released to the registrant or distributed to any consumer earlier than 1 year after the registrant ceases to operate or his registration expires, whichever occurs later.

3. For the purposes of this section, the Commissioner shall determine the date on which a registrant ceases to operate.

Sec. 35.6. "Registrant" means a dance studio or a health club which is required to register and post security with the Division pursuant to the provisions of this section, NRS 598.940 to 598.966, inclusive, and sections 35.7 to 35.95, inclusive, of this act.

Sec. 35.7. 1. Each dance studio and health club regulated by the provisions of this section, NRS 598.940 to 598.966, inclusive, and sections 35.6, 35.8, 35.9 and 35.95 of this act shall apply for registration on the form prescribed by the Division.

2. At the time of application for registration, the applicant must pay to the Division an administrative fee of \$25 and deposit the required security with the Division.

3. Upon receipt of the security in the proper form and the payment of the administrative fee required by this section, the Division shall issue a certificate of registration to the applicant. A certificate of registration:

- (a) Is not transferable or assignable; and*
- (b) Expires 1 year after it is issued.*

4. A registrant must renew a certificate of registration issued pursuant to this section before the certificate expires by submitting to the Division an application for the renewal of the certificate on a form prescribed by the Division.

Sec. 35.8. 1. Each registrant shall deposit with the Division:

(a) A bond executed by a corporate surety approved by the Commissioner and licensed to do business in this State;

(b) An irrevocable letter of credit for which the registrant is the obligor, issued by a bank whose deposits are federally insured; or

(c) A certificate of deposit in a financial institution which is doing business in this State and which is federally insured or insured by a private insurer approved pursuant to NRS 678.755. The certificate of deposit may be withdrawn only on the order of the Commissioner, except that the interest may accrue to the registrant.

2. The term of the bond, letter of credit or certificate of deposit, or any renewal thereof, must be not less than 1 year.

3. If the registrant deposits a bond, the registrant shall keep accurate records of the bond and the payments made on the premium. The records must be open to inspection by the Division during business hours. The registrant shall notify the Division not later than 30 days before the date of

expiration of the bond and provide written proof of the renewal of the bond to the Division.

4. The Commissioner may reject any bond, letter of credit or certificate of deposit which fails to conform to the requirements of this section, NRS 598.940 to 598.966, inclusive, and sections 35.6, 35.7, 35.9 and 35.95 of this act.

5. A registrant may change the form of security which he has deposited with the Division. If the registrant changes the form of the security, the Commissioner may retain for not more than 1 year any portion of the security previously deposited by the registrant as security for claims arising during the time the previous security was in effect.

6. If the amount of the deposited security falls below the amount required by this chapter for that security, the registrant shall be deemed not to be registered as required by section 35.7 of this act for the purposes of this section, NRS 598.940 to 598.966, inclusive, and sections 35.6, 35.7, 35.9 and 35.95 of this act.

Sec. 35.9. 1. The security required to be deposited by a registrant pursuant to section 35.8 of this act must be held in trust for consumers injured by the bankruptcy of the registrant or the registrant's breach of any agreement entered into in his capacity as a registrant.

2. A consumer so injured may bring and maintain an action in any court of competent jurisdiction to recover against the security.

3. The Division may bring an action for interpleader against all claimants upon the security. If the Division brings such an action, the Division shall publish notice of the action at least once each week for 2 weeks in a newspaper of general circulation in the county in which the organization has its principal place of business. The Division may deduct its costs of the action, including the costs of the publication of the notice, from the amount of the security. All claims against the security have equal priority. If the security is insufficient to pay all the claims in full, the claims must be paid pro rata. If the registrant has posted a bond with the Division, the surety is then relieved of all liability under the bond.

4. The Division may, in lieu of bringing an action for interpleader pursuant to subsection 3, conduct a hearing to determine the distribution of the security to claimants. The Division shall adopt regulations to provide for adequate notice and the conduct of the hearing. If the registrant has posted a bond with the Division, distribution pursuant to this subsection relieves the surety of all liability under the bond.

5. If the security is sufficient to pay all claims against the security in full, the Division may deduct from the amount of the security, the cost of any investigation or hearing it conducted to determine the distribution of the security.

Sec. 35.95. 1. If no claims have been filed against the security deposited with the Division pursuant to section 35.8 of this act within 6 months after the registrant ceases to operate or his registration expires,

whichever occurs later, the Commissioner shall release the security to the registrant and shall not audit any claims filed against the security thereafter by consumers.

2. If one or more claims have been filed against the security within 6 months after the registrant ceases to operate or his registration expires, whichever occurs later, the proceeds must not be released to the registrant or distributed to any consumer earlier than 1 year after the registrant ceases to operate or his registration expires, whichever occurs later.

3. For the purposes of this section, the Commissioner shall determine the date on which a registrant ceases to operate.

Sec. 36. NRS 598.0925 is hereby amended to read as follows:

598.0925 1. Except as otherwise provided in this section, a person engages in a "deceptive trade practice" when, in the course of his business or occupation, he:

(a) Makes an assertion of scientific, clinical or quantifiable fact in an advertisement which would cause a reasonable person to believe that the assertion is true, unless, at the time the assertion is made, the person making it has possession of factually objective scientific, clinical or quantifiable evidence which substantiates the assertion; or

(b) Fails upon request of the ~~{Commissioner or}~~ Attorney General to produce within 6 working days the substantiating evidence in his possession at the time the assertion of scientific, clinical or quantifiable fact was made.

2. This section does not apply to general assertions of opinion as to quality, value or condition made without the intent to mislead another person.

Sec. 37. NRS 598.096 is hereby amended to read as follows:

598.096 When the ~~{Commissioner, Director or}~~ Attorney General has cause to believe that any person has engaged or is engaging in any deceptive trade practice, he may:

1. Request the person to file a statement or report in writing under oath or otherwise, on such forms as may be prescribed by the ~~{Commissioner, Director or}~~ Attorney General, as to all facts and circumstances concerning the sale or advertisement of property by the person, and such other data and information as the ~~{Commissioner, Director or}~~ Attorney General may deem necessary.

2. Examine under oath any person in connection with the sale or advertisement of any property.

3. Examine any property or sample thereof, record, book, document, account or paper as he may deem necessary.

4. Make true copies, at the expense of the ~~{Consumer Affairs Division of the Department of Business and Industry,}~~ **Attorney General**, of any record, book, document, account or paper examined pursuant to subsection 3, which copies may be offered into evidence in lieu of the originals thereof in actions brought pursuant to NRS 598.097 . ~~{and 598.0979.}~~

5. Pursuant to an order of any district court, impound any sample of property which is material to the deceptive trade practice and retain the

property in his possession until completion of all proceedings as provided in NRS 598.0903 to 598.0999, inclusive. An order may not be issued pursuant to this subsection unless:

(a) The ~~{Commissioner, Director or}~~ Attorney General ~~{,}~~ and the court give the accused full opportunity to be heard; and

(b) The ~~{Commissioner, Director or}~~ Attorney General proves by clear and convincing evidence that the business activities of the accused will not be impaired thereby.

Sec. 38. NRS 598.0963 is hereby amended to read as follows:

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

~~2.}~~ The Attorney General may institute criminal proceedings to enforce the provisions of NRS 598.0903 to 598.0999, inclusive. The Attorney General is not required to obtain leave of the court before instituting criminal proceedings pursuant to this subsection.

~~{3.}~~ 2. If the Attorney General has reason to believe that a person has engaged or is engaging in a deceptive trade practice, the Attorney General may bring an action in the name of the State of Nevada against that person to obtain a temporary restraining order, a preliminary or permanent injunction, or other appropriate relief.

~~{4.}~~ 3. If the Attorney General has cause to believe that a person has engaged or is engaging in a deceptive trade practice, the Attorney General may issue a subpoena to require the testimony of any person or the production of any documents, and may administer an oath or affirmation to any person providing such testimony. The subpoena must be served upon the person in the manner required for service of process in this State or by certified mail with return receipt requested. An employee of the Attorney General may personally serve the subpoena.

Sec. 39. NRS 598.097 is hereby amended to read as follows:

598.097 If any person fails to cooperate with any investigation, as provided in NRS 598.096, or if any person fails to obey a subpoena issued by the ~~{Commissioner, Director or}~~ Attorney General pursuant to NRS 598.0963 ~~for 598.0967, the Commissioner, Director or}~~, *the* Attorney General may apply to any district court for equitable relief. The application must state reasonable grounds showing that the relief is necessary to terminate or prevent a deceptive trade practice. If the court is satisfied of the reasonable grounds, the court may:

1. Grant injunctive relief restraining the sale or advertisement of any property by the person.

2. Require the attendance of or the production of documents by the person, or both.

3. Grant other relief necessary to compel compliance by the person.

Sec. 40. (Deleted by amendment.)

Sec. 41. NRS 598.0974 is hereby amended to read as follows:

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

Sec. 42. NRS 598.0975 is hereby amended to read as follows:

598.0975 1. Except as otherwise provided in subsection 3 and in subsection 1 of NRS 598.0999, all fees, civil penalties and any other money collected pursuant to the provisions of NRS 598.0903 to 598.0999, inclusive:

(a) In an action brought by the Attorney General, ~~{Commissioner or Director,}~~ must be deposited in the State General Fund and may only be used to offset the costs of administering and enforcing the provisions of NRS 598.0903 to 598.0999, inclusive.

(b) In an action brought by the district attorney of a county, must be deposited with the county treasurer of that county and accounted for separately in the county general fund.

2. Money in the account created pursuant to paragraph (b) of subsection 1 must be used by the district attorney of the county for:

(a) The investigation and prosecution of deceptive trade practices against elderly persons or persons with disabilities; and

(b) Programs for the education of consumers which are directed toward elderly persons or persons with disabilities, law enforcement officers, members of the judicial system, persons who provide social services and the general public.

3. The provisions of this section do not apply to:

(a) Criminal fines imposed pursuant to NRS 598.0903 to 598.0999, inclusive; or

(b) Restitution ordered pursuant to NRS 598.0903 to 598.0999, inclusive, in an action brought by the Attorney General. Money collected for restitution ordered in such an action must be deposited by the Attorney General and credited to the appropriate account of the ~~{Consumer Affairs Division of the Department of Business and Industry or the}~~ Attorney General for distribution to the person for whom the restitution was ordered.

Sec. 43. (Deleted by amendment.)

Sec. 44. (Deleted by amendment.)

Sec. 45. NRS 598.0983 is hereby amended to read as follows:

598.0983 1. Before instituting any action pursuant to NRS 598.0985 to 598.0997, inclusive, the district attorney shall ascertain whether or not the action in question is subject to the regulatory authority of any state agency, board, official or other authority established by virtue of the Nevada Revised Statutes except the regulatory or administrative authority provided to the

~~[Commissioner, Director or]~~ Attorney General by NRS 598.0903 to 598.0999, inclusive.

2. If the action is subject to such regulatory authority or any regulation adopted or any statutes administered by any state regulatory agency, board, official or other authority as provided in subsection 1, the district attorney shall not institute any proceeding under NRS 598.0985 to 598.0997, inclusive, until the state agency, board, official or other state regulatory authority has had reasonable time to investigate or take any appropriate action with respect to the alleged facts.

3. For the purposes of this section, a reasonable time has elapsed if no final action or other disposition is made of any matter otherwise falling within the provisions of NRS 598.0903 to 598.0999, inclusive, within 30 days after the matter is referred to or brought to the attention of any state agency, board, official or other regulatory authority except the ~~[Commissioner, Director or]~~ Attorney General.

4. This section does not prohibit the district attorney of any county from filing an action pursuant to the provisions of NRS 598.0985 to 598.099, inclusive, if the referral of any matters subject to the provisions of NRS 598.0903 to 598.0999, inclusive, to any state agency, board, official or other regulatory authority would cause immediate harm to the public of this state or endanger the public health, safety or welfare, and such facts are shown by affidavit or by verified complaint.

Sec. 46. NRS 598.0985 is hereby amended to read as follows:

598.0985 Notwithstanding the requirement of knowledge as an element of a deceptive trade practice, and notwithstanding the enforcement powers granted to the ~~[Commissioner or Director]~~ **Attorney General** pursuant to NRS 598.0903 to 598.0999, inclusive, whenever the district attorney of any county has reason to believe that any person is using, has used or is about to use any deceptive trade practice, knowingly or otherwise, he may bring an action in the name of the State of Nevada against that person to obtain a temporary or permanent injunction against the deceptive trade practice.

Sec. 47. NRS 598.099 is hereby amended to read as follows:

598.099 Whenever the district attorney or the Attorney General has reason to believe that the delay caused by complying with the notice requirement of NRS 598.0987 or the requirements of subsection ~~3~~ 2 of NRS 598.0963 would cause immediate harm to the public of this state or endanger the public welfare, he may immediately institute an action for injunctive relief, including a request for a temporary restraining order, upon proof of specific facts shown by affidavit or by verified complaint or otherwise that such immediate harm will be or is likely to be caused by the delay. ~~[The Attorney General shall give written notice of the filing by him of such an action to the Commissioner or Director.]~~ The Nevada Rules of Civil Procedure pertaining to the issuance of temporary restraining orders govern all actions instituted pursuant to this section.

Sec. 47.5. NRS 598.0993 is hereby amended to read as follows:

598.0993 The court in which an action is brought pursuant to NRS ~~598.0979 and~~ 598.0985 to 598.099, inclusive, may make such additional orders or judgments as may be necessary to restore to any person in interest any money or property, real or personal, which may have been acquired by means of any deceptive trade practice which violates any of the provisions of NRS 598.0903 to 598.0999, inclusive, but such additional orders or judgments may be entered only after a final determination has been made that a deceptive trade practice has occurred.

Sec. 48. NRS 598.0995 is hereby amended to read as follows:

598.0995 1. In proceeding pursuant to subsection ~~{3}~~ 2 of NRS 598.0963 or NRS 598.0987 to 598.0995, inclusive, the district attorney or Attorney General may accept an assurance of discontinuance with respect to any method, act or practice deemed to be a deceptive trade practice from any person who is engaged or is about to engage in the method, act or practice . ~~[by following the procedures set forth in subsection 2 of NRS 598.0979.]~~

2. Any assurance made pursuant to subsection 1 must be in writing and must be filed with and subject to the approval of the district court in the county in which the alleged violator resides or has his principal place of business, or the district court in any county where any deceptive trade practice has occurred or is about to occur or the district court agreed to by the parties.

3. An assurance of discontinuance made pursuant to subsections 1 and 2 is not an admission of violation for any purpose . ~~[, but is subject to the terms, limitations and conditions of NRS 598.0979.]~~

Sec. 49. NRS 598.0999 is hereby amended to read as follows:

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

2. Except as otherwise provided in NRS 598.0974, in any action brought pursuant to the provisions of NRS 598.0903 to 598.0999, inclusive, if the court finds that a person has willfully engaged in a deceptive trade practice, ~~[the Commissioner, the Director,]~~ the district attorney of any county in this State or the Attorney General bringing the action may recover a civil penalty not to exceed \$5,000 for each violation. The court in any such action may, in addition to any other relief or reimbursement, award reasonable attorney's fees and costs.

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

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

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

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

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

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

5. If a person violates any provision of NRS 598.0903 to 598.0999, inclusive, 598.100 to 598.2801, inclusive, ~~[598.305 to 598.395, inclusive, 598.405 to 598.525, inclusive,]~~ **598.475**, 598.741 to 598.787, inclusive, or 598.840 to 598.966, inclusive, fails to comply with a judgment or order of any court in this State concerning a violation of such a provision, or fails to comply with an assurance of discontinuance or other agreement concerning an alleged violation of such a provision, ~~[the Commissioner or]~~ the district attorney of any county may bring an action in the name of the State of Nevada seeking:

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

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

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

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

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

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

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

Sec. 50. NRS 598.135 is hereby amended to read as follows:

598.135 The provisions of NRS 598.136, 598.137 and 598.138 do not apply to:

1. A contest of skill that does not involve the sale or lease of any goods, property or service.

2. ~~[-] A person who is licensed as a seller or a salesman pursuant to chapter 599B of NRS, and is engaging in an activity within the scope of that license.~~

~~3.]~~ A sale or purchase, or solicitation or representation made in connection with the sale or purchase, of goods from a catalog or of books, recordings, videocassettes, periodicals or other similar goods offered by a seller or membership group which is regulated by the Federal Trade Commission if the seller or membership group sends goods, pursuant to an agreement, to a customer or member for his inspection and, if unsatisfied after inspecting the goods, the customer or member is entitled to receive a full refund of the purchase price of the goods if the goods are returned undamaged to the seller or membership group.

~~4.]~~ 3. A solicitation, advertisement or promotion, or offer to extend credit, made by a commercial bank, bank holding company, subsidiary or affiliate of a bank holding company, trust company, savings and loan association, credit union, industrial loan company, personal property broker, consumer finance lender, commercial finance lender or insurer, or any other person engaged in the business of extending credit, who is regulated by an officer or agency of the State or of the Federal Government.

~~5.]~~ 4. A person licensed pursuant to chapter 463 of NRS and his employees.

Sec. 51. NRS 598.475 is hereby amended to read as follows:

598.475 1. In each advertisement for a sightseeing tour, a tour broker and a tour operator shall disclose in a clear and conspicuous manner the total price a customer is required to pay to take the sightseeing tour. Unless the inclusion of a fee or tax in the total price would violate a specific statute of this state or a federal statute or regulation, the total price must include, without limitation, all fees, taxes and other charges that a customer for a sightseeing tour is required to pay to take the sightseeing tour. If a fee or tax cannot be included in the total price because its inclusion would violate a specific statute of this state or a federal statute or regulation, the tour broker or tour operator, as applicable, shall disclose in a clear and conspicuous manner that the fee or tax is not included in the total price and must be paid in addition to the total price.

2. A tour broker and a tour operator shall not charge a customer for a sightseeing tour an amount that exceeds the sum of:

(a) The total price for the sightseeing tour which is disclosed in an advertisement for the sightseeing tour; and

(b) Any fee or tax that is not included in the total price for the sightseeing tour because its inclusion would violate a specific statute of this state or a federal statute or regulation.

3. On a billing invoice or receipt given to a customer for a sightseeing tour, a tour broker and a tour operator shall provide a clear and conspicuous notice which ~~[-]~~

~~(a) Sets] sets~~ forth the provisions of subsection 2. ~~];~~

~~(b) States that complaints concerning the charges for a sightseeing tour may be directed to the Division; and~~

~~(c) Provides a telephone number for the Division.]~~

4. If a tour operator issues or causes to be issued a coupon or other indicia of discount or special promotion, the tour operator shall honor the coupon or other indicia in good faith unless:

(a) The coupon or other indicia sets forth a date of expiration that is clearly legible; and

(b) The date of expiration has passed.

5. The failure of a tour broker or tour operator to comply with a provision of this section constitutes a deceptive trade practice for the purposes of NRS 598.0903 to 598.0999, inclusive.

6. As used in this section:

(a) "Advertise" or "advertisement" means the attempt by publication, dissemination, solicitation or circulation to induce, directly or indirectly, any person to take a sightseeing tour.

(b) "Sightseeing tour" means an excursion that:

(1) Has a duration of 24 hours or less;

(2) Travels to one or more points of interest; and

(3) Is conducted using one or more means of motorized conveyance, including, without limitation, an airplane, bus, helicopter, tour boat or touring raft.

(c) "Tour broker" means a person who, in this State, advertises a sightseeing tour for a tour operator and collects money from customers for a sightseeing tour.

(d) "Tour operator" means a person who, in this State, engages in the business of providing a sightseeing tour to customers.

Sec. 52. NRS 598.706 is hereby amended to read as follows:

598.706 "Commissioner" means the Commissioner of ~~the Consumer Affairs Division]~~ **Mortgage Lending** of the Department of Business and Industry.

Sec. 53. NRS 598.711 is hereby amended to read as follows:

598.711 "Division" means the ~~Consumer Affairs]~~ **Mortgage Lending** of the Department of Business and Industry.

Sec. 54. NRS 598.716 is hereby amended to read as follows:

598.716 "Registrant" means a credit service organization ~~], an organization for buying goods or services at a discount, a dance studio or a health club]~~ which is required to register and post security with the Division pursuant to the provisions of this chapter.

Sec. 55. NRS 598.721 is hereby amended to read as follows:

598.721 1. Each credit service organization ~~], organization for buying goods or services at a discount, dance studio and health club]~~ regulated by the provisions of this chapter shall apply for registration on the form prescribed by the Division.

2. At the time of application for registration, the applicant must pay to the Division an administrative fee of \$25 and deposit the required security with the Division.

3. Upon receipt of the security in the proper form and the payment of the administrative fee required by this section, the Division shall issue a certificate of registration to the applicant. A certificate of registration:

- (a) Is not transferable or assignable; and
- (b) Expires 1 year after it is issued.

4. A registrant must renew a certificate of registration issued pursuant to this section before the certificate expires by submitting to the Division an application for the renewal of the certificate on a form prescribed by the Division.

Sec. 56. NRS 598.741 is hereby amended to read as follows:

598.741 As used in NRS 598.741 to 598.787, inclusive, unless the context otherwise requires:

1. "Buyer" means a natural person who is solicited to purchase or who purchases the services of an organization which provides credit services.

2. "Commissioner" means the Commissioner of ~~{Consumer Affairs.}~~

Mortgage Lending.

3. "Division" means the ~~{Consumer Affairs}~~ Division of ***Mortgage Lending of*** the Department of Business and Industry.

4. "Extension of credit" means the right to defer payment of debt or to incur debt and defer its payment, offered or granted primarily for personal, family or household purposes.

5. "Organization":

(a) Means a person who, with respect to the extension of credit by others, sells, provides or performs, or represents that he can or will sell, provide or perform, any of the following services, in return for the payment of money or other valuable consideration:

- (1) Improving a buyer's credit record, history or rating.
- (2) Obtaining an extension of credit for a buyer.

(3) Providing counseling or assistance to a person in establishing or effecting a plan for the payment of his indebtedness, unless that counseling or assistance is provided by and is within the scope of the authorized practice of a debt adjuster licensed pursuant to chapter 676 of NRS.

(4) Providing advice or assistance to a buyer with regard to subparagraph (1) or (2).

(b) Does not include:

(1) A person organized, chartered or holding a license or authorization certificate to make loans or extensions of credit pursuant to the laws of this state or the United States who is subject to regulation and supervision by an officer or agency of this state or the United States.

(2) A bank, credit union or savings and loan institution whose deposits or accounts are eligible for insurance by the Federal Deposit Insurance

Corporation, the National Credit Union Share Insurance Fund or a private insurer approved pursuant to NRS 678.755.

(3) A person licensed as a real estate broker by this state where the person is acting within the course and scope of that license, unless the person is rendering those services in the course and scope of employment by or other affiliation with an organization.

(4) A person licensed to practice law in this state where the person renders services within the course and scope of his practice as an attorney at law, unless the person is rendering those services in the course and scope of employment by or other affiliation with an organization.

(5) A broker-dealer registered with the Securities and Exchange Commission or the Commodity Futures Trading Commission where the broker-dealer is acting within the course and scope of such regulation.

(6) A person licensed as a debt adjuster pursuant to chapter 676 of NRS.

(7) A reporting agency.

6. "Reporting agency" means a person who, for fees, dues or on a cooperative nonprofit basis, regularly engages in whole or in part in the business of assembling or evaluating information regarding the credit of or other information regarding consumers to furnish consumer reports to third parties, regardless of the means or facility of commerce used to prepare or furnish the consumer reports. The term does not include:

(a) A person solely for the reason that he conveys a decision regarding whether to guarantee a check in response to a request by a third party;

(b) A person who obtains or creates a consumer report and provides the report or information contained in it to a subsidiary or affiliate; or

(c) A person licensed pursuant to chapter 463 of NRS.

Sec. 57. NRS 598.840 is hereby amended to read as follows:

598.840 As used in NRS 598.840 to 598.930, inclusive, unless the context otherwise requires:

1. "Affiliate organization" means an organization for buying goods or services at a discount that:

(a) Is a subsidiary of a parent business entity; or

(b) Operates under a franchise granted by a parent business entity.

2. "Business day" means any calendar day except Sunday, or the following business holidays: New Year's Day, Martin Luther King, Jr.'s Birthday, Washington's Birthday, Memorial Day, Independence Day, Labor Day, Nevada Day, Veterans' Day, Thanksgiving Day and Christmas Day.

3. "Buyer" means a person who purchases by contract a membership in an organization for buying goods or services at a discount.

4. ~~"Commissioner" means the Commissioner of the Consumer Affairs Division.~~

5. ~~"Consumer Affairs Division" means the Consumer Affairs Division of the Department of Business and Industry.~~

6. ~~]~~ "Franchise" has the meaning ascribed to it in 16 C.F.R. § 436.2, as amended or substituted in revision by the Federal Trade Commission.

~~{7-}~~ 5. "Organization for buying goods or services at a discount" or "organization" means a person who, for a consideration, provides or claims to provide a buyer with the ability to purchase goods or services at a price which is represented to be lower than the price generally charged in the area. The term includes, without limitation, an affiliate organization.

~~{8-}~~ 6. "Parent business entity" or "parent" means any business entity that, directly or indirectly, has owned, operated, controlled or granted franchises to, in any combination thereof, at least 15 organizations or affiliate organizations for a consecutive period of 5 years or more.

~~{9-}~~ 7. "Subsidiary" means an organization for buying goods or services at a discount that is owned, operated or controlled, either directly or indirectly or in whole or in part, by a parent business entity.

Sec. 57.5. NRS 598.840 is hereby amended to read as follows:

598.840 As used in NRS 598.840 to 598.930, inclusive, ***and sections 35.2 to 35.5, inclusive, of this act***, unless the context otherwise requires:

1. "Affiliate organization" means an organization for buying goods or services at a discount that:

- (a) Is a subsidiary of a parent business entity; or
- (b) Operates under a franchise granted by a parent business entity.

2. "Business day" means any calendar day except Sunday, or the following business holidays: New Year's Day, Martin Luther King, Jr.'s Birthday, Washington's Birthday, Memorial Day, Independence Day, Labor Day, Nevada Day, Veterans' Day, Thanksgiving Day and Christmas Day.

3. "Buyer" means a person who purchases by contract a membership in an organization for buying goods or services at a discount.

4. ***"Commissioner" means the Commissioner of the Consumer Affairs Division.***

5. ***"Division" means the Consumer Affairs Division of the Department of Business and Industry.***

6. "Franchise" has the meaning ascribed to it in 16 C.F.R. § 436.2, as amended or substituted in revision by the Federal Trade Commission.

~~{5-}~~ 7. "Organization for buying goods or services at a discount" or "organization" means a person who, for a consideration, provides or claims to provide a buyer with the ability to purchase goods or services at a price which is represented to be lower than the price generally charged in the area. The term includes, without limitation, an affiliate organization.

~~{6-}~~ 8. "Parent business entity" or "parent" means any business entity that, directly or indirectly, has owned, operated, controlled or granted franchises to, in any combination thereof, at least 15 organizations or affiliate organizations for a consecutive period of 5 years or more.

~~{7-}~~ 9. ***"Registrant" means an organization for buying goods or services at a discount which is required to register and post security with the Division pursuant to the provisions of NRS 598.840 to 598.930, inclusive, and sections 35.2 to 35.5, inclusive, of this act.***

10. "Subsidiary" means an organization for buying goods or services at a discount that is owned, operated or controlled, either directly or indirectly or in whole or in part, by a parent business entity.

Sec. 58. NRS 598.875 is hereby amended to read as follows:

598.875 Each contract for membership in an organization must:

1. Be in writing, legible and have all spaces filled in before the buyer signs it;

2. Be in the language in which the sales presentation was given;

3. Contain the addresses of the buyer and the organization;

4. Be given to the buyer when he signs it;

5. ~~Disclose that the security required by NRS 598.726, 598.851 and, if applicable, NRS 598.855 has been obtained and deposited with the Consumer Affairs Division;~~

~~6.]~~ Specify the term of the membership of the buyer, which may not be measured by the buyer's life;

~~{7.]~~ **6.** Clearly specify the buyer's right to cancel the contract pursuant to NRS 598.885;

~~{8.]~~ **7.** Clearly specify the buyer's right to rescind the contract and to be given a refund pro rata pursuant to NRS 598.910 and the conditions and limitations on that right;

~~{9.]~~ **8.** Clearly specify the buyer's right to a refund on the purchase of goods pursuant to NRS 598.895 and the conditions and limitations on that right; and

~~{10.]~~ **9.** Clearly specify whether or not the buyer is given any other rights to a refund on the purchase of goods or services and, if so, any conditions and limitations on those rights.

Sec. 59. NRS 598.930 is hereby amended to read as follows:

598.930 1. The remedies, duties and prohibitions of NRS 598.840 to 598.930, inclusive, are not exclusive and are in addition to any other remedies provided by law.

2. Any violation of NRS ~~{598.851}~~ **598.870** to 598.900, inclusive, constitutes a deceptive trade practice for the purposes of NRS 598.0903 to 598.0999, inclusive.

Sec. 60. NRS 598.948 is hereby amended to read as follows:

598.948 Each contract between the buyer and the dance studio or health club must:

1. Be in writing, legible and have all spaces filled in before the buyer signs it;

2. Be in the language in which the sales presentation was given;

3. Contain the addresses of the buyer and the studio or club;

4. Be given to the buyer when he signs it;

5. ~~Disclose whether security has been obtained and deposited with the Division pursuant to NRS 598.726;~~

~~6.]~~ Specify the term of membership of the buyer, which must not be measured by the life of the buyer;

~~{7-}~~ 6. Clearly specify the right of the buyer to cancel the contract pursuant to NRS 598.950;

~~{8-}~~ 7. Not contain a clause by which the contract is automatically renewed; and

~~{9-}~~ 8. Specify the number of lessons and the cost of each lesson, if the contract is for dance lessons.

Sec. 61. NRS 598.966 is hereby amended to read as follows:

598.966 1. The remedies, duties and prohibitions of NRS 598.940 to 598.966, inclusive, are not exclusive and are in addition to any other remedies provided by law.

2. Any violation of NRS ~~{598.944}~~ **598.948** to 598.958, inclusive, constitutes a deceptive trade practice for the purposes of NRS 598.0903 to 598.0999, inclusive.

Sec. 62. (Deleted by amendment.)

Sec. 63. NRS 599B.010 is hereby amended to read as follows:

599B.010 As used in this chapter, unless the context otherwise requires:

1. "Chance promotion" means any plan in which premiums are distributed by random or chance selection.

2. ~~["Commissioner" means the Commissioner of Consumer Affairs.~~

~~3-}~~ "Consumer" means a person who is solicited by a seller or salesman.

~~{4-}~~ ~~"Division" means the Consumer Affairs Division of the Department of Business and Industry.~~

~~5-}~~ 3. "Donation" means a promise, grant or pledge of money, credit, property, financial assistance or other thing of value given in response to a solicitation by telephone, including, but not limited to, a payment or promise to pay in consideration for a performance, event or sale of goods or services. The term does not include volunteer services, government grants or contracts or a payment by members of any organization of membership fees, dues, fines or assessments or for services rendered by the organization to those persons, if:

(a) The fees, dues, fines, assessments or services confer a bona fide right, privilege, professional standing, honor or other direct benefit upon the member; and

(b) Membership in the organization is not conferred solely in consideration for making a donation in response to a solicitation.

~~{6-}~~ 4. "Goods or services" means any property, tangible or intangible, real, personal or mixed, and any other article, commodity or thing of value.

~~{7-}~~ 5. "Premium" includes any prize, bonus, award, gift or any other similar inducement or incentive to purchase.

~~{8-}~~ 6. "Recovery service" means a business or other practice whereby a person represents or implies that he will, for a fee, recover any amount of money that a consumer has provided to a seller or salesman pursuant to a solicitation governed by the provisions of this chapter.

~~{9-}~~ 7. "Salesman" means any person:

(a) Employed or authorized by a seller to sell, or to attempt to sell, goods or services by telephone;

(b) Retained by a seller to provide consulting services relating to the management or operation of the seller's business; or

(c) Who communicates on behalf of a seller with a consumer:

(1) In the course of a solicitation by telephone; or

(2) For the purpose of verifying, changing or confirming an order,

↪ except that a person is not a salesman if his only function is to identify a consumer by name only and he immediately refers the consumer to a salesman.

~~10.1~~ 8. Except as otherwise provided in subsection ~~11.1~~ 9, "seller" means any person who, on his own behalf, causes or attempts to cause a solicitation by telephone to be made through the use of one or more salesmen or any automated dialing announcing device under any of the following circumstances:

(a) The person initiates contact by telephone with a consumer and represents or implies:

(1) That a consumer who buys one or more goods or services will receive additional goods or services, whether or not of the same type as purchased, without further cost, except for actual postage or common carrier charges;

(2) That a consumer will or has a chance or opportunity to receive a premium;

(3) That the items for sale are gold, silver or other precious metals, diamonds, rubies, sapphires or other precious stones, or any interest in oil, gas or mineral fields, wells or exploration sites or any other investment opportunity;

(4) That the product offered for sale is information or opinions relating to sporting events;

(5) That the product offered for sale is the services of a recovery service; or

(6) That the consumer will receive a premium or goods or services if he makes a donation;

(b) The solicitation by telephone is made by the person in response to inquiries from a consumer generated by a notification or communication sent or delivered to the consumer that represents or implies:

(1) That the consumer has been in any manner specially selected to receive the notification or communication or the offer contained in the notification or communication;

(2) That the consumer will receive a premium if the recipient calls the person;

(3) That if the consumer buys one or more goods or services from the person, the consumer will also receive additional or other goods or services, whether or not the same type as purchased, without further cost or at a cost

that the person represents or implies is less than the regular price of the goods or services;

(4) That the product offered for sale is the services of a recovery service; or

(5) That the consumer will receive a premium or goods or services if he makes a donation; or

(c) The solicitation by telephone is made by the person in response to inquiries generated by advertisements that represent or imply that the person is offering to sell any:

(1) Gold, silver or other metals, including coins, diamonds, rubies, sapphires or other stones, coal or other minerals or any interest in oil, gas or other mineral fields, wells or exploration sites, or any other investment opportunity;

(2) Information or opinions relating to sporting events; or

(3) Services of a recovery service.

~~11-1~~ 9. "Seller" does not include:

(a) A person licensed pursuant to chapter 90 of NRS when soliciting offers, sales or purchases within the scope of his license.

(b) A person licensed pursuant to chapter 119A, 119B, 624, 645 or 696A of NRS when soliciting sales within the scope of his license.

(c) A person licensed as an insurance broker, agent or solicitor when soliciting sales within the scope of his license.

(d) Any solicitation of sales made by the publisher of a newspaper or magazine or by an agent of the publisher pursuant to a written agreement between the agent and publisher.

(e) A broadcaster soliciting sales who is licensed by any state or federal authority, if the solicitation is within the scope of the broadcaster's license.

(f) A person who solicits a donation from a consumer when:

(1) The person represents or implies that the consumer will receive a premium or goods or services with an aggregated fair market value of 2 percent of the donation or \$50, whichever is less; or

(2) The consumer provides a donation of \$50 or less in response to the solicitation.

(g) A charitable organization which is registered or approved to conduct a lottery pursuant to chapter 462 of NRS.

(h) A public utility or motor carrier which is regulated pursuant to chapter 704 or 706 of NRS, or by an affiliate of such a utility or motor carrier, if the solicitation is within the scope of its certificate or license.

(i) A utility which is regulated pursuant to chapter 710 of NRS, or by an affiliate of such a utility.

(j) A person soliciting the sale of books, recordings, videocassettes, software for computer systems or similar items through:

(1) An organization whose method of sales is governed by the provisions of Part 425 of Title 16 of the Code of Federal Regulations relating to the use of negative option plans by sellers in commerce;

(2) The use of continuity plans, subscription arrangements, arrangements for standing orders, supplements, and series arrangements pursuant to which the person periodically ships merchandise to a consumer who has consented in advance to receive the merchandise on a periodic basis and has the opportunity to review the merchandise for at least 10 days and return it for a full refund within 30 days after it is received; or

(3) An arrangement pursuant to which the person ships merchandise to a consumer who has consented in advance to receive the merchandise and has the opportunity to review the merchandise for at least 10 days and return it for a full refund within 30 days after it is received.

(k) A person who solicits sales by periodically publishing and delivering a catalog to consumers if the catalog:

(1) Contains a written description or illustration of each item offered for sale and the price of each item;

(2) Includes the business address of the person;

(3) Includes at least 24 pages of written material and illustrations;

(4) Is distributed in more than one state; and

(5) Has an annual circulation by mailing of not less than 250,000.

(l) A person soliciting without the intent to complete and who does not complete, the sales transaction by telephone but completes the sales transaction at a later face-to-face meeting between the solicitor and the consumer, if the person, after soliciting a sale by telephone, does not cause another person to collect the payment from or deliver any goods or services purchased to the consumer.

(m) Any commercial bank, bank holding company, subsidiary or affiliate of a bank holding company, trust company, savings and loan association, credit union, industrial loan company, personal property broker, consumer finance lender, commercial finance lender, or insurer subject to regulation by an official or agency of this State or of the United States, if the solicitation is within the scope of the certificate or license held by the entity.

(n) A person holding a certificate of authority issued pursuant to chapter 452 of NRS when soliciting sales within the scope of the certificate.

(o) A person licensed pursuant to chapter 689 of NRS when soliciting sales within the scope of his license.

(p) A person soliciting the sale of services provided by a video service provider subject to regulation pursuant to chapter 711 of NRS.

(q) A person soliciting the sale of agricultural products, if the solicitation is not intended to and does not result in a sale of more than \$100 that is to be delivered to one address. As used in this paragraph, "agricultural products" has the meaning ascribed to it in NRS 587.290.

(r) A person who has been operating, for at least 2 years, a retail business establishment under the same name as that used in connection with the solicitation of sales by telephone if, on a continuing basis:

(1) Goods are displayed and offered for sale or services are offered for sale and provided at the person's business establishment; and

(2) At least 50 percent of the person's business involves the buyer obtaining such goods or services at the person's business establishment.

(s) A person soliciting only the sale of telephone answering services to be provided by the person or his employer.

(t) A person soliciting a transaction regulated by the Commodity Futures Trading Commission, if:

(1) The person is registered with or temporarily licensed by the Commission to conduct that activity pursuant to the Commodity Exchange Act, 7 U.S.C. §§ 1 et seq.; and

(2) The registration or license has not expired or been suspended or revoked.

(u) A person who contracts for the maintenance or repair of goods previously purchased from the person:

(1) Making the solicitation; or

(2) On whose behalf the solicitation is made.

(v) A person to whom a license to operate an information service or a nonrestricted gaming license, which is current and valid, has been issued pursuant to chapter 463 of NRS when soliciting sales within the scope of his license.

(w) A person who solicits a previous customer of the business on whose behalf the call is made if the person making the call:

(1) Does not offer the customer any premium in connection with the sale;

(2) Is not selling an investment or an opportunity for an investment that is not registered with any state or federal authority; and

(3) Is not regularly engaged in telephone sales.

(x) A person who solicits the sale of livestock.

(y) An issuer which has a class of securities that is listed on the New York Stock Exchange, the American Stock Exchange or the National Market System of the National Association of Securities Dealers Automated Quotation System.

(z) A subsidiary of an issuer that qualifies for exemption pursuant to paragraph (y) if at least 60 percent of the voting power of the shares of the subsidiary is owned by the issuer.

Sec. 64. NRS 599B.025 is hereby amended to read as follows:

599B.025 ~~{1-}~~ The Attorney General may adopt regulations establishing standards of conduct for ~~{registrants}~~ **sellers and salesmen** and any other regulations necessary to exercise the powers and carry out the duties of the Attorney General as set forth in this chapter.

~~{2.—The Commissioner and the Attorney General shall jointly adopt rules of practice establishing a procedure for processing complaints received concerning sellers and salesmen, whether or not the sellers and salesmen are registered pursuant to this chapter. The rules of practice:~~

~~(a) Must provide for the sharing of information and for the initial review of complaints by the Attorney General before mediation by the Commissioner; and~~

~~(b) May provide procedures for mediation by the Commissioner after initial review by the Attorney General.~~

~~3. The Commissioner may adopt rules of practice necessary to administer and carry out the provisions of this chapter pertaining to the registration of sellers and salesmen. The rules of practice must not restrict the powers and duties of the Attorney General as set forth in this chapter.~~

Sec. 65. NRS 599B.150 is hereby amended to read as follows:

599B.150 1. No salesman may be associated with or employed by more than one seller at the same time.

2. A seller shall cooperate fully with the ~~{Commissioner}~~ **Attorney General** in any investigation made by him concerning an alleged violation of the provisions of this chapter by a salesman.

Sec. 66. NRS 599B.160 is hereby amended to read as follows:

599B.160 If any change is made to any script, outline, presentation or sales or donation information or literature used by a ~~{registrant}~~ **seller or salesman** in connection with any solicitation, the new or revised material must be submitted by the ~~{registrant}~~ **seller or salesman** to the ~~{Division}~~ **Attorney General** before such material is used.

Sec. 67. NRS 599B.170 is hereby amended to read as follows:

599B.170 1. During any solicitation or sales presentation made by him, or in any correspondence written in connection with a sale, a salesman shall:

- (a) Identify himself by stating his true name;
- (b) Identify the seller by whom he is employed; and
- (c) State the purpose of his call.

2. During any solicitation or sales presentation made by him, or in any correspondence written in connection with a ~~{registrant, a registrant}~~ **seller or salesman, a seller or salesman** shall disclose to a consumer:

- (a) Any charge, including the amount associated with the use of any premium being offered;
- (b) Any material restriction, requirement, condition, limitation or exception which is associated with the use of the premium; and
- (c) Any charge connected with the sale of any goods or services.

3. A ~~{registrant}~~ **seller or salesman** shall not characterize a premium as a prize unless the consumer may receive the premium free of charge and without making any purchase.

4. A ~~{registrant}~~ **seller or salesman** shall inform each consumer of the time within which any premium will be delivered.

5. A ~~{registrant}~~ **seller or salesman** shall not make any representation of the number of premiums to be awarded in a sales promotion unless the representation accurately reflects the actual number of premiums that will be awarded.

Sec. 68. NRS 599B.180 is hereby amended to read as follows:

599B.180 If a seller expressly or impliedly represents to any consumer, directly or through a salesman, that the consumer is or may be eligible to receive any gift, premium, bonus or prize, however denominated, the seller shall:

1. Submit to the ~~Division~~ **Attorney General** a statement setting forth, for each item mentioned:

(a) A description of the item.
(b) The value or worth of the item and the basis for the valuation.
(c) All terms and conditions a consumer must satisfy in order to receive the item. The statement must be accompanied by a copy of the written statement of terms and conditions provided to consumers pursuant to subsection 3.

(d) If they are ascertainable, the odds, for a given consumer, of receiving the item.

(e) If a consumer is to receive fewer than all the items described by the seller:

(1) The manner in which the seller decides which item a given consumer is to receive.

(2) If they are ascertainable, the odds, for a given consumer, of receiving each item described.

(3) The name and address of each person who has, during the preceding 12 months or any portion thereof in which the seller has done business, received the item having the greatest value and the item with the smallest odds of being received.

2. Provide the following information to the consumer at the time of the solicitation:

(a) The complete address of the location and the telephone number from which the consumer is being called and, if different, the complete address of the principal location at which the seller does business.

(b) The information required by paragraphs (a) and (c) of subsection 1.

(c) If the seller elects to inform the consumer of the value or worth of the item, the information must be identical to that submitted pursuant to paragraph (b) of subsection 1, in exactly the form submitted.

(d) If the consumer is to receive fewer than all the items described by the seller, the information required by subparagraph (1) of paragraph (e) of subsection 1.

3. Advise the consumer, at the time of the solicitation, that he may obtain, without cost, a written statement of the terms and conditions he must satisfy in order to receive the item. If the consumer so requests, the seller shall send him such a statement, by mail, without cost to the consumer.

Sec. 69. NRS 599B.185 is hereby amended to read as follows:

599B.185 If a ~~registrant~~ **seller or salesman** solicits the sale of investments or opportunities for investment, he shall, during the oral sales presentation and in writing, inform the prospective consumer:

1. Of the manner in which the price of the offered item is determined;
2. Whether the ~~registrant~~ **seller or salesman** or his employer receives any financial advantage other than an agent's or brokerage fee; and
3. Of the amount of any agent's or brokerage fee.

Sec. 70. NRS 599B.187 is hereby amended to read as follows:

599B.187 1. A ~~registrant~~ **seller or salesman** shall not use a chance promotion unless each consumer is entitled to participate in the promotion without charge or payment of any kind.

2. A ~~registrant~~ **seller or salesman** shall, before describing any item offered in a chance promotion, inform each consumer that he may participate in the promotion without any obligation to purchase any goods or services.

3. If a consumer specifically requests the information and the odds are ascertainable, the ~~registrant~~ **seller or salesman** shall orally disclose the odds of receiving each item offered in the chance promotion. If such a request is made but the odds are not ascertainable, the ~~registrant~~ **seller or salesman** shall disclose the manner in which the items offered in the promotion are awarded.

4. A ~~registrant~~ **seller or salesman** shall not require or request the payment of any money as a condition of obtaining any premium offered in a chance promotion.

5. A ~~registrant~~ **seller or salesman** shall not require a person to perform any action or to supply any information to participate in a chance promotion, except that the ~~registrant~~ **seller or salesman** may require the person to submit a written request sent by first-class mail. A ~~registrant~~ **seller or salesman** may not require the person to supply any information other than his name, address and a list of the premiums available in the chance promotion.

6. If a premium is offered in a chance promotion, the ~~registrant~~ **seller or salesman** shall provide any such premium to each person who does not purchase goods or services from the ~~registrant~~ **seller or salesman** upon the same terms, including time of delivery, as are provided to the persons who do purchase goods or services from the ~~registrant~~ **seller or salesman**.

7. If requested, a ~~registrant~~ **seller or salesman** shall inform each person who does not purchase goods or services from the ~~registrant~~ **seller or salesman** of the manner in which the person can participate in the chance promotion.

8. Any ~~registrant~~ **seller or salesman** who uses a chance promotion shall:

(a) Furnish to the ~~Division~~ **Attorney General** information establishing the financial ability of the ~~registrant~~ **seller or salesman** to award all premiums to be given in the promotion.

(b) Award all premiums included in the promotion to bona fide recipients within 12 months after the promotion begins.

(c) Deliver the premiums to bona fide recipients within a reasonable time.

Sec. 71. NRS 599B.190 is hereby amended to read as follows:

599B.190 1. Except as otherwise provided in subsection 3, a person who purchases goods or services or makes a donation pursuant to a solicitation governed by this chapter must be given a refund or replacement, at his option, if:

(a) The goods or services are defective, are not as represented or if any item described pursuant to NRS 599B.180 is not received as promised; and

(b) He returns the unused goods, if any, or makes a written request for the refund or replacement within 30 days after he receives:

(1) The goods or services; or

(2) Any item described pursuant to NRS 599B.180,

↪ whichever is received later. A return or request is timely if shipment is made or the request is postmarked, properly addressed and postage prepaid, within the time provided by this paragraph.

2. A ~~registrant~~ **seller or salesman** who receives a written request for a refund or replacement shall not require prior authorization for a return of goods and shall give a refund or replacement within 14 days after receipt of the request.

3. If a consumer of goods returns only a portion of the goods, the refund or replacement required by subsection 1 may be prorated accordingly.

4. The refund or replacement required by subsection 1 must be given by the seller, regardless of whether payment for the goods or services is made to the seller or some other person.

5. Except for any proration permitted by subsection 3, a ~~registrant~~ **seller or salesman** shall not impose any charge in connection with a return of goods or a request for a refund or replacement.

6. If a ~~registrant~~ **seller or salesman** receives payment by credit card, he may issue a refund in the form of a credit to the credit card account of the consumer in lieu of a cash refund.

7. Within 3 days after any purchase of goods or services or upon delivery of the goods or services, whichever is later, or within 3 days after receiving a donation, the seller shall provide the consumer with a written summary of the provisions of this section. The summary must:

(a) ~~Be made in a form prescribed by the Division.~~

~~(b)~~ Include the address to which returned goods or a request for refund may be sent.

~~(c)~~ **(b)** Be accompanied by a statement containing the information required by paragraph (e) of subsection 1 of NRS 599B.180, if the provisions of that section apply.

~~(d)~~ **(c)** If the provisions of paragraph (c) of subsection 2 of NRS 599B.180 apply, be accompanied by a statement concerning the number of persons who have, during the 12 months preceding the solicitation or any portion thereof in which the seller has done business, received the item having the greatest value and the item with the smallest odds of being received.

↪ A summary is timely if it is postmarked, properly addressed and postage prepaid, within the time provided by this subsection.

Sec. 72. NRS 599B.200 is hereby amended to read as follows:

599B.200 A salesman or seller shall not disclose the name or address of any person who purchases goods or services pursuant to a solicitation governed by this chapter. Nothing in this section prohibits the disclosure of this information to:

1. Any person employed by or associated with the seller; *or*
2. ~~The Commissioner or any employee of the Division; or~~
- 3.] Any law enforcement officer or agency that requires the information for investigative purposes.

Sec. 73. NRS 599B.210 is hereby amended to read as follows:

599B.210 1. Every ~~registrant,~~ *seller or salesman*, other than a ~~registrant~~ *seller or salesman* incorporated in this state, shall file with the Secretary of State an irrevocable consent appointing the Secretary of State as his agent to receive service of any lawful process in any action or proceeding against him arising pursuant to this chapter. Any lawful process against the ~~registrant~~ *seller or salesman* served upon the Secretary of State as provided in subsection 2 has the same force and validity as if served upon the ~~registrant~~ *seller or salesman* personally.

2. Service of process authorized by subsection 1 must be made by filing with the Secretary of State:

(a) Two copies of the process. The copies must include a specific citation to the provisions of this section. The Secretary of State may refuse to accept such service if the proper citation is not included in each copy.

(b) A fee of \$10.

↪ The Secretary of State shall forthwith forward one copy of the process by registered or certified mail prepaid to the ~~registrant,~~ *seller or salesman*, or in the case of a ~~registrant~~ *seller or salesman* organized under the laws of a foreign government, to the United States manager or last appointed United States general agent of the ~~registrant,~~ *seller or salesman*, giving the day and the hour of the service.

3. Service of process is not complete until the copy thereof has been mailed and received by the ~~registrant,~~ *seller or salesman*, and the receipt of the addressee is prima facie evidence of the completion of the service.

4. If service of summons is made upon the Secretary of State in accordance with the provisions of this section, the time within which the ~~registrant~~ *seller or salesman* is required to appear is extended 10 days.

Sec. 74. NRS 599B.255 is hereby amended to read as follows:

599B.255 1. Except as otherwise provided in NRS 599B.213, the Attorney General or the district attorney of any county in this state may prosecute a person who willfully violates, either directly or indirectly, the provisions of this chapter. ~~Except as otherwise provided in subsection 3, such~~ *Such* a person:

(a) For the first offense within 10 years, is guilty of a misdemeanor.

(b) For the second offense within 10 years, is guilty of a gross misdemeanor.

(c) For the third and all subsequent offenses within 10 years, is guilty of a category D felony and shall be punished as provided in NRS 193.130, or by a fine of not more than \$50,000, or by both fine and the punishment provided in NRS 193.130.

2. Any offense which occurs within 10 years immediately preceding the date of the principal offense or after the principal offense constitutes a prior offense for the purposes of subsection 1 when evidenced by a conviction, without regard to the sequence of the offenses and convictions.

3. ~~[A person who violates any provision of NRS 599B.080 is guilty of a category D felony and shall be punished as provided in NRS 193.130, or by a fine of not more than \$50,000, or by both fine and the punishment provided in NRS 193.130.]~~

~~4.]~~ Property or proceeds attributable to any violation pursuant to the provisions of this section are subject to forfeiture in the manner provided by NRS 179.1156 to 179.121, inclusive.

Sec. 75. NRS 599B.260 is hereby amended to read as follows:

599B.260 1. Except as otherwise provided in subsection 2, all fees, civil penalties and any other money collected pursuant to this chapter in an action brought by the Attorney General must be deposited in the State General Fund and may only be used to defray the costs of:

(a) Administering and enforcing the provisions of this chapter.

(b) Enforcing the provisions of chapter 598 of NRS as they relate to the conduct of sellers and salesmen . ~~[, whether or not the sellers and salesmen are registered pursuant to this chapter.]~~

2. The provisions of this section do not apply to:

(a) Criminal fines imposed pursuant to the provisions of this chapter; or

(b) Restitution ordered in an action brought by the Attorney General pursuant to the provisions of this chapter. Money collected for restitution ordered in such an action must be deposited by the Attorney General and credited to the appropriate account of ~~[the Division or]~~ the Attorney General for distribution to the person for whom the restitution was ordered.

Sec. 76. NRS 686A.300 is hereby amended to read as follows:

686A.300 1. An insurer who issues insurance covering damage to a motor vehicle shall not delay making payment for any claim involving damage to a motor vehicle after receiving a statement of charges ~~[,]~~ pursuant to the provisions of ~~[NRS 597.5705,]~~ **section 23 of this act** from any garage or licensed body shop previously authorized by the insured to perform the repairs required by that claim.

2. A delay, within the meaning of this section, is failure to issue a check or draft, payable to the garage or licensed body shop or jointly to the insured and the garage or licensed body shop, within 30 days after the insurer's receipt of the statement of charges for repairs which have been satisfactorily completed.

3. If the damaged vehicle is subject to a security interest or the legal owner of the damaged vehicle is different from the registered owner, the vehicle must be repaired by a garage or licensed body shop unless:

- (a) The insurer has declared the vehicle a total loss; or
- (b) The total charge for the repair of the vehicle, as set forth in the statement of charges presented pursuant to ~~[NRS 597.5705]~~ **section 23 of this act**, is \$300 or less.

4. Except as otherwise provided in subsection 3, nothing in this section shall be deemed to prohibit an insurer and insured from settling a claim involving damage to a motor vehicle without providing for the repair of the vehicle.

5. As used in this section, “licensed body shop” means a body shop for which a license has been issued pursuant to chapter 487 of NRS.

Sec. 76.5. Section 10 of Senate Bill No. 355 of this session is hereby amended to read as follows:

Sec. 10. “Commissioner” means the Commissioner of ~~[Financial Institutions]~~ **Mortgage Lending**.

Sec. 77. 1. NRS 487.535, 487.568, 487.570, 487.602, 597.480, 597.490, 597.500, 597.510, 597.520, 597.530, 597.535, 597.540, 597.550, 597.560, 597.570, 597.5701, 597.5702, 597.5703, 597.5704, 597.5705, 597.5706, 597.580, 597.590, 598.971, 598.975, 598.981, 598.985 and 598.990 are hereby repealed.

2. NRS 598.0913, 598.0927, 598.0957, 598.0959, 598.0965, 598.0966, 598.0967, 598.0971, 598.0979, 598.098, 598.305, 598.307, 598.315, 598.317, 598.325, 598.335, 598.345, 598.356, 598.361, 598.365, 598.366, 598.367, 598.371, 598.372, 598.373, 598.374, 598.375, 598.385, 598.395, 598.405, 598.416, 598.425, 598.435, 598.445, 598.455, 598.465, 598.471, 598.485, 598.495, 598.506, 598.515, 598.525, 598.845, 598.851, 598.855, 598.860, 598.865, 598.915, 598.9407, 598.9413, 598.944, 598.946, 598C.030, 598C.180, 599B.015, 599B.080, 599B.090, 599B.100, 599B.105, 599B.110, 599B.115, 599B.120, 599B.125, 599B.130, 599B.140, 599B.143, 599B.145 and 599B.195 are hereby repealed.

Sec. 78. 1. Any regulations adopted by the Commissioner of the Consumer Affairs Division of the Department of Business and Industry or by the Division before July 1, 2009, remain in force until amended by the officer or agency to which the responsibility for the adoption of the regulations is transferred. The regulations may be enforced by the officer or agency to which the responsibility for the enforcement of the regulations is transferred.

2. Any contract or other agreement entered into by the Commissioner of the Consumer Affairs Division of the Department of Business and Industry or by the Division before July 1, 2009, is binding upon the officer or agency to which the responsibility for administration of the contract or other agreement is transferred. Any such contract or other agreement may be enforced by the officer or agency to which the responsibility for the

enforcement of the provisions of the contract or other agreement is transferred.

Sec. 79. 1. As soon as practicable after July 1, 2009, at the time the Revolving Account for the Consumer Affairs Division of the Department of Business and Industry established by NRS 598.0966 is abolished, the State Treasurer shall ensure that any money in the Revolving Account is transferred to the revolving account for the Bureau of Consumer Protection created by section 1 of this act.

2. As soon as practicable after July 1, 2009, at the time the Recovery Fund established pursuant to NRS 598.371 is abolished, the State Treasurer shall ensure that any money in the Recovery Fund is transferred to the State General Fund.

Sec. 80. 1. This section and ~~sections~~ section 76.5 of this act become effective upon passage and approval.

2. Sections 1 to 35, inclusive, 36 to 57, inclusive, ~~and~~ 58 to 76, inclusive, and 77 to 79, inclusive, of this act become effective on July 1, 2009.

~~2. 3.~~ The amendatory provisions of sections 3, 4, 36 to 51, inclusive, 57, 58 to 75, inclusive, and subsection 2 of section 77 of this act expire by limitation on June 30, 2011.

~~3. 4.~~ Sections 35.1 to 35.95, inclusive, and 57.5 of this act become effective on July 1, 2011.

LEADLINES OF REPEALED SECTIONS

487.535 "Division" defined.

487.568 Penalty.

487.570 Garageman to comply with certain provisions relating to trade practices.

487.602 "Body shop" defined.

597.480 Definitions.

597.490 Display of sign required; contents of sign; penalty.

597.500 Duties of body shop or garageman on acceptance of vehicle for repair.

597.510 Estimate of costs required for certain repairs.

597.520 Notice of additional charges over estimate required in certain cases.

597.530 Waiver of estimate of costs or notice of additional charges; execution of waiver.

597.535 Duty of body shop and garage to repair vehicle in accordance with manufacturer's specifications and estimate of costs required for repair.

597.540 Duties of owner and insurer upon receipt of notice of additional charges.

597.550 Replaced parts to be delivered to person authorizing repairs if requested; exception.

597.560 Records to be retained by body shop or garageman.

597.570 Compliance with NRS 597.510 to 597.5706, inclusive; enforcement of liens and contracts.

597.5701 Certain acts deemed to be deceptive trade practice.

597.5702 Revolving account for Bureau of Consumer Protection: Creation; use; deposits; claims.

597.5703 Commissioner or Director authorized to request undercover investigation of alleged deceptive trade practice; Bureau of Consumer Protection authorized to conduct such investigation.

597.5704 Administrative fine for engaging in deceptive trade practice; deposit and use of money collected as administrative fine.

597.5705 Statement of charges required for repair of vehicle; violation constitutes misdemeanor; statement required for enforcement of lien.

597.5706 Submission of annual report by Commissioner to Legislative Commission.

597.580 Violations: Injunctive relief.

597.590 Violations: Civil penalties.

598.0913 "Commissioner" defined.

598.0927 "Director" defined.

598.0957 Director may delegate powers and duties.

598.0959 Advisory committees: Creation and appointment; membership; compensation.

598.0965 Commissioner or Director to provide investigative assistance to Attorney General; legal advice and guidance by Attorney General.

598.0966 Revolving Account for Consumer Affairs Division: Creation; use; deposits; withdrawals; reimbursement; duties of Commissioner.

598.0967 Commissioner and Director: Subpoenas; hearings; regulations.

598.0971 Orders for enforcement: Authority of Commissioner; judicial review and enforcement; civil penalty and equitable relief.

598.0979 Restraining orders; injunctions; assurances of discontinuance.

598.098 Disclosure of information by Commissioner or Director; regulations.

598.305 Definitions.

598.307 "Account" defined.

598.315 "Commissioner" defined.

598.317 "Consumer" defined.

598.325 "Division" defined.

598.335 "Seller of travel" defined.

598.345 "Travel services" defined.

598.356 "Vacation certificate" defined.

- 598.361 Seller to maintain trust account; exception.
- 598.365 Seller to register, deposit security and pay fees before advertising services or conducting business in this State; certificate of registration; renewal of certificate.
- 598.366 Seller to include registration number in advertising; form.
- 598.367 Seller to display notice of Recovery Fund; penalty.
- 598.371 Administration of Fund: Separate accounting; limitations on use.
- 598.372 Administration of Fund: Report to Legislature; employment of persons; interest on money; limitations on balance; regulations.
- 598.373 Recovery from Fund: Deadline for complaint; hearing; judgment of court; action by Division.
- 598.374 Recovery from Fund: Eligibility; limitations on payment; subrogation of claim.
- 598.375 Security required for registration: Form; term; amount; records; rejection for nonconformance; change in form; inadequate amount; exception.
- 598.385 Rights and remedies of injured consumers; resolution by Division of claims against security; regulations.
- 598.395 Release of security if seller ceases to operate or registration expires.
- 598.405 Definitions.
- 598.416 "Advertise" and "advertisement" defined.
- 598.425 "Commissioner" defined.
- 598.435 "Division" defined.
- 598.445 "Sightseeing tour" defined.
- 598.455 "Tour broker" defined.
- 598.465 "Tour operator" defined.
- 598.471 Tour broker and tour operator to register, pay fee and, if applicable, deposit security before advertising services or conducting business in this State; certificate of registration; renewal of certificate.
- 598.485 Applicability of provisions limited to tour brokers and tour operators operating in certain counties.
- 598.495 Security required to be deposited by tour broker and tour operator: Form; term; amount; records; rejection for nonconformance; change in form; inadequate amount.
- 598.506 Rights and remedies of injured consumers; resolution by Division of claims against security; regulations.
- 598.515 Release of security if tour broker or tour operator ceases to operate.
- 598.525 Regulations.
- 598.845 Scope.
- 598.851 Organization to register and post security before advertising services or conducting business in this State.
- 598.855 Trust account required for payments on contracts.

- 598.860 Trust account required for payments on goods and services.
- 598.865 Administration of trust accounts; audits.
- 598.915 Waiver of statutory rights is void.
- 598.9407 "Commissioner" defined.
- 598.9413 "Division" defined.
- 598.944 Registration of dance studio or health club required.
- 598.946 Owner of dance studio or health club to register and deposit security before advertising services or conducting business in this State: Amount of security; adjustment of security; exception from requirement to deposit security.
- 598.971 Definitions.
- 598.975 "Department" defined.
- 598.981 "Division" defined.
- 598.985 Division and Department to cooperate to protect persons who authorize repair of motor vehicles.
- 598.990 Division to establish and maintain toll-free telephone number concerning alleged violations and develop program to provide certain information to public.
- 598C.030 "Commissioner" defined.
- 598C.180 Commissioner of Consumer Affairs to administer chapter; duties of Attorney General.
- 599B.015 Duties of Attorney General and Commissioner.
- 599B.080 Registration required.
- 599B.090 Registration of seller: Application; confidentiality of certain information; security; fee.
- 599B.100 Registration of seller: Form and amount of security; release of security.
- 599B.105 Rights and remedies of injured consumer; resolution by Division of claims against security; regulations.
- 599B.110 Registration of seller: Disclosure of certain convictions, judgments and orders concerning responsible persons.
- 599B.115 Registration of seller: Work card required for applicant and certain other persons; exceptions; issuance and renewal of work card; fingerprints.
- 599B.120 Registration of salesman: Application; statement of seller; fee.
- 599B.125 Statement regarding payment of child support by applicant for registration certificate; grounds for denial of registration certificate; duty of Division.
- 599B.130 Issuance and display of registration certificate.
- 599B.140 Renewal of registration.
- 599B.143 Suspension of registration certificate for failure to pay child support or comply with certain subpoenas or warrants; reinstatement of registration certificate.
- 599B.145 Payment and refund of fees for registration.

599B.195 Delivery of goods or services must be accompanied by form.

Assemblyman Arberry moved that the Assembly do not concur in the Senate amendment to Assembly Bill No. 561.

Remarks by Assemblyman Arberry.

Motion carried.

Bill ordered transmitted to the Senate.

MOTIONS, RESOLUTIONS AND NOTICES

Vetoed Assembly Bill No. 25 of the 75th Session.

Bill read.

The question was put: "Shall the bill pass, notwithstanding the objections of the Governor?"

Remarks by Atkinson and Stewart.

Assemblyman Ocegüera requested that the following remarks be entered in the Journal.

ASSEMBLYMAN ATKINSON:

I see this as commonsense legislation. Our citizens are failing the written exam at a rate of 54 percent in some areas. One of our offices in southern Nevada, which is the most populated office in the state, where 250,000 people took the exam for their first try, and 130,000 of them failed it. I think one of the issues is there is no accountability. We have recently seen that a lot of states—and in the West—have implemented a fee for taking the written and behind-the-wheel tests. They were in the same predicament as our state; they saw increased lines, they saw wait times to take these exams and retake these exams weeks out. Currently our DMV tells us those times are a couple of weeks. If someone is attempting to get a driver's license or take the exam, they have to wait weeks to get on that schedule because of the people that are taking the exam and retaking the exam instead of studying for it. Those states have seen those numbers dramatically change because with a fee, there is accountability.

We heard testimony in the Transportation Committee when this bill was first heard, and I think the numbers are staggering. There is no doubt in my mind why it passed this house 40 to 2 the first time; it is because most people saw that. We are hopeful that the fees will change peoples' behavior when taking this exam in our state. The Chief Clerk read that one of the reasons for not signing this bill into law was it would nearly triple the cost of drivers' licenses for seniors in Nevada. Let me tell you that seniors already have a driver's license so this doesn't affect them, and I do not see very many seniors going in at the age of 65 and getting a driver's license for the first time. The bill does not affect them, but it will affect our kids who need to take the exam for the first time, and it will make them a little more accountable.

The bill does three things in my opinion. It decreases the wait time to take an exam at the DMV. It also increases our Highway Fund. I do not think there is any secret to this Chamber or to this state that our Highway Fund can use all the help it can get. A lot of these dollars will go to the Highway Fund. As we know, the DMV has a 22 percent cap, so some of it will remain with the DMV to improve services, and the other will go to the Highway Fund. We will be able to bond with those funds and create some much needed capital to repair our roads. So with the indulgence of the body, I urge an aye vote to override the veto so we can get our DMV in order. Thank you.

ASSEMBLYMAN STEWART:

Thank you, Madam Speaker. I rise in support of this bill. As a senior who has a driver's license and who likes to ride on smooth roads I support this bill. Thank you.

The roll was called, and the Assembly overrode the veto of the Governor by the following vote:

Roll call on Assembly Bill No. 25:

YEAS—37.

NAYS—Cobb, Goedhart, Gustavson, Settelmeyer—4.

EXCUSED—Ohrenschall.

Bill ordered transmitted to the Senate.

Vetoed Assembly Bill No. 141 of the 75th Session.

Bill read.

The question was put: “Shall the bill pass, notwithstanding the objections of the Governor?”

Remarks by Assemblyman Conklin.

Assemblyman Ocegüera requested that the following remarks be entered in the Journal.

ASSEMBLYMAN CONKLIN:

Thank you, Madam Speaker. I rise in support of the override. I have reviewed the Governor’s comments in his report, which everyone has in front of them. This is the Mortgage Education, Research and Recovery Fund that assists people who are defrauded by mortgage brokers, agents, and bankers. According to the Governor, our current collapse is a result of poor lending practices, not fraud, and we have other bills to deal with that. And he is right. However, for the last four years, I have been working on mortgage lending issues. Many of you who sat in Commerce and Labor last session heard testimony after testimony about how Nevada ranked in the top ten states nationally, top five by the FBI for mortgage lending fraud, and that pattern exists today. In fact, we see over a 400 percent increase in mortgage fraud, according to the FBI which reported those statistics on the 28th of this month. This is not about the collapse and what has happened behind us; this is about taking a step forward and making sure that it doesn’t happen again, and if it does happen, there is something for people who are left with nothing. I urge your support.

The roll was called, and the Assembly overrode the veto of the Governor by the following vote:

Roll call on Assembly Bill No. 141:

YEAS—37.

NAYS—Goedhart, Gustavson, McArthur—3.

NOT VOTING—Arberry.

EXCUSED—Ohrenschall.

Bill ordered transmitted to the Senate.

Vetoed Assembly Bill No. 246 of the 75th Session.

Bill read.

The question was put: “Shall the bill pass, notwithstanding the objections of the Governor?”

The roll was called, and the Assembly overrode the veto of the Governor by the following vote:

Roll call on Assembly Bill No. 246:

YEAS—41.

NAYS—None.

EXCUSED—Ohrenschall.

Bill ordered transmitted to the Senate.

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

Assembly in recess at 5:21 p.m.

ASSEMBLY IN SESSION

At 5:21 p.m.

Mr. Speaker pro Tempore.

Quorum present.

Vetoed Assembly Bill No. 458 of the 75th Session.

Bill read.

The question was put: "Shall the bill pass, notwithstanding the objections of the Governor?"

Remarks by Assemblymen Buckley and Denis.

Assemblyman Ocegüera requested that the following remarks be entered in the Journal.

ASSEMBLYWOMAN BUCKLEY:

Thank you, Mr. Speaker pro Tempore. Assembly Bill 458 establishes an education rainy day fund. The last two years have been brutal on our schools. Last session we debated ways to improve student achievement and decided on ways to achieve that. We enacted measures such as pay for performance, empowerment, full-day kindergarten for at-risk schools, funding for GATE, funding for career and technical education, funding for remediation to help our students. When the economy dipped, those programs were slashed. When the economy worsened, further cuts to our existing K-12 system happened; \$173 million was taken from our schools, including \$50 million in reduced textbook funding money. When the session began, the Governor proposed further cuts to K-12 education—\$690 million; a proposed 6 percent salary cut; reductions in merit increases; reductions in the step increase for teachers who went back to school to get their graduate degree so they could become highly qualified; elimination of the one-fifth retirement credit; and the list goes on. The Legislature managed to restore some of these reductions, but there has got to be a better way. We have to have a rainy day fund so we are not slashing education when the economy is in trouble. Schools need stable funding. Students come to school when times are good and when times are bad. We have to stop taking money that is supposed to go to education and allowing it to be diverted for other causes. That is what Assembly Bill 458 does.

It is incomprehensible to me that the Governor would veto this bill. In his veto statement the Governor said he disapproves of the bill because it does not create similar funds for other areas of state government. That is because we did it in another bill. Assembly Bill 165 was enacted, which creates a stabilization fund for all government accounts. We created a separate rainy day fund for K-12 because of the unique way K-12 is financed. When sales tax is underestimated, the excess collections result in a surplus in the K-12 budget; right now that money reverts to the General Fund. When amounts are overestimated, the state makes up the difference. This education rainy fund would even out those cycles. The boom-and-bust cycle we experience in this state hurts us. It hurts our parents, it hurts our kids, it hurts our community, it hurts our state because it hurts our schools. We can do better. Our state deserves better. I urge your support to create an education rainy day fund in our state.

ASSEMBLYMAN DENIS:

Thank you, Mr. Speaker pro Tempore. I don't know that I need to add anything to that. Many of you know that I am the president of the Nevada Parent-Teacher Association and have been involved in trying to make education better here in Nevada for many, many years. As a parent with five kids, it is frustrating that every time we have a problem—we talk about education first. But what we tend to say in our advocacy circles—and when we talk to parents—is that usually means we are going to cut education first instead of really doing the right thing. I stand in support of this bill. It will do the right thing. It will help us get some stability so that when we put in place all these great programs that we advocate for—and that we have to cut

every time we have a problem—we'll be able to continue to do those great programs and help our kids. This is really about our future and our children. Thank you.

The roll was called, and the Assembly overrode the veto of the Governor by the following vote:

Roll call on Assembly Bill No. 458:

YEAS—36.

NAYS—Christensen, Goedhart, Gustavson, Hambrick, Settlemeyer—5.

EXCUSED—Ohrenschall.

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 5:27 p.m.

ASSEMBLY IN SESSION

At 5:27 p.m.

Madam Speaker presiding.

Quorum present.

Vetoed Assembly Bill No. 463 of the 75th Session.

Bill read.

The question was put: "Shall the bill pass, notwithstanding the objections of the Governor?"

Remarks by Assemblywoman Smith.

The roll was called, and the Assembly overrode the veto of the Governor by the following vote:

Roll call on Assembly Bill No. 463:

YEAS—41.

NAYS—None.

EXCUSED—Ohrenschall.

Bill ordered transmitted to the Senate.

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

Assembly in recess at 5:31 p.m.

ASSEMBLY IN SESSION

At 7:39 p.m.

Madam Speaker presiding.

Quorum present.

REPORTS OF COMMITTEES

Madam Speaker:

Your Committee on Ways and Means, to which was referred Senate Bill No. 418, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

MORSE ARBERRY JR., *Chair*

UNFINISHED BUSINESS

CONSIDERATION OF SENATE AMENDMENTS

Assembly Bill No. 223.

The following Senate amendment was read:

Amendment No. 963.

AN ACT relating to state governmental procurement; establishing ~~bidder's preferences~~ **a bidder's preference** for local businesses ~~and local businesses owned by service-disabled veterans~~ with respect to state purchasing contracts; establishing ~~bidder's preferences~~ **a bidder's preference** 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~~ **a 5-percent preference** 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~~ **this new preference.**

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~~ **preference in bidding on public works** 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.] (Deleted by amendment.)~~

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.] (Deleted by amendment.)~~

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 †*

~~† ††~~, *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.~~ 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.~~ 4. 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.~~ 5. The total number of dollars worth of state purchasing contracts that were awarded to local businesses, ~~not described in subsection 7.~~

~~9.~~ 6. 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.]~~ ~~[preferences]~~ ***preference 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 of an inverse preference described in NRS 333.336, 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]~~ **preference** 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.~~ 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. 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.~~ 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. 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~~ 5 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 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 , with respect to the State, 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 , with respect to the State, 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~~ section 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)~~ (b) The Commission on Economic Development.

~~(d)~~ (c) Groups representing the interests of veterans of the Armed Forces of the United States.

~~(e)~~ (d) The business community.

~~(f)~~ (e) 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~~ preference for local businesses owned by service-disabled veterans which ~~are~~ is described in ~~sections 10 and~~ section 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~~ 19 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~~ 21 of this act.*

Sec. 31. NRS 333.336 is hereby repealed.

Sec. 32. 1. This section and sections 1 to 26, inclusive, 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.

Assemblyman Arberry moved that the Assembly do not concur in the Senate amendment to Assembly Bill No. 223.

Remarks by Assemblyman Arberry.

Motion carried.

Bill ordered transmitted to the Senate.

MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, May 30, 2009

To the Honorable the Assembly:

I have the honor to inform your honorable body that the Senate on this day respectfully refused to recede from its action on Assembly Bill No. 88, Senate Amendment No. 690, and requests a conference, and appointed Senators Care, Amodei and Parks as a Conference Committee to meet with a like committee of the Assembly.

SHERRY L. RODRIGUEZ
Assistant Secretary of the Senate

APPOINTMENT OF CONFERENCE COMMITTEES

Madam Speaker appointed Assemblymen Horne, Anderson, and Carpenter as a Conference Committee to meet with a like committee of the Senate for the further consideration of Assembly Bill No. 88.

MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, May 30, 2009

To the Honorable the Assembly:

I have the honor to inform your honorable body that the Senate on this day passed Assembly Bills Nos. 9, 214, 546.

Also, I have the honor to inform your honorable body that the Senate amended, and on this day passed, as amended, Assembly Bill No. 385, Amendment No. 975; Assembly Bill No. 494, Amendment No. 982, and respectfully requests your honorable body to concur in said amendments.

Also, I have the honor to inform your honorable body that the Senate amended, and on this day passed, as amended, Assembly Bill No. 503, Amendment No. 639, and respectfully requests your honorable body to concur in said amendment.

Also, I have the honor to inform your honorable body that the Senate on this day adopted the report of the Conference Committee concerning Assembly Bill No. 46.

Also, I have the honor to inform your honorable body that the Senate on this day adopted the report of the Conference Committee concerning Assembly Bill No. 130.

Also, I have the honor to inform your honorable body that the Senate on this day passed, as amended, Senate Bills Nos. 316, 330.

Also, I have the honor to inform your honorable body that the Senate on this day adopted Senate Concurrent Resolution No. 37.

Also, I have the honor to inform your honorable body that the Senate on this day failed to sustain the Governor's veto of Senate Bills Nos. 201, 234, 283, 415.

Also, I have the honor to inform your honorable body that the Senate on this day concurred in the Assembly Amendment No. 796 to Senate Bill No. 273.

Also, I have the honor to inform your honorable body that the Senate on this day appointed Senators Wiener, Parks and McGinness as a Conference Committee concerning Senate Bill No. 35.

Also, I have the honor to inform your honorable body that the Senate on this day adopted the report of the Conference Committee concerning Senate Bill No. 119.

Also, I have the honor to inform your honorable body that the Senate on this day appointed Senators Rhoads, Parks and Copening as a Conference Committee concerning Senate Bill No. 411.

Also, I have the honor to inform your honorable body that the Senate on this day appointed Senators Schneider, Care and McGinness as a Conference Committee concerning Senate Bill No. 182.

SHERRY L. RODRIGUEZ
Assistant Secretary of the Senate

INTRODUCTION, FIRST READING AND REFERENCE

Senate Bill No. 316.

Assemblyman Ocegüera moved that the bill be referred to the Committee on Health and Human Services.

Motion carried.

Senate Bill No. 330.

Assemblyman Ocegüera moved that the bill be referred to the Committee on Education.

Motion carried.

UNFINISHED BUSINESS

REPORTS OF CONFERENCE COMMITTEES

Madam Speaker:

The Conference Committee concerning Assembly Bill No. 259, consisting of the undersigned members, has met and reports that:

It has agreed to recommend that Amendment No. 578 of the Senate be concurred in.

It has agreed to recommend that the bill be further amended as set forth in Conference Amendment No. 5, which is attached to and hereby made a part of this report.

WILLIAM HORNE
MARILYN DONDERO LOOP
JOHN CARPENTER
Assembly Conference Committee

DAVID PARKS
VALERIE WIENER
MAURICE WASHINGTON
Senate Conference Committee

Conference Amendment No. CA5.

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

Legislative Counsel's Digest:

Existing law provides that an offender who has been convicted of a category B felony is not eligible for residential confinement. **Section 1** of this bill requires the standards adopted by the Director of the Department of Corrections concerning eligibility for residential confinement to provide that an offender who has been convicted of a category B felony is eligible for residential confinement if: (1) the offender is not otherwise ineligible for residential confinement; and (2) the Director makes a written finding that assigning the offender to residential confinement is not likely to pose a threat to the safety of the public. (NRS 209.392)

Existing law authorizes the State Board of Parole Commissioners to provide for the forfeiture of credits for good behavior of a parolee who violates a condition of his parole and, as appropriate, for the restoration of such credits. **Section 4** of this bill authorizes a court to provide for the forfeiture of credits for good behavior of a probationer who violates a condition of his probation and, as appropriate, for the restoration of such credits.

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

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

perimeter. Further, **section 6** of this bill authorizes the Department of Corrections to select the facility or institution in which to place the person. (NRS 176A.660)

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

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

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

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

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

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

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

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

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

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

- (a) Has recently committed a serious infraction of the rules of an institution or facility of the Department;
- (b) Has not performed the duties assigned to him in a faithful and orderly manner;
- (c) Has been convicted of:
 - (1) Any crime that is punishable as a felony involving the use or threatened use of force or violence against the victim within the immediately preceding 3 years;
 - (2) A sexual offense that is punishable as a felony; or
 - (3) ~~[A]~~ ***Except as otherwise provided in subsection 4, a*** category A or B felony;
- (d) Has more than one prior conviction for any felony in this State or any offense in another state that would be a felony if committed in this State, not including a violation of NRS 484.379, 484.3795, 484.37955 or 484.379778; or
- (e) Has escaped or attempted to escape from any jail or correctional institution for adults,

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

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

- (a) The offender is not otherwise ineligible pursuant to subsection 3 for an assignment to serve a term of residential confinement; and***
- (b) The Director makes a written finding that such an assignment of the offender is not likely to pose a threat to the safety of the public.***

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

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

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

~~§-] 6.~~ **6.** The assignment of an offender to the custody of the Division of Parole and Probation pursuant to this section shall be deemed:

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

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

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

Sec. 2. (Deleted by amendment.)

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

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

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

(a) Require:

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

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

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

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

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

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

↪ must not be used.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) Three years for a:

(1) Gross misdemeanor; or

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

(b) Five years for a felony.

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

probation. If the warrant is cancelled or probation is reinstated, the court may include any amount of that time as part of the period of probation.

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

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

5. ~~[An offender]~~ **A person** who is sentenced to serve a period of probation for a felony ~~[who has no serious infraction of the regulations of the Division, the terms and conditions of his probation or the laws of the State recorded against him, and who performs in a faithful, orderly and peaceable manner the duties assigned to him,]~~ **or a gross misdemeanor** must be allowed for the period of his probation a deduction ~~[of 20]~~ **as set forth in subsection 6 if the offender is not in compliance with the terms and conditions of his probation as determined by the Division and is:**

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

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

6. ~~[Except as otherwise provided in subsection 7, a]~~ **A person described in subsection 5 must be allowed for the period of his probation a deduction of:**

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

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

7. **A person who is sentenced to serve a period of probation for a felony or a gross misdemeanor and who ~~is~~**

~~(a) Is~~ *is a participant in a specialty court program must be allowed a deduction from the period of probation for being actively involved in employment or enrolled in a program of education, rehabilitation or any other program approved by the Division only if the person successfully completes the specialty court program.*

~~(b) Owes any restitution ordered by the court, including, without limitation, any payment of restitution required pursuant to NRS 176A.430, must be allowed a deduction from the period of probation for making payments of restitution only if the person pays the full amount of restitution imposed.~~

~~→~~ *Such a deduction must not exceed the length of time remaining on the person's period of probation.*

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

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

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

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

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

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

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

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

3. An electronic device approved by the Division may be used to supervise a person ordered to a term of residential confinement. The device must be minimally intrusive and limited in capability to recording or transmitting information concerning the person's presence at his residence,

including, but not limited to, the transmission of still visual images which do not concern the person's activities while inside his residence. A device which is capable of recording or transmitting:

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

↪ must not be used.

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

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

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

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

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

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

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

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

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

Assemblyman Horne moved that the Assembly adopt the report of the Conference Committee concerning Assembly Bill No. 259.

Remarks by Assemblyman Horne.

Motion carried by a constitutional majority.

CONSIDERATION OF SENATE AMENDMENTS

Assembly Bill No. 385.

The following Senate amendment was read:

Amendment No. 975.

SUMMARY—Makes various changes concerning ~~private~~ prisons. (BDR 16-523)

AN ACT relating to prisons; requiring the Board of State Prison Commissioners to adopt regulations pertaining to a facility or institution operated by a private organization; **requiring the monitoring of certain private facilities and institutions; providing for the development of minimum staffing levels for institutions and facilities of the Department of Corrections**; providing that certain provisions relating to a prisoner confined in a facility or institution also apply to a prisoner confined in a private facility or institution operated by a private organization; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires the Board of State Prison Commissioners to adopt regulations for carrying out the business of the Board and of the Department of Corrections. (NRS 209.111) ~~Section 1.3~~ **Section 1.4** of this bill requires the Board to adopt additional regulations, ~~[(1)]~~ establishing the maximum number of prisoners that may be incarcerated in a private facility or institution, ~~[(2)]~~ requiring that a private facility or institution must meet or exceed the standards set forth in the inmate housing plan approved in the budget of the Department for the biennium, including, without limitation, any associated line item costs. **Those regulations must be based upon the standards adopted by the American Correctional Association.**

Section 1.5 of this bill requires the Department to monitor private facilities or institutions which house prisoners incarcerated pursuant to the authority of another state to ensure that the care and custody of the prisoners comply with the Nevada Constitution and the United States Constitution. Section 1.6 of this bill provides that the provisions of this bill which relate to private facilities or institutions do not apply with respect to prisoners incarcerated in a private facility or institution pursuant to a contract with the Federal Government.

Section 1.67 of this bill revises the duties of the Director of the Department by requiring the Director to consult with representatives of the employees of the Department to develop a minimum staffing level which is necessary to ensure the safety of the public, the employees of the Department and the prisoners and which is within the limits of legislative appropriation.

Existing law makes it a crime for: (1) a prisoner to escape from prison or to manufacture or possess certain items used in an escape; (2) a person to aid a prisoner in escaping from prison; (3) a person who has custody of a prisoner to allow the prisoner to escape; and (4) a person to conceal an escaped prisoner. (NRS 212.080, 212.090, 212.093, 212.100-212.130) Existing law also provides certain procedures for issuing a warrant for the arrest of an escaped prisoner and the manner in which expenses for recapturing the prisoner must be paid. (NRS 212.030-212.080) Further, existing law makes it a crime to: (1) provide certain items to a prisoner, including certain weapons, an intoxicant or a controlled substance and certain communications devices; or (2) engage in certain behavior concerning a prisoner, such as engaging in sexual conduct or certain unlawful acts relating to human excrement or bodily fluid. (NRS 212.160-212.189) **Section 1.7** of this bill provides that those provisions also apply to a prisoner incarcerated in a private prison operated by a private organization as well as to certain other persons. **Section 1.7** also provides that the private organization which operates a private facility or institution must: (1) reimburse the State for expenses incurred by the State in recapturing a prisoner who escapes from the private facility or institution; and (2) provide training to its employees that is equivalent to the training provided to a correctional officer in this State.

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

Section 1. (Deleted by amendment.)

Sec. 1.3. Chapter 209 of NRS is hereby amended by adding thereto ~~the~~
~~new section to read as follows:~~ the provisions set forth as sections 1.35 to
1.6, inclusive, of this act.

Sec. 1.35. "Private facility or institution" means a facility or
institution operated by a private organization to house prisoners.

Sec. 1.4. 1. To ensure the safety of the residents of the State of
Nevada, the Board shall adopt regulations ~~+~~

~~(a) Establishing~~ establishing the maximum number of prisoners who
may be incarcerated in a private facility or institution . ~~+~~ and

~~(b) Requiring that a private facility or institution must meet or exceed the~~
~~standards set forth in the inmate housing plan approved in the budget of the~~
~~Department for the biennium, including, without limitation, any associated~~
~~line item costs.~~ The regulations must be based upon the standards adopted
by the American Correctional Association or its successor organization.

2. As used in this section ~~+~~

~~(a) "Prisoner"~~ "prisoner" has the meaning ascribed to it in section
1.7 of this act.

~~(b) "Private facility or institution" has the meaning ascribed to it in~~
~~section 1.7 of this act.~~

Sec. 1.5. 1. The Department shall monitor each private facility or
institution which houses prisoners who are incarcerated pursuant to the
authority of another state to ensure that the custody and care of the
prisoners comply with the requirements of the Nevada Constitution and the
Constitution of the United States.

2. A private facility or institution which is monitored by the
Department pursuant to subsection 1 shall reimburse the Department for
the costs of such monitoring. The Department shall determine the cost of
the monitoring required by subsection 1 on a per-prisoner basis.

Sec. 1.6. The provisions of sections 1.4, 1.5 and 1.7 of this act do not
apply with respect to prisoners incarcerated in a private facility or
institution pursuant to a contract with the Federal Government or an
agency of the Federal Government.

Sec. 1.63. NRS 209.011 is hereby amended to read as follows:

209.011 As used in this chapter, unless the context otherwise requires,
the terms defined in NRS 209.021 to 209.085, inclusive, and section 1.35 of
this act have the meanings ascribed to them in those sections.

Sec. 1.67. NRS 209.131 is hereby amended to read as follows:

209.131 The Director shall:

1. Administer the Department under the direction of the Board.
2. Supervise the administration of all institutions and facilities of the
Department.

3. Receive, retain and release, in accordance with law, offenders sentenced to imprisonment in the state prison.

4. Be responsible for the supervision, custody, treatment, care, security and discipline of all offenders under his jurisdiction.

5. Ensure that any person employed by the Department whose primary responsibilities are:

(a) The supervision, custody, security, discipline, safety and transportation of an offender;

(b) The security and safety of the staff; and

(c) The security and safety of an institution or facility of the Department,
 ↪ is a correctional officer who has the powers of a peace officer pursuant to subsection 1 of NRS 289.220

6. Establish regulations with the approval of the Board and enforce all laws governing the administration of the Department and the custody, care and training of offenders.

7. Take proper measures to protect the health and safety of the staff and offenders in the institutions and facilities of the Department.

8. Cause to be placed from time to time in conspicuous places about each institution and facility copies of laws and regulations relating to visits and correspondence between offenders and others.

9. Provide for the holding of religious services in the institutions and facilities and make available to the offenders copies of appropriate religious materials.

10. Consult with the representatives of the employees of the Department to develop the minimum level of staffing in the institutions and facilities of the Department which is necessary to ensure the safety of the public, the employees of the Department and offenders and which is within the limits of legislative appropriation. If the Director, or his designee, or a representative of the employees of the Department requests a meeting to review the minimum level of staffing developed pursuant to this subsection, the Director, or his designee, and the representatives of the employees shall meet to review the minimum level of staffing. At such a meeting, the minimum level of staffing may be revised if the revision is agreed to by the Director, or his designee, and the representative of the employees and is within the limits of legislative appropriation.

Sec. 1.7. Chapter 212 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The provisions of this section and NRS 212.030 to 212.130, inclusive, and 212.160 to 212.189, inclusive, apply to:

(a) A person who has custody of a prisoner assigned to a private facility or institution in this State; and

(b) A prisoner assigned to a private facility or institution in this State,
 ↪ to the same extent that those provisions would apply if the prisoner had been assigned to a facility or institution operated by the Department.

2. *A private organization that operates a private facility or institution must provide training to any person employed by the private facility or institution to perform the duties of a correctional officer described in subsection 5 of NRS 209.131. The content of the training must be equivalent to the training provided to a correctional officer in this State ~~but~~ but a person employed by a private facility or institution to perform the duties of a correctional officer is not required to be certified as a peace officer.*

3. *The private organization that operates a private facility or institution must reimburse the State for any expenses charged against the State or paid by the State pursuant to NRS 212.040, 212.050 or 212.070 concerning a prisoner who escapes from the private facility or institution.*

4. *As used in this section:*

(a) *"Prisoner" means any person who is:*

(1) *Convicted of a crime under the laws of this State and sentenced to imprisonment in the state prison; or*

(2) *Convicted of a crime under the laws of another jurisdiction and sentenced to imprisonment by that jurisdiction.*

(b) *"Private facility or institution" ~~means a facility or institution operated by a private organization to house prisoners.~~ has the meaning ascribed to it in section 1.35 of this act.*

Sec. 2. (Deleted by amendment.)

Sec. 3. (Deleted by amendment.)

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

Assemblyman Horne moved that the Assembly do not concur in the Senate amendment to Assembly Bill No. 385.

Remarks by Assemblyman Horne.

Motion carried.

Bill ordered transmitted to the Senate.

Assembly Bill No. 494.

The following Senate amendment was read:

Amendment No. 982.

SUMMARY—~~Requires the Legislative Commission to provide for a study conducted by the staff of the Legislative Counsel Bureau of the major expenditures of local governments in this State.~~ certain local governmental entities to submit a report to the 76th Session of the Legislature concerning the consolidation or reorganization of certain functions. (BDR S-1162)

AN ACT relating to ~~the Legislature; requiring the Legislative Commission to provide for a study conducted by the staff of the Legislative Counsel Bureau concerning the major expenditures of local governments in this State to allow the Legislature to consider consolidating services provided by local governments; requiring local governments to report their three largest categories of expenditure to the Legislative Commission in the~~

manner prescribed by the Commission for the purposes of the study;] governmental administration; requiring certain local governmental entities to submit a report to the 76th Session of the Legislature concerning the consolidation or reorganization of certain functions; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

This bill requires the ~~Legislative Commission to provide for a study conducted by the staff of the Legislative Counsel Bureau concerning the major expenditures of local governments in this State to allow the Legislature to consider consolidating services provided by local governments. Each local government is required to report its three largest categories of expenditure for the Fiscal Year 2008-2009 to the Legislative Commission in the manner prescribed by the Commission for the purposes of the study. The staff of the Legislative Counsel Bureau is required to compile and present the information submitted by the local governments in a manner that will allow~~ Board of County Commissioners of Clark County, the Board of County Commissioners of Washoe County and the governing body of each city in those counties to submit a report to the 76th Session of the Nevada Legislature ~~to review the information and consider the~~ consolidation or reorganization of ~~services provided~~ certain functions performed by those local governments.

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

Section 1. ~~1. The Legislative Commission shall provide for a study conducted by the staff of the Legislative Counsel Bureau concerning the major expenditures of local governments in this State to allow the 76th Session of the Nevada Legislature to consider the consolidation of services provided by local governments.~~

~~2. Each local government shall report to the Legislative Commission on or before January 1, 2010, its three largest categories of expenditure for the Fiscal Year 2008-2009. The Legislative Commission shall, on or before October 1, 2009, prescribe the manner in which the reports must be submitted and the detail required to ensure that the information is sufficient for the purposes of the study directed pursuant to this section.~~

~~3. The staff of the Legislative Counsel Bureau shall conduct a study of the information submitted pursuant to subsection 2 and report the results of the study to the Legislative Commission on or before June 30, 2010. The report must include:~~

~~(a) The compilation and presentation of the information submitted pursuant to subsection 2 in a manner that will allow the Legislature to review the information and consider the consolidation of services provided by local governments; and~~

~~(b) Such analysis of the information as the staff deems appropriate.~~

~~4. The Legislative Commission shall submit the report of the results of the study conducted pursuant to this section and any recommendations for legislation] On or before September 1, 2010, the Board of County Commissioners of Clark County, the Board of County Commissioners of Washoe County and the governing body of each city in those counties shall each submit a report to the Director of the Legislative Counsel Bureau for transmission to the 76th Session of the Nevada Legislature.~~

~~5. As used in this section, "local government" has the meaning ascribed to it in NRS 354.474.]~~

that, with respect to the functions of public safety, public works and general government performed by those entities:

1. Identifies the aspects of those functions that are currently consolidated in whole or in part.

2. Identifies the aspects of those functions that have been or are being considered for consolidation or reorganization.

3. Identifies the aspects of those functions that are not consolidated and whether those aspects may be appropriate for consolidation or reorganization in the future.

4. Analyzes and makes recommendations regarding the consolidation or reorganization of one or more aspects of those functions.

5. Provides estimates of the costs of consolidation or reorganization of one or more aspects of those functions and a projection of any long-term cost savings, to the extent feasible.

6. Analyzes the benefits of the creation of a permanent committee of affected entities that would meet periodically to discuss and coordinate future efforts at consolidation or reorganization of those functions.

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

Assemblywoman Koivisto moved that the Assembly concur in the Senate amendment to Assembly Bill No. 494.

Remarks by Assemblywoman Koivisto.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

REPORTS OF CONFERENCE COMMITTEES

Madam Speaker:

The Conference Committee concerning Assembly Bill No. 60, consisting of the undersigned members, has met and reports that:

It has agreed to recommend that Amendment No. 787 of the Senate be concurred in.

HARVEY MUNFORD

ELLEN SPIEGEL

APRIL MASTROLUCA

Assembly Conference Committee

JOHN LEE

RANDOLPH TOWNSEND

MIKE MCGINNESS

Senate Conference Committee

Assemblyman Munford moved that the Assembly adopt the report of the Conference Committee concerning Assembly Bill No. 60.

Motion carried by a constitutional majority.

MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, May 30, 2009

To the Honorable the Assembly:

I have the honor to inform your honorable body that the Senate on this day receded from its action on Assembly Bill No. 492, Senate Amendment No. 822.

Also, I have the honor to inform your honorable body that the Senate on this day passed, as amended, Senate Bill No. 236.

SHERRY L. RODRIGUEZ
Assistant Secretary of the Senate

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Ocegüera moved that Senate Bill No. 418 be taken from the General File and placed on the General File for the next legislative day.

Motion carried.

Assemblyman Ocegüera moved that Senate Concurrent Resolution No. 37 be taken from the Resolution File and placed on the Resolution File for the next legislative day.

REMARKS FROM THE FLOOR

Assemblyman Hardy requested that the following proclamation be entered in the Journal.

Nevada Legislature
75th Session

COWBOY HALL OF FAME

THE COWBOY WAY: Write it in your heart. Stand by the code and it will stand by you. Ask no more and give no less than honesty, courage, loyalty, generosity, and fairness and never forget your constituent's name.

WHEREAS, David "Cleans up old Dumps" Bobzien was born in Washington D.C., is an Eagle Scout, was the Golden Pine Cone award recipient and participated in 2 regular and 3 special sessions of the Nevada Legislature by following the cowboy rule of "Never kick a cow patty on a hot day"; and

WHEREAS, Ty "Wanna' be a Politician" Cobb was born in Fort Belvoir, Virginia, published both "Bragging Rights Over the Dow," "Politics Should be Played Hard, But Fair," and has served in the Nevada Assembly for 2 regular and 3 special sessions by following the cowboy rule of "More whiskey and fresh horses for my men"; and

WHEREAS, Mo "Kids are Number 1" Denis graduated from Las Vegas' Rancho High School, is an Eagle Scout and a Boulder Area District Award of Merit recipient and has served his constituents since 2004 in 5 special sessions and 3 regular sessions by following the cowboy rule of "The quickest way to double your money is to fold it over"; and

WHEREAS, Heidi "A Fearless Leader and Real Lady" Gansert is a Reno native graduating from Bishop Manogue High School, receiving an MBA from the University of Nevada, is a 4 time qualifier for the Boston Marathon has served her constituents for 3 regular sessions and 5 special sessions by following the cowboy rule of "Don't wake a sleeping rattler"; and

WHEREAS, Ed "My Cows are Green" Goedhart shared being the valedictorian with his twin brother, Eric, in high school, represents the largest dairy in Nevada and has served his

constituents during 3 special sessions and 2 regular sessions by following the cowboy rule of “Once given his goal, he’ll be all over that like a chicken on a June bug”; and

WHEREAS, Don “Mr. No Green Button” Gustavson was born in Culver City, California, educated at Western Nevada College, enjoys ballroom dancing, and being elected in 1996 through 2004 and then returning in 2008 served a total of 5 special and 5 regular sessions by following the cowboy way of “if you’re gonna’ drive cattle through town, do it on Sunday. There’s little traffic, people are less disposed to cuss at ya’, and you don’t have to wear a helmet”; and

WHEREAS, Joe “Give Me the Gavel; I’m here” Hogan served his country in the United States Navy, was educated through the Ft. Dodge, Iowa, public school system and has served his constituents for 5 special sessions and 3 regular sessions by following the cowboy rule of “Never joke with mules, cooks, or lobbyists as they have no sense of humor”; and

WHEREAS, Ruben “Country Gentleman” Kihuen was born in Jalisco, Mexico, educated in Las Vegas at Rancho High School and the University of Nevada, Las Vegas, enjoys movies and has served his district for 3 special sessions and 2 regular sessions by following the cowboy rule of “Learn to speak kind words; nobody resents them”; and

WHEREAS, Harvey “Tall Horse for the Urban Cowboy” Munford holds the record in basketball shooting percentage and block shoots, drafted by the Los Angeles Lakers and the Los Angeles Rams and has served his constituents for 5 special sessions and 3 regular sessions by following the cowboy rule of “Size does matter; the bigger your belt buckle the better”; and

WHEREAS, James “You Gave my Puppy Trichomonosis” Ohrenschall is a native Nevadan, a graduate of the University of Nevada, Las Vegas, son of Cowboy Hall of Famer Jeanie “Legal Beagle” Ohrenschall and has served his constituents for 3 special sessions and 2 regular sessions by following the cowboy rule of “Letting the cat outta’ the bag is a whole lot easier than getting’ her back in”; and

WHEREAS, Tick “Stand Up Comedian with No Coat” Segerblom is a third generation Nevadan, son of cowboy Hall of Famer, Gene Segerblom, the Ruby Valley Gal, a graduate of Boulder City High School, coordinator of Dukakis for President, holder of the single season rushing record and has served his constituents for 3 special sessions and 2 regular sessions by following the cowboy rule of “An onion can make people cry, but there’s never been a vegetable than can make people laugh”; and

WHEREAS, James “Run of the Mill Cowboy” Settelmeyer was born in Carson City, Nevada, was educated in the Douglas County public school system, can ride a horse and talk at the same time and has served his constituents for 3 special sessions and 2 regular sessions by following the cowboy law of “There’s nothing better for a man’s soul than bein’ outside on a horse”; and

WHEREAS, Lynn “Politics is Like a Cattle Drive” Stewart was educated at Las Vegas High School and the University of Nevada, Las Vegas, served his country in the United States Army during Viet Nam and has served his constituents for 3 special and 2 regular sessions by following the cowboy rule of, “Before you criticize someone, walk a mile in their boots. That way you’re a mile away from ‘em and you have their boots, too.”

Cowboy Hall of Fame
May, 2009

.....
John "Boss" Carpenter

.....
Terry "Biscuit Roller" Sullivan

Assemblyman Hardy requested that the following remarks be entered in the Journal.

ASSEMBLYMAN CARPENTER:

Thank you, Madam Speaker, for allowing us to do the Cowboy Hall of Fame today. This is Cowboy Hall of Fame day. For a number of years, we have had this event. Wendell Williams and I started this, I don’t know how many years ago, and when Wendell was no longer here, I recruited my cowboy friend, the “biscuit roller” Terry Sullivan, to help me carry on the tradition.

Today, we are going to have a few surprises, I hope and a few cute sayings, so with that, we are going to get going here. I do want to read the preamble to the Hall of Fame Proclamation that the lucky recipients will be receiving today.

THE COWBOY WAY: Write it in your heart. Stand by the code and it will stand by you. Ask no more and give no less than honesty, courage, loyalty, generosity, and fairness . . .

This is the most important part—

. . . and never forget your constituent's name;

With that, my cowboy friend, we'll present the first proclamation to some lucky recipient.

TERRY SULLIVAN:

Our first inductee into the regular Cowboy Hall of Fame moved to Nevada, where he is doing his part to increase Washoe County's tax and voter base by having children two at a time.

WHEREAS, David "Cleans up old Dumps" Bobzien was born in Washington D.C., is an Eagle Scout, was the Golden Pine Cone award recipient, and participated in 2 regular and 3 special sessions of the Nevada Legislature by following the cowboy rule of "Never kick a cow patty on a hot day"; . . .

ASSEMBLYMAN CARPENTER:

We've got some cowboy music to go with this. That's pretty nice. The next recipient is Ty Cobb.

WHEREAS, Ty "Wanna' be a Politician" Cobb was born in Fort Belvoir, Virginia, published both *Bragging Rights Over the Dow, Politics Should Be Played Hard, But Fair*, and has served in the Nevada Assembly for 2 regular and 3 special sessions by following the cowboy rule of "More whiskey and fresh horses for my men"; . . .

I would just like to say that if only half the people that Mr. Cobb has had come to visit him here vote for him, he will be all right in the next election.

TERRY SULLIVAN:

Our third inductee is a part-time chaplain for this body and is a cowboy who can walk by you and in less than five words leave you laughing.

WHEREAS, Mo "Kids are Number 1" Denis graduated from Las Vegas Rancho High School, is an Eagle Scout and a Boulder Area District Award of Merit recipient, and has served his constituents since 2004 in 5 special sessions and 3 regular sessions by following the cowboy rule of "The quickest way to double your money is to fold it over"; . . .

ASSEMBLYMAN CARPENTER:

It is indeed my pleasure to announce the next recipient.

WHEREAS, Heidi "A Fearless Leader and Real Lady" Gansert is a Reno native, graduating from Bishop Manogue High School, receiving an MBA from the University of Nevada, 4-time qualifier for the Boston Marathon, and serving her constituents for 3 regular sessions and 5 special sessions by following the cowboy rule of "Don't wake a sleeping rattler"; . . .

TERRY SULLIVAN:

Our fifth inductee came to Nevada to address the calcium deficiency in our great state by providing some 30 percent of our milk and shipping huge amounts of cow manure to surrounding states, thus eliminating a lot of BS in Nevada.

WHEREAS, Ed “My Cows Are Green” Goedhart shared being the valedictorian with his twin brother, Eric, in high school, represents the largest dairy in Nevada, and has served his constituents during 3 special sessions and 2 regular sessions by following the cowboy rule of “Once given his goal, he’ll be all over that like a chicken on a June bug”; . . .

ASSEMBLYMAN CARPENTER:

The next recipient is Don Gustavson.

WHEREAS, “Mr. No Green Button” Gustavson was born in Culver City, California, educated at Western Nevada College, enjoys ballroom dancing, and being elected in 1996 through 2004 and then returning in 2008 served a total of 5 special and 5 regular sessions by following the cowboy way of “If you’re gonna’ drive cattle through town, do it on Sunday. There’s little traffic, people are less disposed to cuss at ya’, and you don’t have to wear a helmet”; . . .

TERRY SULLIVAN:

Our seventh inductee came to Nevada because it was the driest state he could find after spending his Navy life on the water.

WHEREAS, Joe “Give Me the Gavel; I’m Here” Hogan served his country in the United States Navy, was educated through the Ft. Dodge, Iowa, public school system, and has served his constituents for 5 special sessions and 3 regular sessions by following the cowboy rule of “Never joke with mules, cooks, or lobbyists as they have no sense of humor”; . . .

ASSEMBLYMAN CARPENTER:

Our next recipient is Ruben “Country Gentleman” Kihuen.

WHEREAS, Ruben “Country Gentleman” Kihuen, was born in Jalisco, Mexico, educated in Las Vegas at Rancho High School and the University of Nevada, Las Vegas, enjoys movies and has served his district for 3 special sessions and 2 regular sessions by following the cowboy rule of “Learn to speak kind words; nobody resents them”; . . .

Mr. Kihuen used to sit by me last session, and we used to have great conversations. Someday maybe he’ll send me an invitation to his wedding.

TERRY SULLIVAN:

The ninth inductee into our Hall of Fame has been teaching the cowboy way to generations of Nevada youth.

WHEREAS, Harvey “Tall Horse for the Urban Cowboy” Munford holds the record in basketball shooting percentage and blocked shots, drafted by the Los Angeles Lakers and the Los Angeles Rams, and has served his constituents for 5 special sessions and 3 regular sessions by following the cowboy rule of “Size does matter; the bigger your belt buckle the better”; . . .

ASSEMBLYMAN CARPENTER:

Mr. Munford asked me about three times a day if he was going to make the Cowboy Hall of Fame. He’s a real cowboy. He showed me pictures of his horses, and I think he’s the only guy who can get on them—they’re so tall. Anyway, we do appreciate being able to put Harvey into the Hall of Fame; he does deserve it.

TERRY SULLIVAN:

Our eleventh inductee has earned his fame by being the son of someone really, really famous.

WHEREAS, Tick “Stand Up Comedian with No Coat” Segerblom is a third generation Nevadan, son of Cowboy Hall of Famer Gene Segerblom, the Ruby Valley Gal, a graduate of Boulder City High School, coordinator of Dukakis for President, holder of the single season rushing record, and has served his constituents for 3 special sessions and 2 regular sessions by following the cowboy rule of “An onion can make people cry, but there’s never been a vegetable than can make a person laugh”; . . .

ASSEMBLYMAN CARPENTER:

I believe that the next one will be James Settelmeyer.

WHEREAS, James “Run of the Mill Cowboy” Settelmeyer was born in Carson City, Nevada, was educated in the Douglas County public school system, can ride a horse and talk at the same time, and has served his constituents for 3 special sessions and 2 regular sessions by following the cowboy law of “There’s nothing better for a man’s soul than bein’ outside on a horse”; . . .

I don’t know why he didn’t wear his hat. He’s always got his hat on. Maybe we ought to take that Cowboy Hall of Fame honor back because he didn’t wear his hat.

TERRY SULLIVAN:

Next is the very proud Assistant Minority Leader and all-around gentleman who calls every woman he sees *Diane*.

WHEREAS, Lynn “Politics is Like a Cattle Drive” Stewart was educated at Las Vegas High School and the University of Nevada, Las Vegas, served his country in the United States Army during Vietnam, and has served his constituents for 3 special and 2 regular sessions by following the cowboy rule of “Before you criticize someone, walk a mile in their boots. That way you’re a mile away from ‘em and you have their boots, too”; . . .

ASSEMBLYMAN STEWART:

This is the happiest day of my life.

ASSEMBLYMAN CARPENTER:

I’m glad we made someone happy, anyway.

ASSEMBLYWOMAN BUCKLEY:

That’s what he said when the bug bill passed.

ASSEMBLYMAN CARPENTER:

Maybe if our friend James is not feeling too well, we’ll give him a special honor sometime during the day if he gets here.

This year, because this may or may not be the last Cowboy Hall of Fame, we thought we’d do something a little different and make sure those people who did serve in the Assembly will be honored. This part of the Cowboy Hall of Fame is for the tenderfoots—the wannabe cowboys. We’ll start that part of our show right away, and Terry is going to do the first recipient.

TERRY SULLIVAN:

Our first greenhorn is a man who came west to herd cows, or at least that was in the back of his mind when common sense took over.

WHEREAS, Paul “Mr. Higher Education” Aizley was born in Boston, but prefers Nevada because he can’t even enjoy the views in New England because of all those trees, and served his constituents in the 2009 Nevada

Legislature by following the cowboy rule of “The fastest way to move cattle is slowly”; . . .

ASSEMBLYMAN CARPENTER:

Our next recipient is Marilyn Dondero Loop.

WHEREAS, Marilyn “I Love the Rurals and Battle Mountain and I Understand Cowboy” Dondero Loop was born in Las Vegas, Nevada, graduated from Las Vegas High School and from the University of Nevada, Las Vegas, award winner of “Leap Frog School House,” and has served her constituents for 1 special and 1 regular session by following the cowboy rule of “Cowboy coffee ain’t safe drinkin’ and tea ain’t the cowboy way”; . . .

TERRY SULLIVAN:

Our third greenhorn is another foreigner who traveled west because he wanted to patrol borders, and no one ever wanted to get into Minnesota.

WHEREAS, John “Keep the Girls off the Street and in the Houses” Hambrick was born in the other twin city of St. Paul, Minnesota, a graduate of the Border Patrol Academy, and serving his constituents for 1 special and 1 regular session by following the cowboy rule of “Scars are cowboy tattoos with better stories”; . . .

ASSEMBLYMAN CARPENTER:

You know if Senator Coffin would have gotten Mr. Hambrick on his bill, he may have had a better chance.

The next inductee into the Tenderfoot Cowboy Hall of Fame is April Mastroluca.

WHEREAS, April “Girl Scout Wanna’ Be a Preacher” Mastroluca was born in Hayward, California, educated at Eldorado High School, could crochet a cowboy blanket, and has served her constituents for 1 special and 1 regular session by following the cowboy rule of “The shortest distance between two points is riding with a good friend”; . . .

Getting all these hugs from them pretty ladies makes it double important to do the Cowboy Hall of Fame.

TERRY SULLIVAN:

Our number five lucky-to-be-named greenhorn had already cleaned up crime in Illinois and California, so he came to Nevada to help the local yokels.

WHEREAS, Richard “Freeze! I’m F.B.I.” McArthur served his country as a pilot during Vietnam, retiring from the F.B.I., and serving his district for 1 special and 1 regular session by following the cowboy rule of “Excuse me, sir, you’re bleeding on my boots”; . . .

ASSEMBLYMAN CARPENTER:

Our next inductee is Ellen.

WHEREAS, Ellen “Register that Damn Car” Spiegel was born in New York City, New York, author of numerous works, enjoys cooking, and has served her constituents for 1 special and 1 regular session by following the cowboy rule of “Forgive your enemies, just don’t forget their names”; . . .

TERRY SULLIVAN:

Number seven being chosen for the Greenhorn Hall of Fame is already very special by being a native-born Nevadan and for always coming home from faraway places.

WHEREAS, Melissa “Give me \$40, Daddy” Woodbury was educated at Boulder City High School, fluent in French, Spanish, and some English, has been to Africa, and has served her constituents for 1 special and 1 regular session by following the cowboy rule of “Never ask your Momma for money when your Daddy never says no.”

ASSEMBLYMAN CARPENTER:

Now we are going to try and do something a little different if we are able to pull it off.

This is a special day for the Cowboy Hall of Fame. Every time I go over to the Senate to present a bill, they never give a damn about the bill—they just want to know why they haven’t been inducted into the Cowboy Hall of Fame. All of these esteemed Senators have served in the Assembly, so I felt it was only right that we should induct them into the Cowboy Hall of Fame so they will never have any regrets for serving in the Assembly. We’re going to start, and my friend the biscuit roller will start the program.

TERRY SULLIVAN:

Our first inductee to our Gone to the Senate Cowboy Hall of Fame brought fame to Carson City by being a member of the 1974 State Champion Basketball team from Carson High School and perfecting the art of the early departure.

WHEREAS, Mark “Show up and Leave the Speech Early King“ Amodei was born in Carson City, graduated from Carson High and the University of Nevada, Reno, served his country as a Major in the United States Army, and has served his constituents for 9 special and 7 regular sessions by following the cowboy rule of “When in doubt, let your horse do the thinkin’”; . . .

ASSEMBLYMAN CARPENTER:

If I have a nice bill that I can’t kill here, I send it over to the Senate and Senator Amodei makes sure it doesn’t come back anymore.

The next inductee is Barbara Cegavske.

WHEREAS, Barbara “Teenage Driver’s License Queen” Cegavske was born in Minnesota, attended Clark County Community College, has three pages on the legislative biography, and has served her constituents for 9 special and 7 regular sessions by following the cowboy rule of “Put the pedal to the metal”; . . .

TERRY SULLIVAN:

Our third Gone to the Senate Greenhorn earned his place in the Cowboy Hall of Fame by his unceasing devotion to every special interest group in the state and bringing them all into ethical compliance.

WHEREAS, Warren “Ethics“ Hardy was born in Salt Lake City, Utah, graduated from Rancho High School in North Las Vegas and the University of Nevada, Las Vegas, is a member of the LA Dodgers’ Blue Crew, and has served his constituents for 7 special and 5 regular sessions by following the cowboy rule of “Don’t squat on your Spurs”; . . .

ASSEMBLYMAN CARPENTER:

Our next inductee is John Lee.

WHEREAS, John “Bus Stop“ Lee was born in Middlesex, England, wished he was born in Nevada, attended Rancho High School in North Las Vegas, is an Eagle Scout, has a Silver Beaver Award, and has served his constituents for 7 special and 6 regular sessions by following the cowboy rule of “Don’t worry, I’ve been in tighter spots than this”; . .

TERRY SULLIVAN:

The fifth member of this esteemed group is from a town that you have to be going to, to get there.

Whereas, Mike “DJ for Country Music“ McGinness is a native Nevadan from Fallon, educated in Churchill County schools and at the University of Nevada, Reno, has served his constituents for 10 special and 11 regular sessions by following the cowboy rule of “Never give your horse more attention than your wife unless you like sleeping in the barn”; . . .

ASSEMBLYMAN CARPENTER:

Mike has always been a great friend and a great rural guy.
The next recipient is Dennis Nolan.

WHEREAS, Dennis “Buckle up Baby“ Nolan is a native Nevadan from Las Vegas, educated at Clark High School, Southern Nevada Community College, University of Nevada, Las Vegas, and is a paramedic, and has served his constituents for 9 special and 8 regular sessions by following the cowboy rule of “Ride ‘em cowboy”; . . .

Dennis says we should have had a Shetland pony here for him.

TERRY SULLIVAN:

Now here’s a cowboy that is a cowboy that has cowboeyed around these halls forever.

WHEREAS, Dean “Tuscarora Bull Rider“ Rhoads was born in Tonasket, Washington, served in the National Guard, was educated at Cal Poly, and has served his constituents for 16 regular and 11 special sessions by following the cowboy rule of “The challenge is not always saying what you mean but to say it with as few words as possible”; . . .

ASSEMBLYMAN CARPENTER:

Our last recipient is Mike.

Whereas, Mike “Give Me a Home Where the Buffalo Roam in a Gated Community” Schneider was born in McCook, Nebraska, was educated at Bishop Gorman High School in Las Vegas, the University of Nevada, Las Vegas, and has served his constituents for 9 regular and 9 special sessions by following the cowboy rule of “Never drink wine unless you’re alone or with somebody.”

I think we should give our esteemed Senators a round of applause. Thank you all for being here. We’ll let the police escort you back.

ASSEMBLYMAN GOICOECHEA:

Madam Speaker, I think there is one more proclamation here we have missed—if Mr. Grady will bring that forward.

I think all of us here understand and recognize that the big boss, John C, is about to give up this little rodeo we’ve got going here. With that, my sidekick and the third leg of the cowboy caucus here has a proclamation he’d like to read to him.

Assemblyman Grady requested that the following proclamation be entered in the Journal.

Nevada Legislature
75th Session

COWBOY HALL OF FAME

WHEREAS, in the early spring of “99”, May 29th of 1999 to be exact, a cowboy by the name of “Boss” Carpenter entered Jack’s Bar with his Segundo Wendell “Rowdy” Williams to hire a crew to drive cattle on the “Hall of Fame” Trail; and

WHEREAS, after a tall 7-Up with two cherries, the “Boss” hired his first crew. Each had a pledge to live “The Cowboy Way” – Write it in their hearts. Stand by the Code and it will stand by you. Ask no more and give no less than honesty, courage, loyalty, generosity, fairness, and never forget their constituents’ names; and

WHEREAS, in 1999, this first crew consisted of: “The Speaker” Dini, “Guisepepe” Evans, “Good Guy” Price, “Boulder” Segerblom, “Flyboy” Neighbors, “Pine Cone” Freeman, “Author” de Braga and “Cowboy” Marvel; and

WHEREAS, on May 31, 2001, the “Boss” hired a new crew – the ’99 bunch bought their own spread: “The Kid” Perkins, “Boom Boom” Chowning, “Hambone” Humke, “Cool Hand” Hettrick, “Bulldog” Giunchigliani, “Brush Popper” Arberry, “Bubba” Anderson, “Rhinstone” Collins, and “Biscuit Roller” Sullivan; and

WHEREAS, on May 30, 2003, the “Boss” hired his third crew in the Caucus Deli: “Buckaroo” Buckley, “Show me the Money” Goldwater, “Legal Beagle” Ohrenschall, “Range Rider” Manendo, “Giddyup” Gibbons, “Herd Tender” Sneedon, and “Fence Mender” Watson; and

WHEREAS, on the 2nd of June, 2005, after the last crew, including “Rowdy,” left in a pay dispute (no union then), he hired his trail boss, “Biscuit Roller” Sullivan, mainly because of his broad experience as a wrangler, cook, doctor, preacher, philosopher, enforcer and organizer. The crew were rookies: “Tin Teepee” Koivisto, “Redneck Woman” McClain, “Fallon Goat Roper” Oceguera (on the recommendation of Miss Rodeo Nevada), “Mule Deer” Claborn, “Lone Rider” Angle, “Town Tamer” Leslie, “Git R Done” Parks, and “State Parks Rocket Man” Mortensen; and

WHEREAS, in 2007, May 24th to be exact, after another crew quit, the “Boss” had to head to Timbers to hire a new crew: “Horse Whisperer” Atkinson, “Greenhorn” Christensen, “Redneck Jedi” Conklin, “The Professor Fandango” Goicoechea, “Smooth Talker” Grady, “Dr. Sparky” Hardy, “Trust Me” Horne, “Daydreamer” Kirkpatrick, “Straw Boss” Mabey, “School Marm” Parnell, “On the Shoot” Pierce, “Apple Pie” Smith, “Boot Scooter” Weber, and “Team Roper” Bates; now, therefore, be it

RESOLVED that with his sixth crew selected, he realizes they won’t work for mutton and beans, cattle prices are in the tank, his Bronco is out of gas, and he is going back to Elko. Before he leaves, his past inductees want to wish the Boss the best, thank him for being our mentor, friend, and the best bill man ever. Keep the wagon tongue headed east, take care of the missus, and send a smoke signal now and then.

Happy Trails, Big Boss.

Cowboy Hall of Fame
May, 2009

.....
Pete “Professor Fandango” Goicoechea
.....

Tom “Smooth Talker” Grady

ASSEMBLYMAN CARPENTER:

Thank you all. I didn’t know this was going to happen. I really appreciate all my friends, and with this kind of a deal, it kind of makes you sad to have to leave. I want to thank you all. You’ve been a great crew, and it’s been a real rodeo and a real ride. Thank you very much.

GUESTS EXTENDED PRIVILEGE OF ASSEMBLY FLOOR

On request of Assemblyman Arberry, the privilege of the floor of the Assembly Chamber for this day was extended to Kimberly Owens and Raina A. Arberry.

On request of Assemblyman Cobb, the privilege of the floor of the Assembly Chamber for this day was extended to Alandra Porazzo, Nathan Tea, Mikayla Tea, and Jennifer Baker.

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

Assemblyman Ocegüera moved that the Assembly adjourn until Sunday, May 31, 2009, at 10 a.m.

Motion carried.

Assembly adjourned at 7:53 p.m.

Approved:

BARBARA E. BUCKLEY
Speaker of the Assembly

Attest: SUSAN FURLONG REIL
Chief Clerk of the Assembly