

THE SEVENTY-FIRST DAY

CARSON CITY (Monday), April 13, 2009

Senate called to order at 11:42 a.m.

President Krolicki presiding.

Roll called.

All present.

Prayer by the Chaplain, Monte Fast.

Let us never forget that this fragile gift of life which we enjoy on a minute-to-minute basis comes as a gift from our Creator. This gift of life carries with it obligations to fulfill the opportunities and responsibilities that come to us at the same time. Let us so dedicate ourselves this day.

AMEN.

Pledge of Allegiance to the Flag.

Senator Horsford moved that further reading of the Journal be dispensed with, and the President and Secretary be authorized to make the necessary corrections and additions.

Motion carried.

REPORTS OF COMMITTEES

Mr. President:

Your Committee on Commerce and Labor, to which were referred Senate Bills Nos. 193, 228, 254, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

MAGGIE CARLTON, *Chair*

Mr. President:

Your Committee on Energy, Infrastructure and Transportation, to which was referred Senate Bill No. 312, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

Also, your Committee on Energy, Infrastructure and Transportation, to which were referred Senate Bills Nos. 188, 327, 339, 360, 394, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

MICHAEL A. SCHNEIDER, *Chair*

Mr. President:

Your Committee on Finance, to which was rereferred Senate Bill No. 12, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

Also, your Committee on Finance, to which were rereferred Senate Bills Nos. 18, 256, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass as amended.

BERNICE MATHEWS, *Cochair*

Mr. President:

Your Committee on Government Affairs, to which were referred Senate Bills Nos. 42, 124, 248, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

Also, your Committee on Government Affairs, to which was referred Senate Concurrent Resolution No. 16, has had the same under consideration, and begs leave to report the same back with the recommendation: Be adopted.

JOHN J. LEE, *Chair*

Mr. President:

Your Committee on Health and Education, to which was referred Senate Bill No. 292, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

Also, your Committee on Health and Education, to which was rereferred Senate Bill No. 311, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

Also, your Committee on Health and Education, to which was referred Senate Bill No. 275, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass, and rerefer to the Committee on Finance.

VALERIE WIENER, *Chair*

Mr. President:

Your Committee on Judiciary, to which were referred Senate Bills Nos. 86, 176, 216, 236, 253, 337, 351, 352, 354, 372, 396, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

Also, your Committee on Judiciary, to which was rereferred Senate Bill No. 262, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

TERRY CARE, *Chair*

Mr. President:

Your Committee on Natural Resources, to which was referred Senate Bill No. 110, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

DAVID R. PARKS, *Chair*

Mr. President:

Your Committee on Taxation, to which were referred Senate Bills Nos. 208, 255, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

BOB COFFIN, *Chair*

MESSAGES FROM THE ASSEMBLY

ASSEMBLY CHAMBER, Carson City, April 9, 2009

To the Honorable the Senate:

I have the honor to inform your honorable body that the Assembly on this day passed Assembly Bill No. 120.

Also, I have the honor to inform your honorable body that the Assembly on this day passed, as amended, Assembly Bills Nos. 15, 26, 76, 90, 124, 191, 194, 196, 231.

DIANE M. KEETCH

Assistant Chief Clerk of the Assembly

ASSEMBLY CHAMBER, Carson City, April 10, 2009

To the Honorable the Senate:

I have the honor to inform your honorable body that the Assembly on this day passed Assembly Bill No. 49.

Also, I have the honor to inform your honorable body that the Assembly on this day passed, as amended, Assembly Bills Nos. 79, 109, 122, 163, 177, 205, 233.

DIANE M. KEETCH

Assistant Chief Clerk of the Assembly

WAIVERS AND EXEMPTIONS
WAIVER OF JOINT STANDING RULE(S)

A Waiver requested by Senate Standing Committee on Taxation

For: Senate Bill No. 201.

To Waive:

Subsection 1 of Joint Standing Rule No. 14.3.

Subsection 2 of Joint Standing Rule No. 14.3.

Subsection 3 of Joint Standing Rule No. 14.3.

Subsection 4 of Joint Standing Rule No. 14.3.

Has been granted effective: Friday, April 03, 2009.

STEVEN A. HORSFORD
Senate Majority Leader

BARBARA BUCKLEY
Speaker of the Assembly

NOTICE OF EXEMPTION

April 9, 2009

The Fiscal Analysis Division, pursuant to Joint Standing Rule 14.6, has determined the eligibility for exemption of: Senate Bill No. 395.

GARY GHIGGERI
Fiscal Analysis Division

MOTIONS, RESOLUTIONS AND NOTICES

Senate Concurrent Resolution No. 2.

Resolution read.

The following amendment was proposed by the Committee on Natural Resources:

Amendment No. 66.

"SUMMARY—Encourages entities that are engaged in monitoring the water quality of the Truckee River to coordinate certain activities. (BDR R-237)"

SENATE CONCURRENT RESOLUTION—Encouraging entities that are engaged in monitoring the water quality of the Truckee River to coordinate certain activities.

WHEREAS, The federal Clean Water Act, 33 U.S.C. §§ 1251 et seq., and Safe Drinking Water Act, 42 U.S.C. §§ 300f et seq., require states to establish standards of water quality for all surface water and to monitor compliance with those standards; and

WHEREAS, Monitoring of the water quality of the Truckee River is conducted for biological, chemical and physical constituents to determine if standards of water quality established by the State of Nevada and required by the Clean Water Act and Safe Drinking Water Act are being met; and

WHEREAS, There are approximately 50 locations on the Truckee River where monitoring is conducted to protect drinking water and water quality for downstream use; and

WHEREAS, Monitoring of the watershed along the Truckee River is conducted by several separate entities, which may result in a loss of efficiency and duplication of effort; and

WHEREAS, In an effort to increase efficiency and prevent duplication of effort, the entities involved in monitoring the watershed along the Truckee

River have been working toward a coordinated watershed monitoring program; and

WHEREAS, As part of the coordinated watershed monitoring program, a central clearinghouse of technical and water-related information has been developed to enhance collaboration and share data among the various entities; and

WHEREAS, The Nevada Legislature believes that coordinated monitoring and reporting of information is in the best interest of this State to ensure timely identification of potential problems with water quality or environmental degradation of the Truckee River and to promote the future protection of the Truckee River watershed; now, therefore, be it

RESOLVED BY THE SENATE OF THE STATE OF NEVADA, THE ASSEMBLY CONCURRING, That the entities which are engaged in the management and monitoring of the water quality of the Truckee River are encouraged to continue to work together toward developing a comprehensive and coordinated watershed monitoring program for the Truckee River and its tributaries and to refine and enhance existing monitoring efforts; and be it further

RESOLVED, That the entities are encouraged to collect and publish the resulting data from the coordinated monitoring efforts into a single source and make that data available to the public; and be it further

RESOLVED *That the Division of Environmental Protection of the State Department of Conservation and Natural Resources is hereby directed to develop a memorandum of understanding with the entities to ensure a clear understanding of the coordinated watershed monitoring program and the coordinated watershed monitoring efforts in which they are engaged; and be it further*

RESOLVED, *That the Division is hereby directed to submit a report concerning the memorandum of understanding and the coordinated watershed monitoring efforts of the entities at the first meeting of the Legislative Committee to Oversee the Western Regional Water Commission that is held after the conclusion of the 75th Regular Session of the Nevada Legislature; and be it further*

RESOLVED, That the Secretary of the Senate prepare and transmit a copy of this resolution to the Governor, the Chairman of the Western Regional Water Commission, the Chairman of the City Council of the City of Reno, the Chairman of the City Council of the City of Sparks, the President of the Desert Research Institute, the Administrator of the Division of Environmental Protection of the State Department of Conservation and Natural Resources, the Chairman of the Board of Directors of the Truckee Meadows Water Authority, the Chairman of the Truckee Meadows Stormwater Committee, the Manager of the Truckee Meadows Water Reclamation Facility, the President of the University of Nevada, Reno, the Commissioner of the Bureau of Reclamation of the United States Department

of the Interior, the Director of the United States Fish and Wildlife Service, and the Director of the United States Geological Survey.

Senator Parks moved the adoption of the amendment.

Remarks by Senator Parks.

Senator Parks requested that his remarks be entered in the Journal.

This amendment adds language to more accurately reflect the Legislative Committee to Oversee the Western Regional Water Commission's intent during its work session regarding the development of a Memorandum of Understanding among the entities engaged in water quality.

Amendment adopted.

Resolution ordered reprinted, engrossed and to the Resolution File.

Senator Wiener moved that Senate Bill No. 275 just reported out of committee be rereferred to the Committee on Finance.

Motion carried.

Senator Carlton moved that Senate Bill No. 127 be taken from the Second Reading File and placed on the Secretary's desk.

Motion carried.

Senator Washington moved that Senate Bill No. 14 be taken from the General File and placed on the Secretary's desk.

Senator Mathews, Horsford and Wiener requested a roll call vote on Senator Washington's motion.

Roll call on Senator Washington's motion:

YEAS—9.

NAYS—Breedon, Care, Carlton, Coffin, Copening, Horsford, Lee, Mathews, Parks, Schneider, Wiener, Woodhouse—12.

The motion having failed to receive a majority, Mr. President declared it lost.

Senator Washington moved that Senate Bill No. 14 be taken from the General File and placed on the General File for the next legislative day

Motion lost on a division of the house.

Senator Horsford moved that the following persons be accepted as accredited press representatives, and that they be assigned space at the press table and allowed the use of appropriate media facilities: KRNV-TV: Tad Dunbar and RENO-GAZETTE-JOURNAL: Ray Hagar.

Motion carried.

Senator Care moved that Senate Bill No. 353 be taken from the General File and placed on the Secretary's desk.

Motion carried.

INTRODUCTION, FIRST READING AND REFERENCE

By the Committee on Finance:

Senate Bill No. 408—AN ACT relating to the Nevada National Guard; authorizing payments from the Patriot Relief Account in the State General

Fund to certain members of the Nevada National Guard who return from deployment in a combat zone and attend a course on reintegration into the community; and providing other matters properly relating thereto.

Senator Mathews moved that the bill be referred to the Committee on Finance.

Motion carried.

By the Committee on Finance:

Senate Bill No. 409—AN ACT relating to transportation; authorizing on-line bidding on contracts for the construction, improvement and maintenance of highways; and providing other matters properly relating thereto.

Senator Mathews moved that the bill be referred to the Committee on Finance.

Motion carried.

Assembly Bill No. 15.

Senator Care moved that the bill be referred to the Committee on Natural Resources.

Motion carried.

Assembly Bill No. 26.

Senator Care moved that the bill be referred to the Committee on Health and Education.

Motion carried.

Assembly Bill No. 49.

Senator Care moved that the bill be referred to the Committee on Government Affairs.

Motion carried.

Assembly Bill No. 76.

Senator Care moved that the bill be referred to the Committee on Health and Education.

Motion carried.

Assembly Bill No. 79.

Senator Care moved that the bill be referred to the Committee on Legislative Operations and Elections.

Motion carried.

Assembly Bill No. 90.

Senator Care moved that the bill be referred to the Committee on Commerce and Labor.

Motion carried.

Assembly Bill No. 109.

Senator Care moved that the bill be referred to the Committee on Energy, Infrastructure and Transportation.

Motion carried.

Assembly Bill No. 120.

Senator Care moved that the bill be referred to the Committee on Judiciary.

Motion carried.

Assembly Bill No. 122.

Senator Care moved that the bill be referred to the Committee on Government Affairs.

Motion carried.

Assembly Bill No. 124.

Senator Care moved that the bill be referred to the Committee on Commerce and Labor.

Motion carried.

Assembly Bill No. 163.

Senator Care moved that the bill be referred to the Committee on Energy, Infrastructure and Transportation.

Motion carried.

Assembly Bill No. 177.

Senator Care moved that the bill be referred to the Committee on Energy, Infrastructure and Transportation.

Motion carried.

Assembly Bill No. 191.

Senator Care moved that the bill be referred to the Committee on Health and Education.

Motion carried.

Assembly Bill No. 194.

Senator Care moved that the bill be referred to the Committee on Natural Resources.

Motion carried.

Assembly Bill No. 196.

Senator Care moved that the bill be referred to the Committee on Health and Education.

Motion carried.

Assembly Bill No. 205.

Senator Care moved that the bill be referred to the Committee on Taxation.

Motion carried.

Assembly Bill No. 231.

Senator Care moved that the bill be referred to the Committee on Legislative Operations and Elections.

Motion carried.

Assembly Bill No. 233.

Senator Care moved that the bill be referred to the Committee on Judiciary.

Motion carried.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Care moved that Senate Bill No. 14 be taken from the General File and placed on the General File for the next legislative day.

Motion carried.

SECOND READING AND AMENDMENT

Senate Bill No. 11.

Bill read second time.

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

Amendment No. 178.

"SUMMARY—Prohibits the county commissioners of certain larger counties from holding certain other employment. (BDR 20-80)"

"AN ACT relating to counties; prohibiting the county commissioners of certain larger counties from holding certain other employment; authorizing the board of county commissioners of certain larger counties to set the salaries of county commissioners who are prohibited from holding certain other employment; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

~~[This] Section 1 of this bill~~ requires a member of a board of county commissioners of a county whose population is 400,000 or more (currently Clark County) to devote his entire time and attention to the business of his office and prohibits him from pursuing any other business or occupation or holding any other office of profit ~~, except for temporary and part time teaching duties on a university campus.~~ Section 3 of this bill specifies that this prohibition on holding other employment does not apply until after the next election cycle for each county commission seat. Section 2 of this bill authorizes the board of county commissioners to set the salary for county commissioners once the prohibition takes effect. Under the provisions of section 2, if a member of the board is prohibited from holding other employment, the authority of the board to set his salary is not limited, but if the member is not prohibited from holding other employment, the authority of the board to set his salary is limited by certain existing percentage caps.

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

Section 1. NRS 244.016 is hereby amended to read as follows:

244.016 1. In each county whose population is 400,000 or more, the board of county commissioners consists of seven members. Each member ~~[must]~~:

- (a) *Must* be a resident of, and elected by the registered voters of, a county commissioner election district established pursuant to this chapter.
- (b) *Shall devote his entire time and attention to the business of his office and shall not pursue any other business or occupation or hold any other office of profit* ~~, except for temporary and part-time teaching duties on a university campus.~~

2. The board of county commissioners shall establish seven county commissioner election districts which must be as nearly equal in population as practicable, and each of which must be composed entirely of contiguous territory and be as compact as possible.

Sec. 2. NRS 245.043 is hereby amended to read as follows:

245.043 1. As used in this section:

- (a) "County" includes Carson City.
- (b) "County commissioner" includes the Mayor and supervisors of Carson City.

2. Except as otherwise provided by any special law, the elected officers of the counties of this State are entitled to receive, for the appropriate fiscal year, annual salaries in the base amounts specified in the following table. The annual salaries are in full payment for all services required by law to be performed by such officers. Except as otherwise provided by law, all fees and commissions collected by such officers in the performance of their duties must be paid into the county treasury each month without deduction of any nature.

		ANNUAL SALARIES						
Class	County	District Attorney	Sheriff	County Clerk	County Assessor	County Recorder	County Treasurer	Public Administrator
1	Clark							
	FY 2007-2008	\$166,647	\$143,661	\$97,518	\$97,518	\$97,518	\$97,518	\$97,518
	FY 2008-2009	171,647	147,971	100,443	100,443	100,443	100,443	100,443
	FY 2009-2010	176,796	152,410	103,456	103,456	103,456	103,456	103,456
2	Washoe							
	FY 2007-2008	147,109	118,376	89,391	89,391	89,391	89,391	89,391
	FY 2008-2009	151,522	121,928	92,073	92,073	92,073	92,073	92,073
	FY 2009-2010	156,068	125,585	94,835	94,835	94,835	94,835	94,835
3	Carson City							
	FY 2007-2008	105,616	87,575	69,563	69,563	69,563	69,563	-----
	FY 2008-2009	108,785	90,202	71,650	71,650	71,650	71,650	-----
	FY 2009-2010	112,049	92,909	73,799	73,799	73,799	73,799	-----
	FY 2010-2011	115,410	95,696	76,013	76,013	76,013	76,013	-----
	Churchill							
	FY 2007-2008	105,616	87,575	69,563	69,563	69,563	69,563	-----
	FY 2008-2009	108,785	90,202	71,650	71,650	71,650	71,650	-----
	FY 2009-2010	112,049	92,909	73,799	73,799	73,799	73,799	-----
	FY 2010-2011	115,410	95,696	76,013	76,013	76,013	76,013	-----
	Douglas							
	FY 2007-2008	105,616	87,575	69,563	69,563	69,563	69,563	-----
FY 2008-2009	108,785	90,202	71,650	71,650	71,650	71,650	-----	
FY 2009-2010	112,049	92,909	73,799	73,799	73,799	73,799	-----	
FY 2010-2011	115,410	95,696	76,013	76,013	76,013	76,013	-----	
Elko								
FY 2007-2008	105,616	87,575	69,563	69,563	69,563	69,563	-----	
FY 2008-2009	108,785	90,202	71,650	71,650	71,650	71,650	-----	

	FY 2009-2010	112,049	92,909	73,799	73,799	73,799	73,799	-----
	FY 2010-2011	115,410	95,696	76,013	76,013	76,013	76,013	-----
	Humboldt							
	FY 2007-2008	105,616	87,575	69,563	69,563	69,563	69,563	-----
	FY 2008-2009	108,785	90,202	71,650	71,650	71,650	71,650	-----
	FY 2009-2010	112,049	92,909	73,799	73,799	73,799	73,799	-----
	FY 2010-2011	115,410	95,696	76,013	76,013	76,013	76,013	-----
	Lyon							
	FY 2007-2008	105,616	87,575	69,563	69,563	69,563	69,563	-----
	FY 2008-2009	108,785	90,202	71,650	71,650	71,650	71,650	-----
	FY 2009-2010	112,049	92,909	73,799	73,799	73,799	73,799	-----
	FY 2010-2011	115,410	95,696	76,013	76,013	76,013	76,013	-----
	Nye							
	FY 2007-2008	105,616	87,575	69,563	69,563	69,563	69,563	-----
	FY 2008-2009	108,785	90,202	71,650	71,650	71,650	71,650	-----
	FY 2009-2010	112,049	92,909	73,799	73,799	73,799	73,799	-----
	FY 2010-2011	115,410	95,696	76,013	76,013	76,013	76,013	-----
4	Lander							
	FY 2007-2008	99,749	78,818	58,023	58,023	58,023	58,023	-----
	FY 2008-2009	102,741	81,183	59,764	59,764	59,764	59,764	-----
	FY 2009-2010	105,823	83,618	61,556	61,556	61,556	61,556	-----
	FY 2010-2011	108,998	86,127	63,403	63,403	63,403	63,403	-----
	Storey							
	FY 2007-2008	99,749	78,818	58,023	58,023	58,023	58,023	-----
	FY 2008-2009	102,741	81,183	59,764	59,764	59,764	59,764	-----
	FY 2009-2010	105,823	83,618	61,556	61,556	61,556	61,556	-----
	FY 2010-2011	108,998	86,127	63,403	63,403	63,403	63,403	-----
	White Pine							
	FY 2007-2008	99,749	78,818	58,023	58,023	58,023	58,023	-----
	FY 2008-2009	102,741	81,183	59,764	59,764	59,764	59,764	-----
	FY 2009-2010	105,823	83,618	61,556	61,556	61,556	61,556	-----
	FY 2010-2011	108,998	86,127	63,403	63,403	63,403	63,403	-----
5	Eureka							
	FY 2007-2008	88,014	63,054	52,009	52,009	52,009	52,009	-----
	FY 2008-2009	90,654	64,946	53,570	53,570	53,570	53,570	-----
	FY 2009-2010	93,374	66,894	55,177	55,177	55,177	55,177	-----
	FY 2010-2011	96,175	68,901	56,832	56,832	56,832	56,832	-----
	Lincoln							
	FY 2007-2008	88,014	63,054	52,009	52,009	52,009	52,009	-----
	FY 2008-2009	90,654	64,946	53,570	53,570	53,570	53,570	-----
	FY 2009-2010	93,374	66,894	55,177	55,177	55,177	55,177	-----
	FY 2010-2011	96,175	68,901	56,832	56,832	56,832	56,832	-----
	Mineral							
	FY 2007-2008	88,014	63,054	52,009	52,009	52,009	52,009	-----
	FY 2008-2009	90,654	64,946	53,570	53,570	53,570	53,570	-----
	FY 2009-2010	93,374	66,894	55,177	55,177	55,177	55,177	-----
	FY 2010-2011	96,175	68,901	56,832	56,832	56,832	56,832	-----
	Pershing							
	FY 2007-2008	88,014	63,054	52,009	52,009	52,009	52,009	-----
	FY 2008-2009	90,654	64,946	53,570	53,570	53,570	53,570	-----
	FY 2009-2010	93,374	66,894	55,177	55,177	55,177	55,177	-----
	FY 2010-2011	96,175	68,901	56,832	56,832	56,832	56,832	-----
6	Esmeralda							
	FY 2007-2008	69,886	56,049	45,508	45,508	45,508	-----	-----
	FY 2008-2009	71,983	57,730	46,873	46,873	46,873	-----	-----
	FY 2009-2010	74,142	59,462	48,280	48,280	48,280	-----	-----
	FY 2010-2011	76,366	61,246	49,728	49,728	49,728	-----	-----

3. A board of county commissioners *in a county whose population is less than 400,000* may, by a vote of at least a majority of all the members of the board, set the annual salary for the county commissioners of that county, but in no event may the annual salary exceed an amount which equals:

- (a) For Fiscal Year 2007-2008, 131.716 percent;
- (b) For Fiscal Year 2008-2009, 136.985 percent;
- (c) For Fiscal Year 2009-2010, 142.464 percent; and
- (d) For Fiscal Year 2010-2011, 148.163 percent,

↳ of the amount of the annual salary for the county commissioners of that county that was in effect by operation of statute on January 1, 2003.

4. A board of county commissioners in a county whose population is 400,000 or more may, by a vote of at least a majority of all the members of the board, set the annual salary for the county commissioners of that county. If a member of the board of county commissioners is not subject to the limitations set forth in paragraph (b) of subsection 1 of NRS 244.016, in no event may the annual salary for that member exceed an amount which equals:

(a) For Fiscal Year 2007-2008, 131.716 percent;

(b) For Fiscal Year 2008-2009, 136.985 percent;

(c) For Fiscal Year 2009-2010, 142.464 percent; and

(d) For Fiscal Year 2010-2011, 148.163 percent.

↪ of the amount of the annual salary for the county commissioners of that county that was in effect by operation of statute on January 1, 2003.

Sec. 3. Notwithstanding any provision of this act to the contrary, the prohibition on a county commissioner in a county whose population is 400,000 or more, as set forth in NRS 244.016, as amended by section 1 of this act, does not apply to a county commissioner who is in office on July 1, 2009, until after the next election cycle for his county commission seat.

~~{Sec. 2}~~ Sec. 4. This act becomes effective on July 1, 2009.

Senator Care moved the adoption of the amendment.

Remarks by Senator Care.

Senator Care requested that his remarks be entered in the Journal.

Thank you, Mr. President. This is the bill that would make the position of Clark County Commissioner a fulltime position.

The amendment removes the current exemption in the bill that would allow a county commissioner in Clark County to teach on a university campus.

It provides that the prohibition on holding other employment does not apply to a county commissioner during his current term of office. Rather, the prohibition will take effect after the next election cycle for each county commission seat, and authorizes the board of county commissioners in Clark County to set their own salaries once the prohibition on holding other employment takes effect.

Motion lost on a division of the house.

Senate Bill No. 17.

Bill read second time.

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

Amendment No. 230.

"SUMMARY—Revises provisions governing health care records. (BDR 54-607)"

"AN ACT relating to health care; revising provisions governing the retention and destruction of health care records; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Section 1 of this bill requires that certain boards post a statement on their Internet websites that the health care records of patients who are less than 28 years of age may not be destroyed and that the health care records of other patients may be destroyed after 7 years.

~~{This}~~ Section 2 of this bill increases from 5 years to 7 years the period of time that a provider of health care must retain the health care records of patients who are 28 years of age or older and requires the provider to notify a patient before destroying his health care records upon expiration of the period. (NRS 629.051) Section 2 also: (1) requires that certain disclosures regarding destruction of records be provided to patients; (2) prohibits the destruction of health care records for a person who is less than 28 years of age; and (3) requires the State Board of Health to adopt regulations relating to the required disclosures.

Section 3 of this bill requires that individuals licensed by the Board of Medical Examiners who close an office in this State keep the Board apprised in writing of the location of medical records kept by that office for at least 7 years thereafter. (NRS 630.254)

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

Section 1. Chapter 629 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The State Board of Health and each board created pursuant to chapter 630, 630A, 631, 632, 633, 634, 634A, 635, 636, 637, 637A, 637B, 639, 640, 640A, 640B, 640C, 641, 641A, 641B or 641C shall post on its website on the Internet, if any, a statement which discloses that:

(a) Pursuant to the provisions of subsection 7 of NRS 629.051, the health care records of a person who is less than 28 years of age may not be destroyed; and

(b) Except as otherwise provided in subsection 7 of NRS 629.051 and unless a longer period is provided by federal law, the health care records of a patient may be destroyed after 7 years pursuant to subsection 1 of NRS 629.051.

2. The State Board of Health shall adopt regulations prescribing the contents of the statements required pursuant to this section.

~~{Section 1.}~~ Sec. 2. NRS 629.051 is hereby amended to read as follows:

629.051 1. Except as otherwise provided in regulations adopted by the State Board of Health pursuant to NRS 652.135 with regard to the records of a medical laboratory ~~{,}~~ and unless a longer period is provided by federal law, each provider of health care shall retain the health care records of his patients as part of his regularly maintained records for ~~{5}~~ 7 years after their receipt or production. Health care records may be retained in written form, or by microfilm or any other recognized form of size reduction, including, without limitation, microfiche, computer disc, magnetic tape and optical disc,

which does not adversely affect their use for the purposes of NRS 629.061. Health care records may be created, authenticated and stored in a computer system which limits access to those records.

2. A provider of health care shall ~~f, not less than 30 days before destroying the~~ post, in a conspicuous place in each location at which the provider performs health care services, a sign which discloses to patients that their health care ~~record of a patient, provide written notice to the patient of the date on which the record will~~ records may be destroyed ~~[. Such written notice must be mailed by first class mail to the last known address of the patient, as reflected in the record of the patient.]~~ after the period set forth in subsection 1.

3. When a provider of health care performs health care services for a patient for the first time, the provider of health care shall deliver to the patient a written statement which discloses to the patient that the health care records of the patient may be destroyed after the period set forth in subsection 1.

4. If a provider fails to deliver the written statement to the patient pursuant to subsection 3, the provider of health care shall deliver to the patient the written statement described in subsection 3 when the provider next performs health care services for the patient.

5. In addition to delivering a written statement pursuant to subsection 3 or 4, a provider of health care may deliver such a written statement to a patient at any other time.

6. A written statement delivered to a patient pursuant to this section may be included with other written information delivered to the patient by a provider of health care.

7. A provider of health care shall not destroy the health care records of a person who is less than 28 years of age on the date of the proposed destruction of the records.

8. The State Board of Health shall adopt:

(a) Regulations prescribing the form, size, contents and placement of the signs and written statements required pursuant to this section; and

(b) Any other regulations necessary to carry out the provisions of this section.

Sec. 3. NRS 630.254 is hereby amended to read as follows:

630.254 1. Each licensee shall maintain a permanent mailing address with the Board to which all communications from the Board to the licensee must be sent. A licensee who changes his permanent mailing address shall notify the Board in writing of his new permanent mailing address within 30 days after the change. If a licensee fails to notify the Board in writing of a change in his permanent mailing address within 30 days after the change, the Board:

(a) Shall impose upon the licensee a fine not to exceed \$250; and

(b) May initiate disciplinary action against the licensee as provided pursuant to subsection 9 of NRS 630.306.

2. Any licensee who changes the location of his office in this State shall notify the Board in writing of the change before practicing at the new location.

3. Any licensee who closes his office in this State shall:

(a) Notify the Board in writing of this occurrence within 14 days after the closure; and

(b) For a period of ~~5~~ 7 years thereafter, unless a longer period of retention is provided by federal law, keep the Board apprised in writing of the location of the medical records of his patients.

Senator Carlton moved the adoption of the amendment.

Remarks by Senators Carlton, Cegavske, Washington and Wiener.

Senator Carlton requested that the following remarks be entered in the Journal.

SENATOR CARLTON:

Amendment No. 230 to Senate Bill No. 17 requires the State Board of Health and boards that regulate health-care professions to provide a disclosure on the boards' websites notifying consumers that their health-care records may be destroyed. The amendment specifies that health-care records may not be destroyed for patients under the age of 28; for patients over age 28, health-care records may be destroyed after seven years unless a longer retention period is required by federal law.

Amendment No. 230 also requires a health-care provider to post notice of these retention requirements in a conspicuous location and inform the patient of the requirements in writing. Finally, the amendment removes the requirement that a provider of health care give notice regarding the destruction of a patient's records via first class mail.

SENATOR CEGAVSKE:

On page 3, section 4, is it my understanding that they have to mail out something to every patient they have before they can destroy them? What concerns me is that it says the provider of health care "shall" deliver to the patient a written statement. Is this mandating that each doctor's office, health-care provider has to send something out by mail?

SENATOR CARLTON:

No, this will be a statement that they will give each patient with other documents a patient receives at the time they become a new patient. This document would say the records will be kept. The elimination of the mail notification was deleted by amendment from the legislation.

SENATOR WASHINGTON:

Why was the age of 28 selected as the age at which medical records could be destroyed?

SENATOR CARLTON:

This was not one of the things that was discussed. I will defer to the sponsor of the bill to answer that question.

SENATOR WIENER:

We determined that children under the age of majority, which is 18 years of age, might not be thinking about their medical records. We wanted to make certain that those records were protected. We felt age 21 was an age at which they would be thoroughly aware. This would keep the records safe for an additional seven years.

SENATOR WASHINGTON:

You added the additional 7 years. In regard to the federal requirements, this does not violate the HIPPA requirements?

SENATOR WIENER:
No, it does not.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 20.

Bill read second time.

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

Amendment No. 97.

"SUMMARY—Revises provisions governing education. (BDR 34-300)"

"AN ACT relating to education; revising provisions governing the contents of the reports of accountability submitted by the State Board of Education and school districts; prescribing a program of training for substitute teachers; *requiring long-term substitute teachers to complete the program*; revising provisions governing educational personnel; revising provisions governing the regional training programs for the professional development of teachers and administrators; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law requires the State Board of Education and the board of trustees of each school district to submit an annual accountability report concerning the public schools within the State and district, respectively. (NRS 385.3469, 385.347) Sections 1-4 of this bill revise the content of the accountability reports to include the ratio of school counselors to pupils and the number of *long-term* substitute teachers who completed the training for substitute teachers required by this bill.

Section 7 of this bill requires the ~~Commission on Professional Standards in~~ *Department of* Education to establish a program of training for substitute teachers. Section 7 also requires each regional training program for the professional development of teachers and administrators to provide the training for substitute teachers. A school district or charter school may decline participation in the training for substitute teachers provided by the regional training program but must provide its own training if it declines participation. Sections 5, 8, 11 and 12 of this bill prohibit a school district or charter school, on or after July 1, 2011, from hiring a person as a *long-term* substitute teacher unless the person has completed the training for substitute teachers. An exemption applies if the teacher is currently or previously licensed in this State, ~~or~~ holds a license issued by another state which has a reciprocal agreement with Nevada ~~or~~ *or has experience teaching in an accredited postsecondary educational institution.*

Existing law authorizes the *Commission on Professional Standards in Education* to adopt regulations that exempt an applicant from the examinations required for initial licensure of teachers and other educational personnel if the applicant has previous teaching experience or has performed other educational functions in another state. (NRS 391.021, 391.032)

Sections 9 and 10 of this bill remove the requirement that an applicant have previous experience and authorizes the exemption if the Commission determines that the examinations required for initial licensure in the other state are substantially equivalent to the examinations required for initial licensure in this State.

Existing law requires each school district to adopt a policy setting forth the duties and responsibilities of school counselors. (NRS 391.274) Section 13 of this bill requires the policy to identify the duties and responsibilities appropriate for the grade level at which the school counselor provides services.

Existing law establishes four regional training programs for the professional development of teachers and administrators and sets forth the powers and duties of the regional training programs. (NRS 391.500-391.556) Sections 14-17 of this bill revise provisions governing the regional training programs by requiring each regional program to provide training for substitute teachers and to provide services to charter schools and university schools for profoundly gifted pupils. Section 18 of this bill requires the annual report submitted by each regional training program to include information concerning the training provided for teaching advanced placement courses.

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

Section 1. NRS 385.3469 is hereby amended to read as follows:

385.3469 1. The State Board shall prepare an annual report of accountability that includes, without limitation:

(a) Information on the achievement of all pupils based upon the results of the examinations administered pursuant to NRS 389.015 and 389.550, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole.

(b) Except as otherwise provided in subsection 2, pupil achievement, reported separately by gender and reported separately for the following groups of pupils:

(1) Pupils who are economically disadvantaged, as defined by the State Board;

(2) Pupils from major racial and ethnic groups, as defined by the State Board;

(3) Pupils with disabilities;

(4) Pupils who are limited English proficient; and

(5) Pupils who are migratory children, as defined by the State Board.

(c) A comparison of the achievement of pupils in each group identified in paragraph (b) of subsection 1 of NRS 385.361 with the annual measurable objectives of the State Board.

(d) The percentage of all pupils who were not tested, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole.

(e) Except as otherwise provided in subsection 2, the percentage of pupils who were not tested, reported separately by gender and reported separately for the groups identified in paragraph (b).

(f) The most recent 3-year trend in the achievement of pupils in each subject area tested and each grade level tested pursuant to NRS 389.015 and 389.550, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole, which may include information regarding the trend in the achievement of pupils for more than 3 years, if such information is available.

(g) Information on whether each school district has made adequate yearly progress, including, without limitation, the name of each school district, if any, designated as demonstrating need for improvement pursuant to NRS 385.377 and the number of consecutive years that the school district has carried that designation.

(h) Information on whether each public school, including, without limitation, each charter school, has made adequate yearly progress, including, without limitation, the name of each public school, if any, designated as demonstrating need for improvement pursuant to NRS 385.3623 and the number of consecutive years that the school has carried that designation.

(i) Information on the results of pupils who participated in the examinations of the National Assessment of Educational Progress required pursuant to NRS 389.012.

(j) The ratio of pupils to teachers in kindergarten and at each grade level for all elementary schools, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole, and the average class size for each core academic subject, as set forth in NRS 389.018, for each secondary school, reported for each school district and for this State as a whole.

(k) For each school district, including, without limitation, each charter school in the district, and for this State as a whole, information on the professional qualifications of teachers employed by the school districts and charter schools, including, without limitation:

(1) The percentage of teachers who are:

(I) Providing instruction pursuant to NRS 391.125;

(II) Providing instruction pursuant to a waiver of the requirements for licensure for the grade level or subject area in which the teachers are employed; or

(III) Otherwise providing instruction without an endorsement for the subject area in which the teachers are employed;

(2) The percentage of classes in the core academic subjects, as set forth in NRS 389.018, in this State that are not taught by highly qualified teachers;

(3) The percentage of classes in the core academic subjects, as set forth in NRS 389.018, in this State that are not taught by highly qualified teachers, in the aggregate and disaggregated by high-poverty compared to low-poverty

schools, which for the purposes of this subparagraph means schools in the top quartile of poverty and the bottom quartile of poverty in this State;

(4) For each middle school, junior high school and high school:

(I) ~~{On and after July 1, 2005, the}~~ *The* number of persons employed as substitute teachers for 20 consecutive days or more in the same classroom or assignment, designated as long-term substitute teachers, including the total number of days long-term substitute teachers were employed at each school, identified by grade level and subject area; and

(II) ~~{On and after July 1, 2006, the}~~ *The* number of persons employed as substitute teachers for less than 20 consecutive days, designated as short-term substitute teachers, including the total number of days short-term substitute teachers were employed at each school, identified by grade level and subject area; and

(5) For each elementary school:

(I) ~~{On and after July 1, 2005, the}~~ *The* number of persons employed as substitute teachers for 20 consecutive days or more in the same classroom or assignment, designated as long-term substitute teachers, including the total number of days long-term substitute teachers were employed at each school, identified by grade level; and

(II) ~~{On and after July 1, 2006, the}~~ *The* number of persons employed as substitute teachers for less than 20 consecutive days, designated as short-term substitute teachers, including the total number of days short-term substitute teachers were employed at each school, identified by grade level.

(l) The total expenditure per pupil for each school district in this State, including, without limitation, each charter school in the district. If this State has a financial analysis program that is designed to track educational expenditures and revenues to individual schools, the State Board shall use that statewide program in complying with this paragraph. If a statewide program is not available, the State Board shall use the Department's own financial analysis program in complying with this paragraph.

(m) The total statewide expenditure per pupil. If this State has a financial analysis program that is designed to track educational expenditures and revenues to individual schools, the State Board shall use that statewide program in complying with this paragraph. If a statewide program is not available, the State Board shall use the Department's own financial analysis program in complying with this paragraph.

(n) For all elementary schools, junior high schools and middle schools, the rate of attendance, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole.

(o) The annual rate of pupils who drop out of school in grade 8 and a separate reporting of the annual rate of pupils who drop out of school in grades 9 to 12, inclusive, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole. The reporting for pupils in grades 9 to 12, inclusive, excludes pupils who:

(1) Provide proof to the school district of successful completion of the examinations of general educational development.

(2) Are enrolled in courses that are approved by the Department as meeting the requirements for an adult standard diploma.

(3) Withdraw from school to attend another school.

(p) The attendance of teachers who provide instruction, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole.

(q) Incidents involving weapons or violence, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole.

(r) Incidents involving the use or possession of alcoholic beverages or controlled substances, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole.

(s) The suspension and expulsion of pupils required or authorized pursuant to NRS 392.466 and 392.467, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole.

(t) The number of pupils who are deemed habitual disciplinary problems pursuant to NRS 392.4655, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole.

(u) The number of pupils in each grade who are retained in the same grade pursuant to NRS 392.033 or 392.125, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole.

(v) The transiency rate of pupils, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole. For the purposes of this paragraph, a pupil is not a transient if he is transferred to a different school within the school district as a result of a change in the zone of attendance by the board of trustees of the school district pursuant to NRS 388.040.

(w) Each source of funding for this State to be used for the system of public education.

(x) A compilation of the programs of remedial study purchased in whole or in part with money received from this State that are used in each school district, including, without limitation, each charter school in the district. The compilation must include:

(1) The amount and sources of money received for programs of remedial study.

(2) An identification of each program of remedial study, listed by subject area.

(y) The percentage of pupils who graduated from a high school or charter school in the immediately preceding year and enrolled in remedial courses in reading, writing or mathematics at a university, state college or community

college within the Nevada System of Higher Education, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole.

(z) The technological facilities and equipment available for educational purposes, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole.

(aa) For each school district, including, without limitation, each charter school in the district, and for this State as a whole, the number and percentage of pupils who received:

(1) A standard high school diploma, reported separately for pupils who received the diploma pursuant to:

(I) Paragraph (a) of subsection 1 of NRS 389.805; and

(II) Paragraph (b) of subsection 1 of NRS 389.805.

(2) An adjusted diploma.

(3) A certificate of attendance.

(bb) For each school district, including, without limitation, each charter school in the district, and for this State as a whole, the number and percentage of pupils who failed to pass the high school proficiency examination.

(cc) The number of habitual truants who are reported to a school police officer or local law enforcement agency pursuant to paragraph (a) of subsection 2 of NRS 392.144 and the number of habitual truants who are referred to an advisory board to review school attendance pursuant to paragraph (b) of subsection 2 of NRS 392.144, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole.

(dd) Information on the paraprofessionals employed at public schools in this State, including, without limitation, the charter schools in this State. The information must include:

(1) The number of paraprofessionals employed, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole; and

(2) For each school district, including, without limitation, each charter school in the district, and for this State as a whole, the number and percentage of all paraprofessionals who do not satisfy the qualifications set forth in 20 U.S.C. § 6319(c). The reporting requirements of this subparagraph apply to paraprofessionals who are employed in programs supported with Title I money and to paraprofessionals who are not employed in programs supported with Title I money.

(ee) An identification of appropriations made by the Legislature to improve the academic achievement of pupils and programs approved by the Legislature to improve the academic achievement of pupils.

(ff) A compilation of the special programs available for pupils at individual schools, listed by school and by school district, including, without limitation, each charter school in the district.

(gg) For each school district, including, without limitation, each charter school in the district and for this State as a whole, information on pupils enrolled in career and technical education, including, without limitation:

(1) The number of pupils enrolled in a course of career and technical education;

(2) The number of pupils who completed a course of career and technical education;

(3) The average daily attendance of pupils who are enrolled in a program of career and technical education;

(4) The annual rate of pupils who dropped out of school and were enrolled in a program of career and technical education before dropping out;

(5) The number and percentage of pupils who completed a program of career and technical education and who received a standard high school diploma, an adjusted diploma or a certificate of attendance; and

(6) The number and percentage of pupils who completed a program of career and technical education and who did not receive a high school diploma because the pupils failed to pass the high school proficiency examination.

(hh) The ratio of pupils to school counselors for each elementary school, middle school, junior high school and high school, including, without limitation, each charter school, in the district.

2. A separate reporting for a group of pupils must not be made pursuant to this section if the number of pupils in that group is insufficient to yield statistically reliable information or the results would reveal personally identifiable information about an individual pupil. The State Board shall prescribe a mechanism for determining the minimum number of pupils that must be in a group for that group to yield statistically reliable information.

3. The annual report of accountability must:

(a) Comply with 20 U.S.C. § 6311(h)(1) and the regulations adopted pursuant thereto;

(b) Be prepared in a concise manner; and

(c) Be presented in an understandable and uniform format and, to the extent practicable, provided in a language that parents can understand.

4. On or before September 1 of each year, the State Board shall:

(a) Provide for public dissemination of the annual report of accountability by posting a copy of the report on the Internet website maintained by the Department; and

(b) Provide written notice that the report is available on the Internet website maintained by the Department. The written notice must be provided to the:

(1) Governor;

(2) Committee;

(3) Bureau;

(4) Board of Regents of the University of Nevada;

(5) Board of trustees of each school district; and

(6) Governing body of each charter school.

5. Upon the request of the Governor, an entity described in paragraph (b) of subsection 4 or a member of the general public, the State Board shall provide a portion or portions of the annual report of accountability.

6. As used in this section:

(a) "Highly qualified" has the meaning ascribed to it in 20 U.S.C. § 7801(23).

(b) "Paraprofessional" has the meaning ascribed to it in NRS 391.008.

Sec. 2. NRS 385.3469 is hereby amended to read as follows:

385.3469 1. The State Board shall prepare an annual report of accountability that includes, without limitation:

(a) Information on the achievement of all pupils based upon the results of the examinations administered pursuant to NRS 389.015 and 389.550, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole.

(b) Except as otherwise provided in subsection 2, pupil achievement, reported separately by gender and reported separately for the following groups of pupils:

(1) Pupils who are economically disadvantaged, as defined by the State Board;

(2) Pupils from major racial and ethnic groups, as defined by the State Board;

(3) Pupils with disabilities;

(4) Pupils who are limited English proficient; and

(5) Pupils who are migratory children, as defined by the State Board.

(c) A comparison of the achievement of pupils in each group identified in paragraph (b) of subsection 1 of NRS 385.361 with the annual measurable objectives of the State Board.

(d) The percentage of all pupils who were not tested, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole.

(e) Except as otherwise provided in subsection 2, the percentage of pupils who were not tested, reported separately by gender and reported separately for the groups identified in paragraph (b).

(f) The most recent 3-year trend in the achievement of pupils in each subject area tested and each grade level tested pursuant to NRS 389.015 and 389.550, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole, which may include information regarding the trend in the achievement of pupils for more than 3 years, if such information is available.

(g) Information on whether each school district has made adequate yearly progress, including, without limitation, the name of each school district, if any, designated as demonstrating need for improvement pursuant to NRS 385.377 and the number of consecutive years that the school district has carried that designation.

(h) Information on whether each public school, including, without limitation, each charter school, has made adequate yearly progress, including, without limitation, the name of each public school, if any, designated as demonstrating need for improvement pursuant to NRS 385.3623 and the number of consecutive years that the school has carried that designation.

(i) Information on the results of pupils who participated in the examinations of the National Assessment of Educational Progress required pursuant to NRS 389.012.

(j) The ratio of pupils to teachers in kindergarten and at each grade level for all elementary schools, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole, and the average class size for each core academic subject, as set forth in NRS 389.018, for each secondary school, reported for each school district and for this State as a whole.

(k) For each school district, including, without limitation, each charter school in the district, and for this State as a whole, information on the professional qualifications of teachers employed by the school districts and charter schools, including, without limitation:

(1) The percentage of teachers who are:

(I) Providing instruction pursuant to NRS 391.125;

(II) Providing instruction pursuant to a waiver of the requirements for licensure for the grade level or subject area in which the teachers are employed; or

(III) Otherwise providing instruction without an endorsement for the subject area in which the teachers are employed;

(2) The percentage of classes in the core academic subjects, as set forth in NRS 389.018, in this State that are not taught by highly qualified teachers;

(3) The percentage of classes in the core academic subjects, as set forth in NRS 389.018, in this State that are not taught by highly qualified teachers, in the aggregate and disaggregated by high-poverty compared to low-poverty schools, which for the purposes of this subparagraph means schools in the top quartile of poverty and the bottom quartile of poverty in this State;

(4) For each middle school, junior high school and high school:

(I) The number of persons employed as substitute teachers for 20 consecutive days or more in the same classroom or assignment, designated as long-term substitute teachers, including the total number of *those substitute teachers who have completed the program of training established pursuant to section 7 of this act* and the total number of days ~~[long-term]~~ those substitute teachers were employed at each school, identified by grade level and subject area; and

(II) The number of persons employed as substitute teachers for less than 20 consecutive days, designated as short-term substitute teachers, including the total number of ~~*those substitute teachers who have completed the program of training established pursuant to section 7 of this act*~~ and the

~~total number of~~ days ~~[short term]~~ those substitute teachers were employed at each school, identified by grade level and subject area; and

(5) For each elementary school:

(I) The number of persons employed as substitute teachers for 20 consecutive days or more in the same classroom or assignment, designated as long-term substitute teachers, including the total number of *those substitute teachers who have completed the program of training established pursuant to section 7 of this act and the total number of days* ~~[long term]~~ those substitute teachers were employed at each school, identified by grade level; and

(II) The number of persons employed as substitute teachers for less than 20 consecutive days, designated as short-term substitute teachers, including the total number of ~~*those substitute teachers who have completed the program of training established pursuant to section 7 of this act and the total number of*~~ days ~~[short term]~~ those substitute teachers were employed at each school, identified by grade level.

(l) The total expenditure per pupil for each school district in this State, including, without limitation, each charter school in the district. If this State has a financial analysis program that is designed to track educational expenditures and revenues to individual schools, the State Board shall use that statewide program in complying with this paragraph. If a statewide program is not available, the State Board shall use the Department's own financial analysis program in complying with this paragraph.

(m) The total statewide expenditure per pupil. If this State has a financial analysis program that is designed to track educational expenditures and revenues to individual schools, the State Board shall use that statewide program in complying with this paragraph. If a statewide program is not available, the State Board shall use the Department's own financial analysis program in complying with this paragraph.

(n) For all elementary schools, junior high schools and middle schools, the rate of attendance, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole.

(o) The annual rate of pupils who drop out of school in grade 8 and a separate reporting of the annual rate of pupils who drop out of school in grades 9 to 12, inclusive, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole. The reporting for pupils in grades 9 to 12, inclusive, excludes pupils who:

(1) Provide proof to the school district of successful completion of the examinations of general educational development.

(2) Are enrolled in courses that are approved by the Department as meeting the requirements for an adult standard diploma.

(3) Withdraw from school to attend another school.

(p) The attendance of teachers who provide instruction, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole.

(q) Incidents involving weapons or violence, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole.

(r) Incidents involving the use or possession of alcoholic beverages or controlled substances, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole.

(s) The suspension and expulsion of pupils required or authorized pursuant to NRS 392.466 and 392.467, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole.

(t) The number of pupils who are deemed habitual disciplinary problems pursuant to NRS 392.4655, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole.

(u) The number of pupils in each grade who are retained in the same grade pursuant to NRS 392.033 or 392.125, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole.

(v) The transiency rate of pupils, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole. For the purposes of this paragraph, a pupil is not a transient if he is transferred to a different school within the school district as a result of a change in the zone of attendance by the board of trustees of the school district pursuant to NRS 388.040.

(w) Each source of funding for this State to be used for the system of public education.

(x) A compilation of the programs of remedial study purchased in whole or in part with money received from this State that are used in each school district, including, without limitation, each charter school in the district. The compilation must include:

(1) The amount and sources of money received for programs of remedial study.

(2) An identification of each program of remedial study, listed by subject area.

(y) The percentage of pupils who graduated from a high school or charter school in the immediately preceding year and enrolled in remedial courses in reading, writing or mathematics at a university, state college or community college within the Nevada System of Higher Education, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole.

(z) The technological facilities and equipment available for educational purposes, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole.

(aa) For each school district, including, without limitation, each charter school in the district, and for this State as a whole, the number and percentage of pupils who received:

(1) A standard high school diploma, reported separately for pupils who received the diploma pursuant to:

(I) Paragraph (a) of subsection 1 of NRS 389.805; and

(II) Paragraph (b) of subsection 1 of NRS 389.805.

(2) An adjusted diploma.

(3) A certificate of attendance.

(bb) For each school district, including, without limitation, each charter school in the district, and for this State as a whole, the number and percentage of pupils who failed to pass the high school proficiency examination.

(cc) The number of habitual truants who are reported to a school police officer or local law enforcement agency pursuant to paragraph (a) of subsection 2 of NRS 392.144 and the number of habitual truants who are referred to an advisory board to review school attendance pursuant to paragraph (b) of subsection 2 of NRS 392.144, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole.

(dd) Information on the paraprofessionals employed at public schools in this State, including, without limitation, the charter schools in this State. The information must include:

(1) The number of paraprofessionals employed, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole; and

(2) For each school district, including, without limitation, each charter school in the district, and for this State as a whole, the number and percentage of all paraprofessionals who do not satisfy the qualifications set forth in 20 U.S.C. § 6319(c). The reporting requirements of this subparagraph apply to paraprofessionals who are employed in programs supported with Title I money and to paraprofessionals who are not employed in programs supported with Title I money.

(ee) An identification of appropriations made by the Legislature to improve the academic achievement of pupils and programs approved by the Legislature to improve the academic achievement of pupils.

(ff) A compilation of the special programs available for pupils at individual schools, listed by school and by school district, including, without limitation, each charter school in the district.

(gg) For each school district, including, without limitation, each charter school in the district and for this State as a whole, information on pupils enrolled in career and technical education, including, without limitation:

(1) The number of pupils enrolled in a course of career and technical education;

(2) The number of pupils who completed a course of career and technical education;

(3) The average daily attendance of pupils who are enrolled in a program of career and technical education;

(4) The annual rate of pupils who dropped out of school and were enrolled in a program of career and technical education before dropping out;

(5) The number and percentage of pupils who completed a program of career and technical education and who received a standard high school diploma, an adjusted diploma or a certificate of attendance; and

(6) The number and percentage of pupils who completed a program of career and technical education and who did not receive a high school diploma because the pupils failed to pass the high school proficiency examination.

(hh) The ratio of pupils to school counselors for each elementary school, middle school, junior high school and high school, including, without limitation, each charter school, in the district.

2. A separate reporting for a group of pupils must not be made pursuant to this section if the number of pupils in that group is insufficient to yield statistically reliable information or the results would reveal personally identifiable information about an individual pupil. The State Board shall prescribe a mechanism for determining the minimum number of pupils that must be in a group for that group to yield statistically reliable information.

3. The annual report of accountability must:

(a) Comply with 20 U.S.C. § 6311(h)(1) and the regulations adopted pursuant thereto;

(b) Be prepared in a concise manner; and

(c) Be presented in an understandable and uniform format and, to the extent practicable, provided in a language that parents can understand.

4. On or before September 1 of each year, the State Board shall:

(a) Provide for public dissemination of the annual report of accountability by posting a copy of the report on the Internet website maintained by the Department; and

(b) Provide written notice that the report is available on the Internet website maintained by the Department. The written notice must be provided to the:

(1) Governor;

(2) Committee;

(3) Bureau;

(4) Board of Regents of the University of Nevada;

(5) Board of trustees of each school district; and

(6) Governing body of each charter school.

5. Upon the request of the Governor, an entity described in paragraph (b) of subsection 4 or a member of the general public, the State Board shall provide a portion or portions of the annual report of accountability.

6. As used in this section:

(a) "Highly qualified" has the meaning ascribed to it in 20 U.S.C. § 7801(23).

(b) "Paraprofessional" has the meaning ascribed to it in NRS 391.008.

Sec. 3. NRS 385.347 is hereby amended to read as follows:

385.347 1. The board of trustees of each school district in this State, in cooperation with associations recognized by the State Board as representing licensed educational personnel in the district, shall adopt a program providing for the accountability of the school district to the residents of the district and to the State Board for the quality of the schools and the educational achievement of the pupils in the district, including, without limitation, pupils enrolled in charter schools in the school district. The board of trustees of each school district shall report the information required by subsection 2 for each charter school that is located within the school district, regardless of the sponsor of the charter school. The information for charter schools must be reported separately and must denote the charter schools sponsored by the school district, the charter schools sponsored by the State Board and the charter schools sponsored by a college or university within the Nevada System of Higher Education.

2. The board of trustees of each school district shall, on or before August 15 of each year, prepare an annual report of accountability concerning:

(a) The educational goals and objectives of the school district.

(b) Pupil achievement for each school in the district and the district as a whole, including, without limitation, each charter school in the district. The board of trustees of the district shall base its report on the results of the examinations administered pursuant to NRS 389.015 and 389.550 and shall compare the results of those examinations for the current school year with those of previous school years. The report must include, for each school in the district, including, without limitation, each charter school in the district, and each grade in which the examinations were administered:

(1) The number of pupils who took the examinations.

(2) A record of attendance for the period in which the examinations were administered, including an explanation of any difference in the number of pupils who took the examinations and the number of pupils who are enrolled in the school.

(3) Except as otherwise provided in this paragraph, pupil achievement, reported separately by gender and reported separately for the following groups of pupils:

(I) Pupils who are economically disadvantaged, as defined by the State Board;

(II) Pupils from major racial and ethnic groups, as defined by the State Board;

(III) Pupils with disabilities;

(IV) Pupils who are limited English proficient; and

(V) Pupils who are migratory children, as defined by the State Board.

(4) A comparison of the achievement of pupils in each group identified in paragraph (b) of subsection 1 of NRS 385.361 with the annual measurable objectives of the State Board.

(5) The percentage of pupils who were not tested.

(6) Except as otherwise provided in this paragraph, the percentage of pupils who were not tested, reported separately by gender and reported separately for the groups identified in subparagraph (3).

(7) The most recent 3-year trend in pupil achievement in each subject area tested and each grade level tested pursuant to NRS 389.015 and 389.550, which may include information regarding the trend in the achievement of pupils for more than 3 years, if such information is available.

(8) Information that compares the results of pupils in the school district, including, without limitation, pupils enrolled in charter schools in the district, with the results of pupils throughout this State. The information required by this subparagraph must be provided in consultation with the Department to ensure the accuracy of the comparison.

(9) For each school in the district, including, without limitation, each charter school in the district, information that compares the results of pupils in the school with the results of pupils throughout the school district and throughout this State. The information required by this subparagraph must be provided in consultation with the Department to ensure the accuracy of the comparison.

↪ A separate reporting for a group of pupils must not be made pursuant to this paragraph if the number of pupils in that group is insufficient to yield statistically reliable information or the results would reveal personally identifiable information about an individual pupil. The State Board shall prescribe the mechanism for determining the minimum number of pupils that must be in a group for that group to yield statistically reliable information.

(c) The ratio of pupils to teachers in kindergarten and at each grade level for each elementary school in the district and the district as a whole, including, without limitation, each charter school in the district, and the average class size for each core academic subject, as set forth in NRS 389.018, for each secondary school in the district and the district as a whole, including, without limitation, each charter school in the district.

(d) Information on the professional qualifications of teachers employed by each school in the district and the district as a whole, including, without limitation, each charter school in the district. The information must include, without limitation:

(1) The percentage of teachers who are:

(I) Providing instruction pursuant to NRS 391.125;

(II) Providing instruction pursuant to a waiver of the requirements for licensure for the grade level or subject area in which the teachers are employed; or

(III) Otherwise providing instruction without an endorsement for the subject area in which the teachers are employed;

(2) The percentage of classes in the core academic subjects, as set forth in NRS 389.018, that are not taught by highly qualified teachers;

(3) The percentage of classes in the core academic subjects, as set forth in NRS 389.018, that are not taught by highly qualified teachers, in the aggregate and disaggregated by high-poverty compared to low-poverty schools, which for the purposes of this subparagraph means schools in the top quartile of poverty and the bottom quartile of poverty in this State;

(4) For each middle school, junior high school and high school:

(I) ~~{On and after July 1, 2005, the}~~ *The* number of persons employed as substitute teachers for 20 consecutive days or more in the same classroom or assignment, designated as long-term substitute teachers, including the total number of days long-term substitute teachers were employed at each school, identified by grade level and subject area; and

(II) ~~{On and after July 1, 2006, the}~~ *The* number of persons employed as substitute teachers for less than 20 consecutive days, designated as short-term substitute teachers, including the total number of days short-term substitute teachers were employed at each school, identified by grade level and subject area; and

(5) For each elementary school:

(I) ~~{On and after July 1, 2005, the}~~ *The* number of persons employed as substitute teachers for 20 consecutive days or more in the same classroom or assignment, designated as long-term substitute teachers, including the total number of days long-term substitute teachers were employed at each school, identified by grade level; and

(II) ~~{On and after July 1, 2006, the}~~ *The* number of persons employed as substitute teachers for less than 20 consecutive days, designated as short-term substitute teachers, including the total number of days short-term substitute teachers were employed at each school, identified by grade level.

(e) The total expenditure per pupil for each school in the district and the district as a whole, including, without limitation, each charter school in the district. If this State has a financial analysis program that is designed to track educational expenditures and revenues to individual schools, each school district shall use that statewide program in complying with this paragraph. If a statewide program is not available, each school district shall use its own financial analysis program in complying with this paragraph.

(f) The curriculum used by the school district, including:

(1) Any special programs for pupils at an individual school; and

(2) The curriculum used by each charter school in the district.

(g) Records of the attendance and truancy of pupils in all grades, including, without limitation:

(1) The average daily attendance of pupils, for each school in the district and the district as a whole, including, without limitation, each charter school in the district.

(2) For each elementary school, middle school and junior high school in the district, including, without limitation, each charter school in the district

that provides instruction to pupils enrolled in a grade level other than high school, information that compares the attendance of the pupils enrolled in the school with the attendance of pupils throughout the district and throughout this State. The information required by this subparagraph must be provided in consultation with the Department to ensure the accuracy of the comparison.

(h) The annual rate of pupils who drop out of school in grade 8 and a separate reporting of the annual rate of pupils who drop out of school in grades 9 to 12, inclusive, for each such grade, for each school in the district and for the district as a whole. The reporting for pupils in grades 9 to 12, inclusive, excludes pupils who:

(1) Provide proof to the school district of successful completion of the examinations of general educational development.

(2) Are enrolled in courses that are approved by the Department as meeting the requirements for an adult standard diploma.

(3) Withdraw from school to attend another school.

(i) Records of attendance of teachers who provide instruction, for each school in the district and the district as a whole, including, without limitation, each charter school in the district.

(j) Efforts made by the school district and by each school in the district, including, without limitation, each charter school in the district, to increase:

(1) Communication with the parents of pupils in the district; and

(2) The participation of parents in the educational process and activities relating to the school district and each school, including, without limitation, the existence of parent organizations and school advisory committees.

(k) Records of incidents involving weapons or violence for each school in the district, including, without limitation, each charter school in the district.

(l) Records of incidents involving the use or possession of alcoholic beverages or controlled substances for each school in the district, including, without limitation, each charter school in the district.

(m) Records of the suspension and expulsion of pupils required or authorized pursuant to NRS 392.466 and 392.467.

(n) The number of pupils who are deemed habitual disciplinary problems pursuant to NRS 392.4655, for each school in the district and the district as a whole, including, without limitation, each charter school in the district.

(o) The number of pupils in each grade who are retained in the same grade pursuant to NRS 392.033 or 392.125, for each school in the district and the district as a whole, including, without limitation, each charter school in the district.

(p) The transiency rate of pupils for each school in the district and the district as a whole, including, without limitation, each charter school in the district. For the purposes of this paragraph, a pupil is not transient if he is transferred to a different school within the school district as a result of a change in the zone of attendance by the board of trustees of the school district pursuant to NRS 388.040.

(q) Each source of funding for the school district.

(r) A compilation of the programs of remedial study that are purchased in whole or in part with money received from this State, for each school in the district and the district as a whole, including, without limitation, each charter school sponsored by the district. The compilation must include:

(1) The amount and sources of money received for programs of remedial study for each school in the district and the district as a whole, including, without limitation, each charter school in the district.

(2) An identification of each program of remedial study, listed by subject area.

(s) For each high school in the district, including, without limitation, each charter school in the district, the percentage of pupils who graduated from that high school or charter school in the immediately preceding year and enrolled in remedial courses in reading, writing or mathematics at a university, state college or community college within the Nevada System of Higher Education.

(t) The technological facilities and equipment available at each school, including, without limitation, each charter school, and the district's plan to incorporate educational technology at each school.

(u) For each school in the district and the district as a whole, including, without limitation, each charter school in the district, the number and percentage of pupils who received:

(1) A standard high school diploma, reported separately for pupils who received the diploma pursuant to:

(I) Paragraph (a) of subsection 1 of NRS 389.805; and

(II) Paragraph (b) of subsection 1 of NRS 389.805.

(2) An adjusted diploma.

(3) A certificate of attendance.

(v) For each school in the district and the district as a whole, including, without limitation, each charter school in the district, the number and percentage of pupils who failed to pass the high school proficiency examination.

(w) The number of habitual truants who are reported to a school police officer or law enforcement agency pursuant to paragraph (a) of subsection 2 of NRS 392.144 and the number of habitual truants who are referred to an advisory board to review school attendance pursuant to paragraph (b) of subsection 2 of NRS 392.144, for each school in the district and for the district as a whole.

(x) The amount and sources of money received for the training and professional development of teachers and other educational personnel for each school in the district and for the district as a whole, including, without limitation, each charter school in the district.

(y) Whether the school district has made adequate yearly progress. If the school district has been designated as demonstrating need for improvement pursuant to NRS 385.377, the report must include a statement indicating the number of consecutive years the school district has carried that designation.

(z) Information on whether each public school in the district, including, without limitation, each charter school in the district, has made adequate yearly progress, including, without limitation:

(1) The number and percentage of schools in the district, if any, that have been designated as needing improvement pursuant to NRS 385.3623; and

(2) The name of each school, if any, in the district that has been designated as needing improvement pursuant to NRS 385.3623 and the number of consecutive years that the school has carried that designation.

(aa) Information on the paraprofessionals employed by each public school in the district, including, without limitation, each charter school in the district. The information must include:

(1) The number of paraprofessionals employed at the school; and

(2) The number and percentage of all paraprofessionals who do not satisfy the qualifications set forth in 20 U.S.C. § 6319(c). The reporting requirements of this subparagraph apply to paraprofessionals who are employed in positions supported with Title I money and to paraprofessionals who are not employed in positions supported with Title I money.

(bb) For each high school in the district, including, without limitation, each charter school that operates as a high school, information that provides a comparison of the rate of graduation of pupils enrolled in the high school with the rate of graduation of pupils throughout the district and throughout this State. The information required by this paragraph must be provided in consultation with the Department to ensure the accuracy of the comparison.

(cc) An identification of the appropriations made by the Legislature that are available to the school district or the schools within the district and programs approved by the Legislature to improve the academic achievement of pupils.

(dd) For each school in the district and the district as a whole, including, without limitation, each charter school in the district, information on pupils enrolled in career and technical education, including, without limitation:

(1) The number of pupils enrolled in a course of career and technical education;

(2) The number of pupils who completed a course of career and technical education;

(3) The average daily attendance of pupils who are enrolled in a program of career and technical education;

(4) The annual rate of pupils who dropped out of school and were enrolled in a program of career and technical education before dropping out;

(5) The number and percentage of pupils who completed a program of career and technical education and who received a standard high school diploma, an adjusted diploma or a certificate of attendance; and

(6) The number and percentage of pupils who completed a program of career and technical education and who did not receive a high school diploma because the pupils failed to pass the high school proficiency examination.

(ee) *The ratio of pupils to school counselors for each elementary school, middle school, junior high school and high school, including, without limitation, each charter school, in the district.*

(ff) Such other information as is directed by the Superintendent of Public Instruction.

3. The records of attendance maintained by a school for purposes of paragraph (i) of subsection 2 must include the number of teachers who are in attendance at school and the number of teachers who are absent from school. A teacher shall be deemed in attendance if the teacher is excused from being present in the classroom by the school in which he is employed for one of the following reasons:

(a) Acquisition of knowledge or skills relating to the professional development of the teacher; or

(b) Assignment of the teacher to perform duties for cocurricular or extracurricular activities of pupils.

4. The annual report of accountability prepared pursuant to subsection 2 must:

(a) Comply with 20 U.S.C. § 6311(h)(2) and the regulations adopted pursuant thereto; and

(b) Be presented in an understandable and uniform format and, to the extent practicable, provided in a language that parents can understand.

5. The Superintendent of Public Instruction shall:

(a) Prescribe forms for the reports required pursuant to subsection 2 and provide the forms to the respective school districts.

(b) Provide statistical information and technical assistance to the school districts to ensure that the reports provide comparable information with respect to each school in each district and among the districts throughout this State.

(c) Consult with a representative of the:

(1) Nevada State Education Association;

(2) Nevada Association of School Boards;

(3) Nevada Association of School Administrators;

(4) Nevada Parent Teacher Association;

(5) Budget Division of the Department of Administration; and

(6) Legislative Counsel Bureau,

↪ concerning the program and consider any advice or recommendations submitted by the representatives with respect to the program.

6. The Superintendent of Public Instruction may consult with representatives of parent groups other than the Nevada Parent Teacher Association concerning the program and consider any advice or recommendations submitted by the representatives with respect to the program.

7. On or before August 15 of each year, the board of trustees of each school district shall submit to each advisory board to review school

attendance created in the county pursuant to NRS 392.126 the information required in paragraph (g) of subsection 2.

8. On or before August 15 of each year, the board of trustees of each school district shall:

(a) Provide written notice that the report required pursuant to subsection 2 is available on the Internet website maintained by the school district, if any, or otherwise provide written notice of the availability of the report. The written notice must be provided to the:

- (1) Governor;
- (2) State Board;
- (3) Department;
- (4) Committee; and
- (5) Bureau.

(b) Provide for public dissemination of the annual report of accountability prepared pursuant to subsection 2 in the manner set forth in 20 U.S.C. § 6311(h)(2)(E) by posting a copy of the report on the Internet website maintained by the school district, if any. If a school district does not maintain a website, the district shall otherwise provide for public dissemination of the annual report by providing a copy of the report to the schools in the school district, including, without limitation, each charter school in the district, the residents of the district ~~and~~ and the parents and guardians of pupils enrolled in schools in the district, including, without limitation, each charter school in the district.

9. Upon the request of the Governor, an entity described in paragraph (a) of subsection 8 or a member of the general public, the board of trustees of a school district shall provide a portion or portions of the report required pursuant to subsection 2.

10. As used in this section:

(a) "Highly qualified" has the meaning ascribed to it in 20 U.S.C. § 7801(23).

(b) "Paraprofessional" has the meaning ascribed to it in NRS 391.008.

Sec. 4. NRS 385.347 is hereby amended to read as follows:

385.347 1. The board of trustees of each school district in this State, in cooperation with associations recognized by the State Board as representing licensed educational personnel in the district, shall adopt a program providing for the accountability of the school district to the residents of the district and to the State Board for the quality of the schools and the educational achievement of the pupils in the district, including, without limitation, pupils enrolled in charter schools in the school district. The board of trustees of each school district shall report the information required by subsection 2 for each charter school that is located within the school district, regardless of the sponsor of the charter school. The information for charter schools must be reported separately and must denote the charter schools sponsored by the school district, the charter schools sponsored by the State

Board and the charter schools sponsored by a college or university within the Nevada System of Higher Education.

2. The board of trustees of each school district shall, on or before August 15 of each year, prepare an annual report of accountability concerning:

(a) The educational goals and objectives of the school district.

(b) Pupil achievement for each school in the district and the district as a whole, including, without limitation, each charter school in the district. The board of trustees of the district shall base its report on the results of the examinations administered pursuant to NRS 389.015 and 389.550 and shall compare the results of those examinations for the current school year with those of previous school years. The report must include, for each school in the district, including, without limitation, each charter school in the district, and each grade in which the examinations were administered:

(1) The number of pupils who took the examinations.

(2) A record of attendance for the period in which the examinations were administered, including an explanation of any difference in the number of pupils who took the examinations and the number of pupils who are enrolled in the school.

(3) Except as otherwise provided in this paragraph, pupil achievement, reported separately by gender and reported separately for the following groups of pupils:

(I) Pupils who are economically disadvantaged, as defined by the State Board;

(II) Pupils from major racial and ethnic groups, as defined by the State Board;

(III) Pupils with disabilities;

(IV) Pupils who are limited English proficient; and

(V) Pupils who are migratory children, as defined by the State Board.

(4) A comparison of the achievement of pupils in each group identified in paragraph (b) of subsection 1 of NRS 385.361 with the annual measurable objectives of the State Board.

(5) The percentage of pupils who were not tested.

(6) Except as otherwise provided in this paragraph, the percentage of pupils who were not tested, reported separately by gender and reported separately for the groups identified in subparagraph (3).

(7) The most recent 3-year trend in pupil achievement in each subject area tested and each grade level tested pursuant to NRS 389.015 and 389.550, which may include information regarding the trend in the achievement of pupils for more than 3 years, if such information is available.

(8) Information that compares the results of pupils in the school district, including, without limitation, pupils enrolled in charter schools in the district, with the results of pupils throughout this State. The information required by this subparagraph must be provided in consultation with the Department to ensure the accuracy of the comparison.

(9) For each school in the district, including, without limitation, each charter school in the district, information that compares the results of pupils in the school with the results of pupils throughout the school district and throughout this State. The information required by this subparagraph must be provided in consultation with the Department to ensure the accuracy of the comparison.

➔ A separate reporting for a group of pupils must not be made pursuant to this paragraph if the number of pupils in that group is insufficient to yield statistically reliable information or the results would reveal personally identifiable information about an individual pupil. The State Board shall prescribe the mechanism for determining the minimum number of pupils that must be in a group for that group to yield statistically reliable information.

(c) The ratio of pupils to teachers in kindergarten and at each grade level for each elementary school in the district and the district as a whole, including, without limitation, each charter school in the district, and the average class size for each core academic subject, as set forth in NRS 389.018, for each secondary school in the district and the district as a whole, including, without limitation, each charter school in the district.

(d) Information on the professional qualifications of teachers employed by each school in the district and the district as a whole, including, without limitation, each charter school in the district. The information must include, without limitation:

(1) The percentage of teachers who are:

(I) Providing instruction pursuant to NRS 391.125;

(II) Providing instruction pursuant to a waiver of the requirements for licensure for the grade level or subject area in which the teachers are employed; or

(III) Otherwise providing instruction without an endorsement for the subject area in which the teachers are employed;

(2) The percentage of classes in the core academic subjects, as set forth in NRS 389.018, that are not taught by highly qualified teachers;

(3) The percentage of classes in the core academic subjects, as set forth in NRS 389.018, that are not taught by highly qualified teachers, in the aggregate and disaggregated by high-poverty compared to low-poverty schools, which for the purposes of this subparagraph means schools in the top quartile of poverty and the bottom quartile of poverty in this State;

(4) For each middle school, junior high school and high school:

(I) The number of persons employed as substitute teachers for 20 consecutive days or more in the same classroom or assignment, designated as long-term substitute teachers, including the total number of *those substitute teachers who have completed the program of training established pursuant to section 7 of this act and the total number of days* ~~(long-term)~~ those substitute teachers were employed at each school, identified by grade level and subject area; and

(II) The number of persons employed as substitute teachers for less than 20 consecutive days, designated as short-term substitute teachers, including the total number of ~~those substitute teachers who have completed the program of training established pursuant to section 7 of this act and the total number of~~ days [short term] those substitute teachers were employed at each school, identified by grade level and subject area; and

(5) For each elementary school:

(I) The number of persons employed as substitute teachers for 20 consecutive days or more in the same classroom or assignment, designated as long-term substitute teachers, including the total number of ~~those substitute teachers who have completed the program of training established pursuant to section 7 of this act and the total number of~~ days [long term] those substitute teachers were employed at each school, identified by grade level; and

(II) The number of persons employed as substitute teachers for less than 20 consecutive days, designated as short-term substitute teachers, including the total number of ~~those substitute teachers who have completed the program of training established pursuant to section 7 of this act and the total number of~~ days [short term] those substitute teachers were employed at each school, identified by grade level.

(e) The total expenditure per pupil for each school in the district and the district as a whole, including, without limitation, each charter school in the district. If this State has a financial analysis program that is designed to track educational expenditures and revenues to individual schools, each school district shall use that statewide program in complying with this paragraph. If a statewide program is not available, each school district shall use its own financial analysis program in complying with this paragraph.

(f) The curriculum used by the school district, including:

- (1) Any special programs for pupils at an individual school; and
- (2) The curriculum used by each charter school in the district.

(g) Records of the attendance and truancy of pupils in all grades, including, without limitation:

(1) The average daily attendance of pupils, for each school in the district and the district as a whole, including, without limitation, each charter school in the district.

(2) For each elementary school, middle school and junior high school in the district, including, without limitation, each charter school in the district that provides instruction to pupils enrolled in a grade level other than high school, information that compares the attendance of the pupils enrolled in the school with the attendance of pupils throughout the district and throughout this State. The information required by this subparagraph must be provided in consultation with the Department to ensure the accuracy of the comparison.

(h) The annual rate of pupils who drop out of school in grade 8 and a separate reporting of the annual rate of pupils who drop out of school in grades 9 to 12, inclusive, for each such grade, for each school in the district

and for the district as a whole. The reporting for pupils in grades 9 to 12, inclusive, excludes pupils who:

(1) Provide proof to the school district of successful completion of the examinations of general educational development.

(2) Are enrolled in courses that are approved by the Department as meeting the requirements for an adult standard diploma.

(3) Withdraw from school to attend another school.

(i) Records of attendance of teachers who provide instruction, for each school in the district and the district as a whole, including, without limitation, each charter school in the district.

(j) Efforts made by the school district and by each school in the district, including, without limitation, each charter school in the district, to increase:

(1) Communication with the parents of pupils in the district; and

(2) The participation of parents in the educational process and activities relating to the school district and each school, including, without limitation, the existence of parent organizations and school advisory committees.

(k) Records of incidents involving weapons or violence for each school in the district, including, without limitation, each charter school in the district.

(l) Records of incidents involving the use or possession of alcoholic beverages or controlled substances for each school in the district, including, without limitation, each charter school in the district.

(m) Records of the suspension and expulsion of pupils required or authorized pursuant to NRS 392.466 and 392.467.

(n) The number of pupils who are deemed habitual disciplinary problems pursuant to NRS 392.4655, for each school in the district and the district as a whole, including, without limitation, each charter school in the district.

(o) The number of pupils in each grade who are retained in the same grade pursuant to NRS 392.033 or 392.125, for each school in the district and the district as a whole, including, without limitation, each charter school in the district.

(p) The transiency rate of pupils for each school in the district and the district as a whole, including, without limitation, each charter school in the district. For the purposes of this paragraph, a pupil is not transient if he is transferred to a different school within the school district as a result of a change in the zone of attendance by the board of trustees of the school district pursuant to NRS 388.040.

(q) Each source of funding for the school district.

(r) A compilation of the programs of remedial study that are purchased in whole or in part with money received from this State, for each school in the district and the district as a whole, including, without limitation, each charter school sponsored by the district. The compilation must include:

(1) The amount and sources of money received for programs of remedial study for each school in the district and the district as a whole, including, without limitation, each charter school in the district.

(2) An identification of each program of remedial study, listed by subject area.

(s) For each high school in the district, including, without limitation, each charter school in the district, the percentage of pupils who graduated from that high school or charter school in the immediately preceding year and enrolled in remedial courses in reading, writing or mathematics at a university, state college or community college within the Nevada System of Higher Education.

(t) The technological facilities and equipment available at each school, including, without limitation, each charter school, and the district's plan to incorporate educational technology at each school.

(u) For each school in the district and the district as a whole, including, without limitation, each charter school in the district, the number and percentage of pupils who received:

(1) A standard high school diploma, reported separately for pupils who received the diploma pursuant to:

(I) Paragraph (a) of subsection 1 of NRS 389.805; and

(II) Paragraph (b) of subsection 1 of NRS 389.805.

(2) An adjusted diploma.

(3) A certificate of attendance.

(v) For each school in the district and the district as a whole, including, without limitation, each charter school in the district, the number and percentage of pupils who failed to pass the high school proficiency examination.

(w) The number of habitual truants who are reported to a school police officer or law enforcement agency pursuant to paragraph (a) of subsection 2 of NRS 392.144 and the number of habitual truants who are referred to an advisory board to review school attendance pursuant to paragraph (b) of subsection 2 of NRS 392.144, for each school in the district and for the district as a whole.

(x) The amount and sources of money received for the training and professional development of teachers and other educational personnel for each school in the district and for the district as a whole, including, without limitation, each charter school in the district.

(y) Whether the school district has made adequate yearly progress. If the school district has been designated as demonstrating need for improvement pursuant to NRS 385.377, the report must include a statement indicating the number of consecutive years the school district has carried that designation.

(z) Information on whether each public school in the district, including, without limitation, each charter school in the district, has made adequate yearly progress, including, without limitation:

(1) The number and percentage of schools in the district, if any, that have been designated as needing improvement pursuant to NRS 385.3623; and

(2) The name of each school, if any, in the district that has been designated as needing improvement pursuant to NRS 385.3623 and the number of consecutive years that the school has carried that designation.

(aa) Information on the paraprofessionals employed by each public school in the district, including, without limitation, each charter school the district. The information must include:

(1) The number of paraprofessionals employed at the school; and

(2) The number and percentage of all paraprofessionals who do not satisfy the qualifications set forth in 20 U.S.C. § 6319(c). The reporting requirements of this subparagraph apply to paraprofessionals who are employed in positions supported with Title I money and to paraprofessionals who are not employed in positions supported with Title I money.

(bb) For each high school in the district, including, without limitation, each charter school that operates as a high school, information that provides a comparison of the rate of graduation of pupils enrolled in the high school with the rate of graduation of pupils throughout the district and throughout this State. The information required by this paragraph must be provided in consultation with the Department to ensure the accuracy of the comparison.

(cc) An identification of the appropriations made by the Legislature that are available to the school district or the schools within the district and programs approved by the Legislature to improve the academic achievement of pupils.

(dd) For each school in the district and the district as a whole, including, without limitation, each charter school in the district, information on pupils enrolled in career and technical education, including, without limitation:

(1) The number of pupils enrolled in a course of career and technical education;

(2) The number of pupils who completed a course of career and technical education;

(3) The average daily attendance of pupils who are enrolled in a program of career and technical education;

(4) The annual rate of pupils who dropped out of school and were enrolled in a program of career and technical education before dropping out;

(5) The number and percentage of pupils who completed a program of career and technical education and who received a standard high school diploma, an adjusted diploma or a certificate of attendance; and

(6) The number and percentage of pupils who completed a program of career and technical education and who did not receive a high school diploma because the pupils failed to pass the high school proficiency examination.

(ee) The ratio of pupils to school counselors for each elementary school, middle school, junior high school and high school, including, without limitation, each charter school, in the district.

(ff) Such other information as is directed by the Superintendent of Public Instruction.

3. The records of attendance maintained by a school for purposes of paragraph (i) of subsection 2 must include the number of teachers who are in attendance at school and the number of teachers who are absent from school. A teacher shall be deemed in attendance if the teacher is excused from being present in the classroom by the school in which he is employed for one of the following reasons:

(a) Acquisition of knowledge or skills relating to the professional development of the teacher; or

(b) Assignment of the teacher to perform duties for cocurricular or extracurricular activities of pupils.

4. The annual report of accountability prepared pursuant to subsection 2 must:

(a) Comply with 20 U.S.C. § 6311(h)(2) and the regulations adopted pursuant thereto; and

(b) Be presented in an understandable and uniform format and, to the extent practicable, provided in a language that parents can understand.

5. The Superintendent of Public Instruction shall:

(a) Prescribe forms for the reports required pursuant to subsection 2 and provide the forms to the respective school districts.

(b) Provide statistical information and technical assistance to the school districts to ensure that the reports provide comparable information with respect to each school in each district and among the districts throughout this State.

(c) Consult with a representative of the:

(1) Nevada State Education Association;

(2) Nevada Association of School Boards;

(3) Nevada Association of School Administrators;

(4) Nevada Parent Teacher Association;

(5) Budget Division of the Department of Administration; and

(6) Legislative Counsel Bureau,

↪ concerning the program and consider any advice or recommendations submitted by the representatives with respect to the program.

6. The Superintendent of Public Instruction may consult with representatives of parent groups other than the Nevada Parent Teacher Association concerning the program and consider any advice or recommendations submitted by the representatives with respect to the program.

7. On or before August 15 of each year, the board of trustees of each school district shall submit to each advisory board to review school attendance created in the county pursuant to NRS 392.126 the information required in paragraph (g) of subsection 2.

8. On or before August 15 of each year, the board of trustees of each school district shall:

(a) Provide written notice that the report required pursuant to subsection 2 is available on the Internet website maintained by the school district, if any,

or otherwise provide written notice of the availability of the report. The written notice must be provided to the:

- (1) Governor;
- (2) State Board;
- (3) Department;
- (4) Committee; and
- (5) Bureau.

(b) Provide for public dissemination of the annual report of accountability prepared pursuant to subsection 2 in the manner set forth in 20 U.S.C. § 6311(h)(2)(E) by posting a copy of the report on the Internet website maintained by the school district, if any. If a school district does not maintain a website, the district shall otherwise provide for public dissemination of the annual report by providing a copy of the report to the schools in the school district, including, without limitation, each charter school in the district, the residents of the district [—] and the parents and guardians of pupils enrolled in schools in the district, including, without limitation, each charter school in the district.

9. Upon the request of the Governor, an entity described in paragraph (a) of subsection 8 or a member of the general public, the board of trustees of a school district shall provide a portion or portions of the report required pursuant to subsection 2.

10. As used in this section:

(a) "Highly qualified" has the meaning ascribed to it in 20 U.S.C. § 7801(23).

(b) "Paraprofessional" has the meaning ascribed to it in NRS 391.008.

Sec. 5. NRS 386.590 is hereby amended to read as follows:

386.590 1. Except as otherwise provided in this subsection, at least 70 percent of the teachers who provide instruction at a charter school must be licensed teachers. If a charter school is a vocational school, the charter school shall, to the extent practicable, ensure that at least 70 percent of the teachers who provide instruction at the school are licensed teachers, but in no event may more than 50 percent of the teachers who provide instruction at the school be unlicensed teachers.

2. A governing body of a charter school shall employ:

(a) If the charter school offers instruction in kindergarten or grade 1, 2, 3, 4, 5, 6, 7 or 8, a licensed teacher to teach pupils who are enrolled in those grades. If required by subsection 3 or 4, such a teacher must possess the qualifications required by 20 U.S.C. § 6319(a).

(b) If the charter school offers instruction in grade 9, 10, 11 or 12, a licensed teacher to teach pupils who are enrolled in those grades for the subjects set forth in subsection 4. If required by subsection 3 or 4, such a teacher must possess the qualifications required by 20 U.S.C. § 6319(a).

(c) In addition to the requirements of paragraphs (a) and (b):

(1) If a charter school specializes in arts and humanities, physical education or health education, a licensed teacher to teach those courses of study.

(2) If a charter school specializes in the construction industry or other building industry, licensed teachers to teach courses of study relating to the industry if those teachers are employed full-time.

(3) If a charter school specializes in the construction industry or other building industry and the school offers courses of study in computer education, technology or business, licensed teachers to teach those courses of study if those teachers are employed full-time.

3. A person who is initially hired by the governing body of a charter school on or after January 8, 2002, to teach in a program supported with money from Title I must possess the qualifications required by 20 U.S.C. § 6319(a). For the purposes of this subsection, a person is not "initially hired" if he has been employed as a teacher by another school district or charter school in this State without an interruption in employment before the date of hire by his current employer.

4. A teacher who is employed by a charter school, regardless of the date of hire, must, on or before July 1, 2006, possess the qualifications required by 20 U.S.C. § 6319(a) if he teaches one or more of the following subjects:

- (a) English, reading or language arts;
- (b) Mathematics;
- (c) Science;
- (d) Foreign language;
- (e) Civics or government;
- (f) Economics;
- (g) Geography;
- (h) History; or
- (i) The arts.

5. Except as otherwise provided in NRS 386.588, a charter school may employ a person who is not licensed pursuant to the provisions of chapter 391 of NRS to teach a course of study for which a licensed teacher is not required pursuant to subsections 2, 3 and 4 if the person has:

- (a) A degree, a license or a certificate in the field for which he is employed to teach at the charter school; and
- (b) At least 2 years of experience in that field.

6. Except as otherwise provided in NRS 386.588, a charter school shall employ such administrators for the school as it deems necessary. A person employed as an administrator must possess:

- (a) A valid teacher's license issued pursuant to chapter 391 of NRS with an administrative endorsement;
- (b) A master's degree in school administration, public administration or business administration; or
- (c) At least 5 years of experience in school administration, public administration or business administration and a baccalaureate degree.

7. Except as otherwise provided in subsection 8, the portion of the salary or other compensation of an administrator employed by a charter school that is derived from public funds must not exceed the salary or other compensation, as applicable, of the highest paid administrator in a comparable position in the school district in which the charter school is located. For purposes of determining the salary or other compensation of the highest paid administrator in a comparable position in the school district, the salary or other compensation of the superintendent of schools of that school district must not be included in the determination.

8. If the salary or other compensation paid to an administrator employed by a charter school from public funds exceeds the maximum amount prescribed in subsection 7, the sponsor of the charter school shall conduct an audit of the salary or compensation. The audit must include, without limitation, a review of the reasons set forth by the governing body of the charter school for the salary or other compensation and the interests of the public in using public funds to pay that salary or compensation. If the sponsor determines that the payment of the salary or other compensation from public funds is justified, the sponsor shall provide written documentation of its determination to the governing body of the charter school and to the Department. If the sponsor determines that the payment of the salary or other compensation from public funds is not justified, the governing body of the charter school shall reduce the salary or compensation paid to the administrator from public funds to an amount not to exceed the maximum amount prescribed in subsection 7.

9. A charter school shall not employ a person pursuant to this section if his license to teach or provide other educational services has been revoked or suspended in this State or another state.

10. ~~10. Except as otherwise provided in subsection 3 of section 8 of this act, a charter school shall not hire a person as a long-term substitute teacher for a short-term substitute teacher on or after July 1, 2011, unless that person has completed the program of training established pursuant to section 7 of this act. As used in this subsection, "long-term substitute teacher" ~~and "short-term substitute teacher" have the meanings~~ has the meaning ascribed to ~~them~~ it in section 8 of this act.~~

11. On or before November 15 of each year, a charter school shall submit to the Department, in a format prescribed by the Superintendent of Public Instruction, the following information for each licensed employee who is employed by the governing body on October 1 of that year:

(a) The amount of salary of the employee, including, without limitation, verification of compliance with subsection 7, if applicable to that employee; and

(b) The designated assignment, as that term is defined by the Department, of the employee.

Sec. 6. Chapter 391 of NRS is hereby amended by adding thereto the provisions set forth as sections 7 and 8 of this act.

Sec. 7. 1. The ~~{Commission}~~ Department shall , in consultation with the boards of trustees of the school districts, adopt regulations establishing a program of training for substitute teachers. The program must include, without limitation ~~, training~~ :

(a) Training in:

~~##(a)~~ (1) The standards of content and performance established pursuant to NRS 389.520 and other academic standards adopted by the State Board;

~~##(b)~~ (2) Curriculum;

~~##(c)~~ (3) Management of the classroom; and

~~##(d)~~ (4) Any other areas of training the ~~{Commission}~~ Department determines are necessary or appropriate for substitute teachers.

(b) Guidelines for school administrators concerning the classroom materials and other assistance that will assist substitute teachers with effective classroom management.

2. The governing body of each regional training program for the professional development of teachers and administrators shall provide training for substitute teachers in accordance with the program established by the ~~{Commission}~~ Department pursuant to subsection 1.

3. The board of trustees of a school district or the governing body of a charter school may decline participation in the training for substitute teachers provided by a regional training program pursuant to subsection 2. If the board of trustees or governing body declines participation, the board of trustees or governing body, as applicable, shall provide training for substitute teachers hired by the school district or charter school in accordance with the program established by the ~~{Commission}~~ Department pursuant to subsection 1.

Sec. 8. 1. Except as otherwise provided in subsection 3, the board of trustees of a school district or the governing body of a charter school shall not hire a person as ~~a short-term substitute teacher or~~ a long-term substitute teacher on or after July 1, 2011, unless the person has completed the program of training established pursuant to section 7 of this act.

2. Except as otherwise provided in subsection 3, before beginning work as a long-term substitute teacher for a school district or charter school, a person must submit evidence of completion of the program of training established pursuant to section 7 of this act. The school district or charter school, as applicable, shall retain the evidence of such completion in its records for future school years.

3. A person may be hired as a long-term substitute teacher by the board of trustees of a school district or the governing body of a charter school without completing the program of training established pursuant to section 7 of this act if he:

(a) Holds a valid license to teach issued pursuant to this chapter;

(b) Previously held a license to teach issued pursuant to this chapter and the license expired but was in good standing at the time of expiration; ~~for~~

(c) *Holds a valid license to teach issued in another state which has an agreement for reciprocal licensure with this State ~~for~~; or*

(d) Has experience teaching at an accredited postsecondary educational institution.

4. A person who is hired by the board of trustees of a school district or the governing body of a charter school as a short-term substitute teacher is not required to complete the program of training established pursuant to section 7 of this act. Such a person may elect to participate in the program of training.

5. As used in this section:

(a) "Long-term substitute teacher" means a person employed as a substitute teacher for 20 consecutive days or more.

(b) "Short-term substitute teacher" means a person employed as a substitute teacher for less than 20 consecutive days.

Sec. 9. NRS 391.021 is hereby amended to read as follows:

391.021 Except as otherwise provided in subparagraph (10) of paragraph (a) of subsection 1 of NRS 391.019 and NRS 391.027, the Commission shall adopt regulations governing examinations for the initial licensing of teachers and other educational personnel. The examinations must test the ability of the applicant to teach and his knowledge of each specific subject he proposes to teach. Each examination must include the following subjects:

1. The laws of Nevada relating to schools;
2. The Constitution of the State of Nevada; and
3. The Constitution of the United States.

↪ The provisions of this section do not prohibit the Commission from adopting regulations pursuant to subsection 2 of NRS 391.032 that provide an exemption from the examinations for teachers and other educational personnel ~~[who have previous experience in teaching or performing other educational functions in]~~ from another state ~~[-]~~ if the Commission determines that the examinations required for initial licensure for teachers and other educational personnel in that state are substantially equivalent to the examinations required for initial licensure in this State.

Sec. 10. NRS 391.032 is hereby amended to read as follows:

391.032 1. Except as otherwise provided in NRS 391.027, the Commission shall:

(a) Consider and may adopt regulations which provide for the issuance of conditional licenses to teachers and other educational personnel before completion of all courses of study or other requirements for a license in this State.

(b) Adopt regulations which provide for the reciprocal licensure of educational personnel from other states.

2. The regulations adopted pursuant to paragraph (b) of subsection 1 may provide an exemption from the examinations required for initial licensure for teachers and other educational personnel ~~[who have previous experience in~~

~~teaching or performing other educational functions in] from another state [If the Commission adopts regulations providing such an exemption, the Commission shall identify the examinations to which the exemption applies.]~~
if the Commission determines that the examinations required for initial licensure for teachers and other educational personnel in that state are substantially equivalent to the examinations required for initial licensure in this State.

3. A person who is issued a conditional license must complete all courses of study and other requirements for a license in this State which is not conditional within 3 years after the date on which a conditional license is issued.

Sec. 11. NRS 391.100 is hereby amended to read as follows:

391.100 1. ~~The~~ *Except as otherwise provided in section 8 of this act, the board of trustees of a school district may employ a superintendent of schools, teachers and all other necessary employees.*

2. A person who is initially hired by the board of trustees of a school district on or after January 8, 2002, to teach in a program supported with money from Title I must possess the qualifications required by 20 U.S.C. § 6319(a). For the purposes of this subsection, a person is not "initially hired" if he has been employed as a teacher by another school district or charter school in this State without an interruption in employment before the date of hire by his current employer.

3. A person who is employed as a teacher, regardless of the date of hire, must possess, on or before July 1, 2006, the qualifications required by 20 U.S.C. § 6319(a) if he teaches:

- (a) English, reading or language arts;
- (b) Mathematics;
- (c) Science;
- (d) Foreign language;
- (e) Civics or government;
- (f) Economics;
- (g) Geography;
- (h) History; or
- (i) The arts.

4. The board of trustees of a school district:

(a) May employ teacher aides and other auxiliary, nonprofessional personnel to assist licensed personnel in the instruction or supervision of children, either in the classroom or at any other place in the school or on the grounds thereof. A person who is initially hired as a paraprofessional by a school district on or after January 8, 2002, to work in a program supported with Title I money must possess the qualifications required by 20 U.S.C. § 6319(c). A person who is employed as a paraprofessional by a school district, regardless of the date of hire, to work in a program supported with Title I money must possess, on or before January 8, 2006, the qualifications required by 20 U.S.C. § 6319(c). For the purposes of this paragraph, a person

is not "initially hired" if he has been employed as a paraprofessional by another school district or charter school in this State without an interruption in employment before the date of hire by his current employer.

(b) Shall establish policies governing the duties and performance of teacher aides.

5. Each applicant for employment pursuant to this section, except a teacher or other person licensed by the Superintendent of Public Instruction, must, as a condition to employment, submit to the school district a full set of his fingerprints and written permission authorizing the school district to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for its report on the criminal history of the applicant and for submission to the Federal Bureau of Investigation for its report on the criminal history of the applicant.

6. Except as otherwise provided in subsection 7, the board of trustees of a school district shall not require a licensed teacher or other person licensed by the Superintendent of Public Instruction pursuant to NRS 391.033 who has taken a leave of absence from employment authorized by the school district, including, without limitation:

- (a) Sick leave;
- (b) Sabbatical leave;
- (c) Personal leave;
- (d) Leave for attendance at a regular or special session of the Legislature of this State if the employee is a member thereof;
- (e) Maternity leave; and
- (f) Leave permitted by the Family and Medical Leave Act of 1993, 29 U.S.C. §§ 2601 et seq.,

↳ to submit a set of his fingerprints as a condition of return to or continued employment with the school district if the employee is in good standing when the employee began the leave.

7. ~~{A}~~ The board of trustees of a school district may ask the Superintendent of Public Instruction to require a person licensed by the Superintendent of Public Instruction pursuant to NRS 391.033 who has taken a leave of absence from employment authorized by the school district to submit a set of his fingerprints as a condition of return to or continued employment with the school district if the board of trustees has probable cause to believe that the person has committed a felony or an offense involving moral turpitude during the period of his leave of absence.

8. The board of trustees of a school district may employ or appoint persons to serve as school police officers. If the board of trustees of a school district employs or appoints persons to serve as school police officers, the board of trustees shall employ a law enforcement officer to serve as the chief of school police who is supervised by the superintendent of schools of the school district. The chief of school police shall supervise each person appointed or employed by the board of trustees as a school police officer. In

addition, persons who provide police services pursuant to subsection 9 or 10 shall be deemed school police officers.

9. The board of trustees of a school district in a county that has a metropolitan police department created pursuant to chapter 280 of NRS may contract with the metropolitan police department for the provision and supervision of police services in the public schools within the jurisdiction of the metropolitan police department and on property therein that is owned by the school district. If a contract is entered into pursuant to this subsection, the contract must make provision for the transfer of each school police officer employed by the board of trustees to the metropolitan police department. If the board of trustees of a school district contracts with a metropolitan police department pursuant to this subsection, the board of trustees shall, if applicable, cooperate with appropriate local law enforcement agencies within the school district for the provision and supervision of police services in the public schools within the school district and on property owned by the school district, but outside the jurisdiction of the metropolitan police department.

10. The board of trustees of a school district in a county that does not have a metropolitan police department created pursuant to chapter 280 of NRS may contract with the sheriff of that county for the provision of police services in the public schools within the school district and on property therein that is owned by the school district.

Sec. 12. NRS 391.120 is hereby amended to read as follows:

391.120 1. ~~{Boards}~~ *Except as otherwise provided in section 8 of this act, the boards* of trustees of the school districts in this State may employ legally qualified teachers and other licensed personnel and may determine their salaries and the length of the term of school for which they are employed. These conditions and any other conditions agreed upon by the parties must be embodied in a written contract, or notice of reemployment, to be approved by the board of trustees and accepted and signed by the employee. A copy of the contract or notice of reemployment, properly written, must be delivered to each teacher or other licensed employee not later than the opening of the term of school.

2. A board of trustees may not employ teachers or other licensed personnel for any school year commencing after the expiration of the time for which any member of the board of trustees was elected or appointed.

3. It is unlawful for the board of trustees of any school district to employ any teacher who is not legally qualified to teach all the grades which the teacher is engaged to teach. Except as otherwise provided in NRS 391.3015, the board of trustees shall suspend or terminate, as applicable, the employment of any teacher who fails to maintain a license issued pursuant to this chapter in force, if such a license is required for employment. Any such suspension or termination must comply with the requirements of NRS 391.301 to 391.309, inclusive.

4. On or before November 15 of each year, the school district shall submit to the Department, in a form prescribed by the Superintendent of

Public Instruction, the following information for each licensed employee employed by the school district on October 1 of that year:

- (a) The amount of salary of the employee; and
- (b) The designated assignment, as that term is defined by the Department, of the employee.

Sec. 13. NRS 391.274 is hereby amended to read as follows:

391.274 The board of trustees of each school district shall adopt a policy that sets forth the duties, roles and responsibilities of persons who are licensed pursuant to this chapter and employed as school counselors. The policy must:

1. *Identify the duties, roles and responsibilities appropriate for the grade levels of pupils for which school counselors are providing services;*
2. Be designed to ensure that school counselors are allotted sufficient time in each school year to carry out the duties relating to counseling, including, without limitation, assisting pupils with academic planning; and
- ~~{2.}~~ 3. Limit the amount of time that school counselors are required to assist with test administration and test coordination at a public school.

Sec. 14. NRS 391.512 is hereby amended to read as follows:

391.512 1. There are hereby created the Southern Nevada Regional Training Program, the Western Nevada Regional Training Program, the Northeastern Nevada Regional Training Program and the Northwestern Nevada Regional Training Program. The governing body of each regional training program shall establish and operate a:

- (a) Regional training program for the professional development of teachers and administrators.
- (b) Nevada Early Literacy Intervention Program through the regional training program established pursuant to paragraph (a).
- (c) *A program of training for substitute teachers established by the ~~Commission~~ Department pursuant to section 7 of this act through the regional training program established pursuant to paragraph (a).*

2. Except as otherwise provided in subsection 6, the Southern Nevada Regional Training Program must primarily provide services to teachers and administrators who are employed by *each school ~~districts~~ district, each charter school, regardless of the sponsor, and each university school for profoundly gifted pupils located in:*

- (a) Clark County;
- (b) Esmeralda County;
- (c) Lincoln County; and
- (d) Nye County.

3. Except as otherwise provided in subsection 6, the Western Nevada Regional Training Program must primarily provide services to teachers and administrators who are employed by *each school ~~districts~~ district, each charter school, regardless of the sponsor, and each university school for profoundly gifted pupils located in:*

- (a) Carson City;

- (b) Churchill County;
- (c) Douglas County;
- (d) Lyon County; and
- (e) Mineral County.

4. Except as otherwise provided in subsection 6, the Northeastern Nevada Regional Training Program must primarily provide services to teachers and administrators who are employed by *each school ~~[districts]~~ district, each charter school, regardless of the sponsor, and each university school for profoundly gifted pupils located in:*

- (a) Elko County;
- (b) Eureka County;
- (c) Lander County;
- (d) Humboldt County; and
- (e) White Pine County.

5. Except as otherwise provided in subsection 6, the Northwestern Nevada Regional Training Program must primarily provide services to teachers and administrators who are employed by *each school ~~[districts]~~ district, each charter school, regardless of the sponsor, and each university school for profoundly gifted pupils located in:*

- (a) Pershing County;
- (b) Storey County; and
- (c) Washoe County.

6. Each regional training program shall, when practicable, make reasonable accommodations for the attendance of teachers and administrators who are employed by school districts outside the primary jurisdiction of the regional training program.

7. The board of trustees of the:

(a) Clark County School District shall serve as the fiscal agent for the Southern Nevada Regional Training Program.

(b) Douglas County School District shall serve as the fiscal agent for the Western Nevada Regional Training Program.

(c) Elko County School District shall serve as the fiscal agent for the Northeastern Nevada Regional Training Program.

(d) Washoe County School District shall serve as the fiscal agent for the Northwestern Nevada Regional Training Program.

➤ As fiscal agent, each school district is responsible for the payment, collection and holding of all money received from this State for the maintenance and support of the regional training program and Nevada Early Literacy Intervention Program established and operated by the applicable governing body.

Sec. 15. NRS 391.520 is hereby amended to read as follows:

391.520 1. The Statewide Council shall meet not less than four times per year.

2. The Statewide Council shall:

(a) Adopt uniform standards for use by the governing body of each regional training program in the review and approval by the governing body of the training to be provided by the regional training program pursuant to NRS 391.540 and 391.544. The standards must ensure that the training provided by the regional training programs includes activities set forth in 20 U.S.C. § 7801(34), as appropriate for the type of training offered, is of high quality and is effective in addressing the training programs specified in subsection 1 of NRS 391.544.

(b) Coordinate the dissemination of information to school districts, *charter schools, university schools for profoundly gifted pupils*, administrators and teachers concerning the training, programs and services provided by the regional training programs.

(c) Disseminate information to the regional training programs concerning innovative and effective methods to provide professional development.

(d) Conduct long-range planning concerning the professional development needs of teachers and administrators employed in this State.

(e) Adopt uniform procedures for use by the governing body of each regional training program to report the evaluation conducted pursuant to NRS 391.552.

3. The Statewide Council may:

(a) Accept gifts and grants from any source for use by the Statewide Council in carrying out its duties pursuant to this section and accept gifts and grants from any source on behalf of one or more regional training programs to assist with the training provided pursuant to NRS 391.544; and

(b) Comply with applicable federal laws and regulations governing the provision of federal grants to assist the Statewide Council in carrying out its duties pursuant to this section and comply with applicable federal laws and regulations governing the provision of federal grants to assist with the training provided pursuant to NRS 391.544, including, without limitation, providing money from the budget of the Statewide Council to match the money received from a federal grant.

Sec. 16. NRS 391.540 is hereby amended to read as follows:

391.540 1. The governing body of each regional training program shall:

(a) Adopt a training model, taking into consideration other model programs, including, without limitation, the program used by the Geographic Alliance in Nevada.

(b) Assess the training needs of teachers and administrators who are employed by the school districts, *charter schools, regardless of the sponsor, and university schools for profoundly gifted pupils* within the primary jurisdiction of the regional training program and adopt priorities of training for the program based upon the assessment of needs. The board of trustees of each such school district, *the governing body of each such charter school and the governing body of each such university school for profoundly gifted pupils* may submit recommendations to the ~~appropriate~~ governing body of

the appropriate regional training program for the types of training that should be offered by the regional training program.

(c) In making the assessment required by paragraph (b), review the plans to improve the achievement of pupils prepared pursuant to NRS 385.348 by the school districts within the primary jurisdiction of the regional training program and, as deemed necessary by the governing body, review the plans to improve the achievement of pupils prepared pursuant to NRS 385.357 for individual schools within the primary jurisdiction of the regional training program.

(d) Prepare a 5-year plan for the regional training program, which includes, without limitation:

(1) An assessment of the training needs of teachers and administrators who are employed by the school districts, *charter schools, regardless of the sponsor, and university schools for profoundly gifted pupils* within the primary jurisdiction of the regional training program; and

(2) Specific details of the training that will be offered by the regional training program for the first 2 years covered by the plan.

(e) Review the 5-year plan on an annual basis and make revisions to the plan as are necessary to serve the training needs of teachers and administrators employed by the school districts, *charter schools, regardless of the sponsor, and university schools for profoundly gifted pupils* within the primary jurisdiction of the regional training program.

2. The Department, the Nevada System of Higher Education, ~~and~~ the board of trustees of a school district, *the governing body of a charter school and the governing body of a university school for profoundly gifted pupils* may request the governing body of the regional training program that serves the school district, *charter school or university school for profoundly gifted pupils* to : ~~provide~~

(a) *Provide* training ; ~~participate~~

(b) *Participate* in a program ; or ~~otherwise~~

(c) *Otherwise* perform a service ,

↳ that is in addition to the duties of the regional training program that are set forth in the plan adopted pursuant to this section or otherwise required by statute.

3. An entity may not represent that a regional training program will perform certain duties or otherwise obligate the regional training program as part of an application by that entity for a grant unless the entity has first obtained the written confirmation of the governing body of the regional training program to perform those duties or obligations.

4. The governing body of a regional training program may, but is not required to, grant a request pursuant to this ~~subsection.~~ *section.*

Sec. 17. NRS 391.544 is hereby amended to read as follows:

391.544 1. Based upon the assessment of needs for training within the region and priorities of training adopted by the governing body pursuant to NRS 391.540, each regional training program must provide:

(a) Training for teachers in the standards established by the Council to Establish Academic Standards for Public Schools pursuant to NRS 389.520.

(b) Through the Nevada Early Literacy Intervention Program established for the regional training program, training for teachers who teach kindergarten and grades 1, 2 or 3 on methods to teach fundamental reading skills, including, without limitation:

- (1) Phonemic awareness;
- (2) Phonics;
- (3) Vocabulary;
- (4) Fluency;
- (5) Comprehension; and
- (6) Motivation.

(c) *Training for substitute teachers in accordance with the program of training established by the ~~Commission~~ Department pursuant to section 7 of this act.*

(d) At least one of the following types of training:

(1) Training for teachers and school administrators in the assessment and measurement of pupil achievement and the effective methods to analyze the test results and scores of pupils to improve the achievement and proficiency of pupils.

(2) Training for teachers in specific content areas to enable the teachers to provide a higher level of instruction in their respective fields of teaching. Such training must include instruction in effective methods to teach in a content area provided by teachers who are considered masters in that content area.

(3) In addition to the training provided pursuant to paragraph (b) of subsection 1, training for teachers in the methods to teach basic skills to pupils, such as providing instruction in reading with the use of phonics and providing instruction in basic skills of mathematics computation.

2. The training required pursuant to subsection 1 must:

(a) Include the activities set forth in 20 U.S.C. § 7801(34), as deemed appropriate by the governing body for the type of training offered.

(b) Include appropriate procedures to ensure follow-up training for teachers and administrators who have received training through the program.

(c) Incorporate training that addresses the educational needs of:

(1) Pupils with disabilities who participate in programs of special education; and

(2) Pupils who are limited English proficient.

3. The governing body of each regional training program shall prepare and maintain a list that identifies programs for the professional development of teachers and administrators that successfully incorporate:

(a) The standards of content and performance established by the Council to Establish Academic Standards for Public Schools pursuant to NRS 389.520;

(b) Fundamental reading skills; and

(c) Other training listed in subsection 1.

↪ The governing body shall provide a copy of the list on an annual basis to the school districts , *charter schools, regardless of the sponsor, and university schools for profoundly gifted pupils* for dissemination to teachers and administrators.

4. A regional training program may include model classrooms that demonstrate the use of educational technology for teaching and learning.

5. A regional training program may contract with the board of trustees of a school district , *the governing body of a charter school or the governing body of a university school for profoundly gifted pupils* that is served by the regional training program as set forth in NRS 391.512 to provide professional development to the teachers and administrators employed by the school district , *charter school or university school for profoundly gifted pupils, as applicable*, that is in addition to the training required by this section. Any training provided pursuant to this subsection must include the activities set forth in 20 U.S.C. § 7801(34), as deemed appropriate by the governing body for the type of training offered.

6. To the extent money is available from legislative appropriation or otherwise, a regional training program may provide training to paraprofessionals.

Sec. 18. NRS 391.552 is hereby amended to read as follows:

391.552 The governing body of each regional training program shall:

1. Establish a method for the evaluation of the success of the regional training program, including, without limitation, the Nevada Early Literacy Intervention Program. The method must be consistent with the uniform procedures adopted by the Statewide Council pursuant to NRS 391.520.

2. On or before September 1 of each year, submit an annual report to the State Board, the Commission, the Legislative Committee on Education and the Legislative Bureau of Educational Accountability and Program Evaluation that includes:

(a) The priorities for training adopted by the governing body pursuant to NRS 391.540.

(b) The type of training offered through the program in the immediately preceding year.

(c) The number of teachers and administrators who received training through the program in the immediately preceding year.

(d) *If the program includes the provision of training for teaching advanced placement courses:*

(1) The number of teachers who participated in that training in the immediately preceding year, including, without limitation, the location where the training was provided; and

(2) The estimated need for that training in future years.

(e) The number of paraprofessionals, if any, who received training through the program in the immediately preceding year.

~~{(e)}~~ (f) An evaluation of the success of the program, including, without limitation, the Nevada Early Literacy Intervention Program, in accordance with the method established pursuant to subsection 1.

~~{(f)}~~ (g) A description of the gifts and grants, if any, received by the governing body in the immediately preceding year and the gifts and grants, if any, received by the Statewide Council during the immediately preceding year on behalf of the regional training program. The description must include the manner in which the gifts and grants were expended.

~~{(g)}~~ (h) The 5-year plan for the program prepared pursuant to NRS 391.540 and any revisions to the plan made by the governing body in the immediately preceding year.

Sec. 19. On or before March 1, 2010, the ~~{Commission on Professional Standards in}~~ Department of Education shall submit a draft copy of the program of training for substitute teachers established by the ~~{Commission}~~ Department pursuant to section 7 of this act to the Legislative Committee on Education for its review and comment.

Sec. 20. On or before July 1, 2010, the ~~{Commission on Professional Standards in}~~ Department of Education shall adopt the regulations to carry out section 7 of this act.

Sec. 21. 1. The board of trustees of each school district and the governing body of each charter school shall develop a plan for:

(a) Complying with sections 7 and 8 of this act; and

(b) Encouraging the participation of short-term substitute teachers in the program of training established pursuant to section 7 of this act.

2. On or before December 1, 2010, the board of trustees of each school district and the governing body of each charter school shall submit the plan developed pursuant to subsection 1 to the Department of Education.

Sec. 22. The Department of Education shall, on or before February 1, 2011, submit to the Director of the Legislative Counsel Bureau for transmission to the 76th Session of the Nevada Legislature a report concerning the number of long-term substitute teachers who have completed the program of training established pursuant to section 7 of this act and the number of short-term substitute teachers, if any, who have completed the program of training. The report must include a summary and compilation of the plans developed by the board of trustees of each school district and the governing body of each charter school pursuant to section 21 of this act.

~~{Sec. 21.}~~ Sec. 23. 1. This section and sections 1, 3 and 5 to ~~{20,}~~ 22, inclusive, of this act become effective on July 1, 2009.

2. Sections 2 and 4 of this act become effective on January 1, 2012.

Senator Cegavske moved the adoption of the amendment.

Remarks by Senator Cegavske.

Senator Cegavske requested that her remarks be entered in the Journal.

Thank you, Mr. President. This requires the Department of Education to establish a program of training for substitute teachers rather than the Commission on Professional Standards in Education.

It adds a provision that the program of training for substitute teachers must include guidelines for school administrators concerning the classroom materials and other assistance that will help substitute teachers with effective classroom management.

It deletes the requirement for short-term substitute teachers to participate in the training program. Short-term substitute teachers are authorized to participate in the training program.

It adds an exemption for participation in the training program for those persons who have experience teaching in an accredited postsecondary educational institution.

It requires the Board of Trustees of each school district and the governing body of each charter school to develop a plan for complying with the requirements of the training program and increasing participation in the training program by short-term substitute teachers.

It requires the Department to submit a report to the 76th Session of the Nevada Legislature concerning the number of long-term and short-term substitute teachers who have completed the training program.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 21.

Bill read second time.

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

Amendment No. 167.

"SUMMARY—Revises provisions governing the sale or offer for sale of certain ~~food, drugs and other commodities~~ *drugs, infant formula or baby food* after the date of expiration for those products has passed. (BDR ~~{51-260}~~ 52-260)

"AN ACT relating to commodities; prohibiting the sale or offer for sale of certain drugs, infant formula or baby food if the *date of* expiration ~~{date}~~ for those ~~{items}~~ *products* has passed; making certain violations deceptive trade practices; providing remedies and penalties; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

~~Existing law requires the Commissioner of Food and Drugs to inspect and tag food and drugs suspected of being adulterated or misbranded, quarantine the tagged items and destroy them if they are found to be adulterated or misbranded. (NRS 585.250-585.290) This bill requires the Commissioner also to inspect, tag, quarantine and destroy, if necessary, any food or drug which has expired.~~

~~Existing law prohibits the sale or offer for sale of any food, drug, device or cosmetic which is adulterated or misbranded. (NRS 585.520) Existing law makes the violation of that prohibition a gross misdemeanor. (NRS 585.550) This bill expands existing law to prohibit the sale or offer for sale of any drug, infant formula or baby food for which the expiration date has passed. This bill also makes any violation of NRS 585.520 a deceptive trade practice and subject to the procedures for administrative enforcement and the remedies and penalties available pursuant to NRS 598.0903 to 598.0999, inclusive, concerning deceptive trade practices. Those remedies and penalties may include the imposition of a temporary or permanent injunction, a civil~~

penalty of up to \$10,000 or a criminal penalty up to a category D felony. ~~(NRS 598.0979, 598.0999)~~

Section 16 of this bill makes it unlawful for a person knowingly and willfully to sell any over-the-counter drug, infant formula or baby food which has passed its expiration date, "use by" date or sale date. Section 17 of this bill provides that if a person has not been convicted of violating section 16 previously, he may be served with a cease and desist order which includes notice that a subsequent violation may result in prosecution under section 18 of this bill. Section 18 of this bill provides that the first conviction for a violation of section 16 is punishable by a fine of not more than \$500 and any second or subsequent convictions are punishable as misdemeanors. Section 18 also makes a violation of section 16 a deceptive trade practice for the purposes of NRS 598.0903-598.0999. Section 19 of this bill provides an affirmative defense that a person may present if he establishes by a preponderance of the evidence that he had reasonable procedures in place to avoid a violation, but notwithstanding the procedures, the violation occurred because of a bona fide error.

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

Section 1. ~~{Chapter 585 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.} (Deleted by amendment.)~~

Sec. 2. ~~{"Expired" means:~~

~~1. In the case of a drug, that the expiration date required by 21 C.F.R. § 211.137 has passed;~~

~~2. In the case of infant formula, that the "use by" date required by 21 C.F.R. § 107.20 has passed; and~~

~~3. In the case of baby food, that any expiration date, "use by" date or sale date established by state or federal law or marked on the container by the manufacturer, packer or distributor has passed.} (Deleted by amendment.)~~

Sec. 3. ~~{1. Any violation of NRS 585.520 constitutes a deceptive trade practice for the purposes of NRS 598.0903 to 598.0999, inclusive.~~

~~2. The remedies, duties and prohibitions set forth in this chapter for a violation of NRS 585.520 are not exclusive and are in addition to any other remedies, duties and prohibitions provided by law.} (Deleted by amendment.)~~

Sec. 4. ~~{NRS 585.020 is hereby amended to read as follows:~~

~~585.020 For the purpose of this chapter, the words and terms defined in NRS 585.030 to 585.150, inclusive, and section 2 of this act have the meanings ascribed to them in those sections.} (Deleted by amendment.)~~

Sec. 5. ~~{NRS 585.230 is hereby amended to read as follows:~~

~~585.230 1. The Commissioner shall keep a record of adulterated, mislabeled, [or] misbranded or expired foods, drugs, devices and cosmetics, in which record [shall] must be included a list of cases examined and violations found and a list of the articles found adulterated, mislabeled, [or]~~

~~misbranded or expired and the names of the manufacturers, producers, jobbers and sellers.~~

~~2. The record, or any parts thereof, may, in the discretion of the Commissioner, be included in the biennial report which the Commissioner is authorized to make to the State Board of Health.~~

~~3. The Commissioner may also cause to be disseminated such information regarding foods, drugs, devices and cosmetics as he deems necessary in the interest of public health and the protection of the consumer against fraud. (Deleted by amendment.)~~

Sec. 6. ~~[NRS 585.250 is hereby amended to read as follows:~~

~~585.250 1. Whenever the Commissioner, any of his authorized agents, or any member or inspector of the State Board of Pharmacy finds, or has probable cause to believe, that, within the meaning of this chapter, any food, drug, device or cosmetic is adulterated, or so misbranded as to be dangerous or fraudulent, [within the meaning of this chapter,] or that a drug, infant formula or baby food is expired, he shall affix to [such] the article a tag or other appropriate marking, giving notice that [such] the article is, or is suspected of being, adulterated, [or] misbranded or expired and has been quarantined, and warning all persons not to remove or dispose of [such] the article by sale or otherwise until permission for removal or disposal is given by such agent or the court.~~

~~2. It [shall be] is unlawful for any person to remove or dispose of such a quarantined article by sale or otherwise without such permission. (Deleted by amendment.)~~

Sec. 7. ~~[NRS 585.260 is hereby amended to read as follows:~~

~~585.260 1. When the Commissioner, his authorized agent, or a member or inspector of the State Board of Pharmacy has found that an article so quarantined is not adulterated, [or] misbranded [,] or expired, he shall remove the tag or other marking.~~

~~2. In any proceeding against the Commissioner, his authorized agent, or a member or inspector of the State Board of Pharmacy because of such a quarantine, the Commissioner, his authorized agent, or member or inspector of the State Board of Pharmacy [shall] must not be held liable if the court [shall find] finds that there was probable cause for [such] the quarantine. (Deleted by amendment.)~~

Sec. 8. ~~[NRS 585.270 is hereby amended to read as follows:~~

~~585.270 When an article quarantined under NRS 585.250 has been found by the Commissioner, his authorized agent, or a member or inspector of the State Board of Pharmacy to be adulterated, [or] misbranded [,] or expired, the Commissioner, his agent, or such member or inspector shall petition the judge of the district court in whose jurisdiction the article is quarantined for the condemnation and destruction of [such] the article. (Deleted by amendment.)~~

Sec. 9. ~~[NRS 585.280 is hereby amended to read as follows:~~

~~585.280 If the court finds that a quarantined article is adulterated, [or] misbranded [, such] or expired, the article [shall,] *must*, after entry of the decree, be destroyed under the supervision of the Commissioner, his authorized agent, or a member or inspector of the State Board of Pharmacy.~~
(Deleted by amendment.)

Sec. 10. ~~[NRS 585.290 is hereby amended to read as follows:~~

~~585.290 When the adulteration, [or] misbranding or expiration can be corrected by proper labeling or processing of the article to the satisfaction of the Commissioner, his authorized agent, or a member or inspector of the State Board of Pharmacy, the court, after entry of the decree, may by order direct that [such] *the* article be delivered to the owner or defender thereof for such labeling or processing under the supervision of the Commissioner, his authorized agent, or a member or inspector of the State Board of Pharmacy.~~
(Deleted by amendment.)

Sec. 11. ~~[NRS 585.520 is hereby amended to read as follows:~~

~~585.520 The following acts and the causing thereof within the State of Nevada are hereby prohibited:~~

~~1. The manufacture, sale or delivery, holding or offering for sale of any food, drug, device or cosmetic that is adulterated or misbranded.~~

~~2. Except as otherwise provided in NRS 597.915 and 639.282, the sale, offering for sale or delivering at retail or to a consumer any drug, infant formula or baby food that is expired.~~

~~3. The adulteration or misbranding of any food, drug, device or cosmetic.~~

~~[3.] 4. The sale, delivery for sale, holding for sale or offering for sale of any article in violation of NRS 585.490.~~

~~[4.] 5. The dissemination of any false advertisement.~~

~~[5.] 6. The refusal to permit entry or inspection, or to permit the taking of a sample, as authorized by NRS 585.240 or 585.245.~~

~~[6.] 7. The giving of a guaranty or undertaking, which guaranty or undertaking is false, except by a person who relied on a guaranty or undertaking to the same effect signed by and containing the name and address of the person residing in the State of Nevada from whom he received in good faith the food, drug, device or cosmetic.~~

~~[7.] 8. The removal or disposal of a detained or embargoed article in violation of NRS 585.250.~~

~~[8.] 9. The alteration, mutilation, destruction, obliteration, *concealment* or removal by any means of the whole or any part of the labeling of or the doing of any other act with respect to a food, drug, device or cosmetic, if such act is done while [such] *the* article is held for sale and results in [such] *the* article being misbranded [.] or the passing of the expiration date for the article.~~
(Deleted by amendment.)

Sec. 12. ~~[NRS 446.920 is hereby amended to read as follows:~~

~~446.920 1. Food may be examined or sampled by the health authority as often as may be necessary to determine freedom from adulteration or misbranding. The health authority may, upon written notice to the owner or~~

person in charge, place a hold order on any food which he determines is or has probable cause to believe to be unwholesome or otherwise adulterated, ~~[or] misbranded [.] or expired.~~

2. ~~Under a hold order, food [shall] *must* be permitted to be suitably stored. It [shall be] *is* unlawful for any person to remove or alter a hold order, notice or tag placed on food by the health authority. Neither such food nor the containers thereof [shall] *may* be relabeled, repacked, reprocessed, altered, disposed of or destroyed without permission of the health authority, except by order of a court of competent jurisdiction.~~

3. ~~After the owner or person in charge has had a hearing as provided for in NRS 446.895, and on the basis of evidence produced at [such] *the* hearing, or on the basis of his examination in the event a written request for a hearing is not received within 10 days, the health authority may vacate the hold order, or may by written order direct the owner or person in charge of the food which was placed under the hold order to denature or destroy [such] *the* food or to bring it into compliance with the provisions of this chapter. [Such] *An* order of the health authority to denature or destroy [such] food or bring it into compliance with the provisions of this chapter [shall] *must* be stayed if the order is appealed to a court of competent jurisdiction within 3 days.~~

(Deleted by amendment.)

Sec. 13. ~~[NRS 639.540 is hereby amended to read as follows:~~

~~639.540 1. The Board shall ensure the safe and efficient operation of wholesalers and the integrity and propriety of transactions involving the purchase and sale of prescription drugs by wholesalers, including, without limitation, ensuring:~~

~~(a) The circumstances and conditions under which a wholesaler must prepare, deliver, acquire and maintain a statement of prior sales regarding a transaction involving the purchase or sale of a prescription drug;~~

~~(b) The form and contents of a statement of prior sales; and~~

~~(c) The process and procedures for verifying and certifying that the information contained in a statement of prior sales is complete and accurate.~~

2. ~~In ensuring the circumstances and conditions under which a wholesaler must prepare, deliver, acquire and maintain a statement of prior sales regarding a transaction involving the purchase or sale of a prescription drug, the Board shall consider:~~

~~(a) The need for verification to ensure that the transaction is a bona fide transaction pursuant to NRS 639.595; and~~

~~(b) The level of risk the transaction poses to public health and safety, including, without limitation, the potential that the transaction may involve the sale or purchase of a prescription drug that is:~~

~~(1) Counterfeit;~~

~~(2) Deemed to be adulterated, [or] misbranded or expired in accordance with the provisions of chapter 585 of NRS;~~

~~(3) Mislabeled;~~

~~(4) Damaged or compromised by improper handling, storage or temperature control;~~

~~(5) From a foreign or unlawful source; or~~

~~(6) Manufactured, packaged, labeled or shipped in violation of any state or federal law relating to prescription drugs.~~

~~3. If a statement of prior sales is required for a transaction involving the purchase or sale of a prescription drug by a wholesaler, the statement:~~

~~(a) Must include the signature of the wholesaler or his designated representative certifying that the information contained in the statement is complete and accurate; and~~

~~(b) Except as otherwise provided in subsection 4, must be:~~

~~(1) In written or electronic form, if the transaction occurs before January 1, 2007; and~~

~~(2) In electronic form, if the transaction occurs on or after January 1, 2007.~~

~~4. The Board may extend the date for compliance with the requirement that the statement of prior sales must be in electronic form if the Board determines that the technology to provide such a statement in electronic form is not reasonably available or that the licensed wholesalers in this State otherwise require additional time to carry out the requirements of an electronic form. If the Board extends the deadline pursuant to this subsection, the Board shall ensure that all licensed wholesalers in this State are provided adequate notice of the extension.] (Deleted by amendment.)~~

Sec. 14. [NRS 639.595 is hereby amended to read as follows:

~~639.595 1. A wholesaler may sell a prescription drug only if the sale is a bona fide transaction:~~

~~2. A wholesaler may purchase a prescription drug only from:~~

~~(a) A manufacturer;~~

~~(b) A pharmacy or practitioner if that pharmacy or practitioner maintains a valid license in the state in which the pharmacy or practitioner is domiciled;~~

~~or~~

~~(c) Another wholesaler if:~~

~~(1) The wholesaler who sells the drug is licensed by the Board; and~~

~~(2) The sale is a bona fide transaction.~~

~~3. A wholesaler may receive a prescription drug from a pharmacy or practitioner only if the wholesaler does not pay the pharmacy or practitioner an amount, either in cash or credit, that is more than the price for which the wholesaler sells such prescription drugs to other pharmacies or practitioners at the time of return and:~~

~~(a) The prescription drug was originally shipped to the pharmacy or practitioner by the wholesaler; or~~

~~(b) The prescription drug could not be returned by the pharmacy or practitioner to the original wholesaler.~~

~~4. If a wholesaler receives a prescription drug pursuant to this subsection and the wholesaler subsequently sells the prescription drug to another wholesaler,~~

the prescription drug must be accompanied by a statement of prior sales as defined in NRS 639.535.

~~4. The Board shall not limit the quantity of prescription drugs a wholesaler may purchase, sell, distribute or otherwise provide to another wholesaler, distributor or manufacturer.~~

~~5. For the purposes of this section:~~

~~(a) A purchase shall be deemed a bona fide transaction if:~~

~~(1) The wholesaler purchased the drug;~~

~~(I) Directly from the manufacturer of the drug; or~~

~~(II) With a reasonable belief that the drug was originally purchased directly from the manufacturer of the drug;~~

~~(2) The circumstances of the purchase reasonably indicate that the drug was not purchased from a source prohibited by law;~~

~~(3) Unless the drug is purchased by the wholesaler from the manufacturer, before the wholesaler sells the drug to another wholesaler, the wholesaler who sells the drug conducts a reasonable visual examination of the drug to ensure that the drug is not:~~

~~(I) Counterfeit;~~

~~(II) Deemed to be adulterated, [or] misbranded or expired in accordance with the provisions of chapter 585 of NRS;~~

~~(III) Mislabeled;~~

~~(IV) Damaged or compromised by improper handling, storage or temperature control;~~

~~(V) From a foreign or unlawful source; or~~

~~(VI) Manufactured, packaged, labeled or shipped in violation of any state or federal law relating to prescription drugs;~~

~~(4) The drug is shipped directly from the wholesaler who sells the drug to the wholesaler who purchases the drug; and~~

~~(5) The documents of the shipping company concerning the shipping of the drug are attached to the invoice for the drug and are maintained in the records of the wholesaler.~~

~~(b) A sale shall be deemed a bona fide transaction if the wholesaler sells the prescription drug only to:~~

~~(1) A pharmacy or practitioner if that pharmacy or practitioner maintains a valid license in the state in which the pharmacy or practitioner is domiciled;~~

~~(2) Another wholesaler who maintains a valid license in the state in which he is domiciled if the wholesaler who sells the prescription drug has complied with NRS 639.575, 639.580 and 639.585.~~

~~(c) The purchase or sale of a prescription drug includes, without limitation, the distribution, transfer, trading, bartering or any other provision of a prescription drug to another person by a wholesaler. A transfer of a prescription drug from a wholesale facility of a wholesaler to another wholesale facility of the wholesaler shall not be deemed a purchase or sale of a prescription drug pursuant to this section if the wholesaler is a corporation~~

~~whose securities are publicly traded and regulated by the Securities Exchange Act of 1934.] (Deleted by amendment.)~~

Sec. 15. Chapter 597 of NRS is hereby amended by adding thereto the provisions set forth as sections 16 to 19, inclusive, of this act.

Sec. 16. 1. It is unlawful for a person, in the course of his business or occupation, knowingly and willfully to sell or offer to sell:

(a) Any drug which may be purchased over the counter;

(b) Any infant formula; or

(c) Any baby food.

↪ after the passage of an expiration date, "use by" date or sale date required by any applicable state or federal law or marked on the container by the manufacturer, processor or packager.

2. It is unlawful for a person, in the course of his business or occupation, knowingly or willfully to alter, mutilate, destroy, obliterate, remove or conceal by a price sticker or any other means the whole or any part of the expiration date, "use by" date or sale date displayed on the label or packaging of any drug sold over the counter, infant formula or baby food.

Sec. 17. If a person who has not previously been convicted of violating section 16 of this act is alleged to have done so, the person is entitled to an order to cease and desist the action alleged to be in violation of section 16 of this act. The order to cease and desist must:

1. Include a notice that failure to comply with the order may result in prosecution pursuant to section 18 of this act; and

2. Be sent by mail to the usual place of business of the person or, if none, his last known address.

Sec. 18. 1. The Attorney General has primary jurisdiction to enforce the provisions of sections 16 to 19, inclusive, of this act.

2. A person who is convicted of violating a provision of section 16 of this act shall be punished:

(a) For the first violation, by a fine of not more than \$500.

(b) For a second or subsequent violation, as a misdemeanor.

3. A violation of section 16 of this act constitutes a deceptive trade practice for the purposes of the civil and administrative remedies and penalties set forth in NRS 598.0903 to 598.0999, inclusive.

Sec. 19. It is an affirmative defense to a charge made pursuant to section 16 of this act, if the defendant establishes by a preponderance of the evidence, that:

1. Reasonable procedures were in place to avoid a violation; and

2. Notwithstanding the maintenance of those procedures, the violation resulted from a bona fide error.

~~[Sec. 15.]~~ Sec. 20. This act becomes effective upon passage and approval.

Senator Horsford moved the adoption of the amendment.

Remarks by Senators Horsford, Mathews, Cegavske and Carlton.

Senator Horsford requested that the following remarks be entered in the Journal.

SENATOR HORSFORD:

Amendment No. 167 replaces the original provisions of the bill and adds the following provisions to Senate Bill No. 21.

The amendment makes it unlawful for a person to knowingly and willfully sell any over-the-counter drug, infant formula or baby food which has passed its expiration date, "use by" date or sale date.

Next, the amendment provides that the first conviction for the aforementioned violation is punishable by a fine of not more than \$500 and any second or subsequent convictions are punishable as misdemeanors. In addition, the amendment makes the violation a deceptive trade practice.

The amendment also provides an affirmative defense that a person may present if he establishes by a preponderance of the evidence that he had reasonable procedures in place to avoid a violation, but notwithstanding the procedures, the violation occurred because of a bona fide error.

Finally, the amendment provides that if a person has not been convicted of violating the aforementioned provision, he may be served with a cease-and-desist order which includes notice that a subsequent violation may result in prosecutions.

SENATOR MATHEWS:

My concern is with the out-of-date items that happen inadvertently. To have a \$500 fine for the first offense is a bit stiff. Even when someone sells liquor to minors, they give you a warning before they charge you a fine. I do not see why over-the-counter drugs could not be the same. They will not kill you if they are one day out of date. To have a misdemeanor on top of that would be wrong. I will be voting "no" on the amendment.

SENATOR HORSFORD:

This was an amendment brought forth by the Attorney General's Office. It is an issue that they feel needs to be brought into compliance with state law. It says a fine of "not more than" \$500. It is not necessarily that the fine would be \$500. Based on the impact of product that is "knowingly or willfully," those are important terms of the amendment, sold in any over-the-counter drug, infant formula or baby food that it would fall within the provisions of this amendment. I urge the body's adoption of Amendment No. 167.

SENATOR MATHEWS:

This will have unintended consequences. Who will these fines be leveled against? That is not in the bill. Will it be leveled against the proprietor or the sales clerk who is stocking the shelves?

Five hundred dollars is much too much for a first offense. You should receive a warning before there is a fine.

SENATOR CEGAVSKE:

The original bill was a felony with a \$5,000 or \$10,000 fine. That is astronomical. These are small business people. These fines were way out of proportion. Then, they changed it to a misdemeanor. Then, the fine was listed at \$500. We are talking about small-business people being fined for possibly having something that is out of code.

In the years that I have been involved with small businesses that carry these products, no one has been charged. There have been no convictions of any kind for out-of-date codes in either baby formulas or prescriptions. There is no precedent set. I understand that the Attorney General has someone who has violated and tried to sell baby formula without code-expiration dates. None of us wants anyone to have a product that is out of code. The codes are subjective from the manufacturer. It is always a guide line. In this bill, you could be one day out of code and you could be fined, and for each violation, it goes up. It is a misdemeanor.

Vendors stock the shelves. Employees stock shelves. People make mistakes. We, as the consumers, should be looking at those codes. There are codes on everything. If you choose to buy something at a discounted price because the codes are out, then, you do so. There is an

auction house that just sold tons of food that was close to out-of-code dates. If there is baby formula that is one or two days out of code and they choose to buy it, the store they bought it from is in violation. This is too extreme.

There is not anything from the Attorney General's Office that I can see that convinces me this is necessary for us in Nevada. I want to help them with whatever it is, but if I could have a case to study, I would appreciate it. I would like to know if this is actually a problem.

There is another amendment on this bill. I feel this bill is a violation of small-business people. I think it is unconstitutional that you would do something like this. Why has the Attorney General made this a big case? They have brought no evidence that this is occurring. There is not one person, here, who would want to see anyone harmed. I think this bill should have gone to Judiciary Committee. The amendment brings this from a felony to a misdemeanor, but this bill is wrong. Senate Bill No. 21 does not need to be before this Legislature.

SENATOR CARLTON:

I would like to reference section 19. I do not want to see the employee put into a "catch 22" situation receiving the ticket. They may not have control over what is on the shelf. If it is on the shelf, it is the employer's responsibility not the employee's responsibility. As an affirmative defense, if a small businessperson has written policies and procedures in the employee handbook that deals with this issue, then, would those protect them from this violation? When I read "affirmative defense," I would think an employer would state all the policies were in place for protection, this truly was a mistake. How would that be dealt with? Is that what would happen under an "affirmative defense"?

Senator Horsford moved that Senate Bill No. 21 be taken from the Second Reading File and placed on the Secretary's desk.

Remarks by Senator Horsford.

Motion carried.

Senate Bill No. 24.

Bill read second time.

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

Amendment No. 136.

"SUMMARY—Requires the Director of the Department of Health and Human Services, within the limits of available money, to include in the State Plan for Medicaid a program to provide preliminary determinations of eligibility for certain assistance. (BDR 38-450)"

"AN ACT relating to public welfare; providing for the ~~presumptive eligibility~~ preliminary determination for Medicaid of certain applicants for assistance under the Supplemental Security Income Program ~~for~~ within the limits of available money; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Persons with disabilities who receive assistance pursuant to the Supplemental Security Income Program are eligible for Medicaid coverage as well. Section 1 of this bill requires the Director of the Department of Health and Human Services within the limits of available money, to include in the State Plan for Medicaid a program to provide a preliminary determination of eligibility for a person with a disability who applies for assistance under the Supplemental Security Income Program. If the Director

includes those provisions within the State Plan and if a preliminary determination is made that the person is eligible for the Supplemental Security Income Program, the person must be made eligible for Medicaid.

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

Section 1. Chapter 422 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The Director shall, within the limits of money available for that purpose, include in the State Plan for Medicaid:

(a) A program for making a preliminary determination about whether an applicant who is a person with a disability is eligible for assistance under the Supplemental Security Income Program; and

(b) A requirement that a person for whom a preliminary determination has been made that he is eligible for assistance under the Supplemental Security Income Program is eligible for Medicaid.

2. If the Director has included the provisions of subsection 1 in the State Plan for Medicaid and if a person is made eligible for Medicaid pursuant to subsection 1, he remains eligible for Medicaid if there is a final determination that he is eligible for the Supplemental Security Income Program. If it is determined that he is not eligible for the Supplemental Security Income Program, he is no longer eligible for Medicaid.

3. A person who is determined not eligible for the Supplemental Security Income Program must not be required to reimburse Medicaid for any expenses incurred by Medicaid in providing coverage to the person pending that determination.

Sec. 2. NRS 422.270 is hereby amended to read as follows:

422.270 The Department shall:

1. Administer all public welfare programs of this State, including:

(a) State Supplementary Assistance;

(b) Temporary Assistance for Needy Families;

(c) Medicaid;

(d) Food Stamp Assistance;

(e) Low-Income Home Energy Assistance;

(f) The Program for Child Care and Development;

(g) The Program for the Enforcement of Child Support;

(h) The Children's Health Insurance Program; and

(i) Other welfare activities and services provided for by the laws of this State.

2. Act as the single state agency of the State of Nevada and its political subdivisions in the administration of any federal money granted to the State of Nevada to aid in the furtherance of any of the services and activities set forth in subsection 1.

3. Cooperate with the Federal Government in adopting state plans, in all matters of mutual concern, including adoption of methods of administration found by the Federal Government to be necessary for the efficient operation

of welfare programs, and in increasing the efficiency of welfare programs by prompt and judicious use of new federal grants which will assist the Department in carrying out the provisions of this chapter.

4. Observe and study the changing nature and extent of welfare needs and develop through tests and demonstrations effective ways of meeting those needs and employ or contract for personnel and services supported by legislative appropriations from the State General Fund or money from federal or other sources.

5. Enter into reciprocal agreements with other states relative to public assistance, welfare services and institutional care, when deemed necessary or convenient by the Director.

6. Make such agreements with the Federal Government as may be necessary to carry out the Supplemental Security Income Program ~~{ }~~ , *including, without limitation, any agreement which may be necessary to carry out the provisions of section 1 of this act ~~#{ }~~ , within the limits of available money for that purpose.*

7. As used in this section, "Program for the Enforcement of Child Support" means the program established to locate absent parents, establish paternity and obtain child support pursuant to Part D of Title IV of the Social Security Act, 42 U.S.C. §§ 651 et seq., and any other provisions of that act relating to the enforcement of child support.

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

Senator Washington moved the adoption of the amendment.

Remarks by Senator Washington.

Senator Washington requested that his remarks be entered in the Journal.

Thank you, Mr. President. This is an amendment dealing with supplemental security income that is a Supplementary Social Security Income. It authorizes the Director of the Department of Health and Human Services to include in the Medicaid State Plan, provisions for preliminary eligibility, within the limits of money available for that purpose.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 26.

Bill read second time.

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

Amendment No. 39.

"SUMMARY—Revises provisions governing chiropractic physicians. (BDR 54-349)"

"AN ACT relating to chiropractic physicians; including certain activities within the scope of unprofessional conduct; allowing the Chiropractic Physicians' Board of Nevada to impose a fine for each act which constitutes a ground for disciplinary action under chapter 634 of NRS; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Section 1 of this bill includes within the definition of "unprofessional conduct" the violation of any lawful order of or agreement with the Chiropractic Physicians' Board of Nevada and of any statute or regulation governing chiropractic physicians. (NRS 634.018)

Section 2 of this bill authorizes the imposition of a fine of up to \$10,000 for each act that constitutes a ground for disciplinary action under chapter 634 of NRS. (NRS 634.190)

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

Section 1. NRS 634.018 is hereby amended to read as follows:

634.018 "Unprofessional conduct" means:

1. Obtaining a certificate upon fraudulent credentials or gross misrepresentation.
2. Procuring, or aiding or abetting in procuring, criminal abortion.
3. Assuring that a manifestly incurable disease can be permanently cured.
4. Advertising chiropractic business in which grossly improbable statements are made, advertising in any manner that will tend to deceive, defraud or mislead the public or preparing, causing to be prepared, using or participating in the use of any form of public communication that contains professionally self-laudatory statements calculated to attract lay patients. As used in this subsection, "public communication" includes, but is not limited to, communications by means of television, radio, newspapers, books and periodicals, motion picture, handbills or other printed matter.
5. Willful disobedience of the law, or of the regulations of the State Board of Health or of the Chiropractic Physicians' Board of Nevada.
6. Conviction of any offense involving moral turpitude, or the conviction of a felony. The record of the conviction is conclusive evidence of unprofessional conduct.
7. Administering, dispensing or prescribing any controlled substance.
8. Conviction or violation of any federal or state law regulating the possession, distribution or use of any controlled substance. The record of conviction is conclusive evidence of unprofessional conduct.
9. Habitual intemperance or excessive use of alcohol or alcoholic beverages or any controlled substance.
10. Conduct unbecoming a person licensed to practice chiropractic or detrimental to the best interests of the public.
11. Violating, or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate, any provision of this chapter or the regulations adopted by the Board, or any other statute or regulation pertaining to the practice of chiropractic.
12. Employing, directly or indirectly, any suspended or unlicensed practitioner in the practice of any system or mode of treating the sick or afflicted, or the aiding or abetting of any unlicensed person to practice chiropractic under this chapter.

13. Repeated malpractice, which may be evidenced by claims of malpractice settled against a practitioner.

14. Solicitation by the licensee or his designated agent of any person who, at the time of the solicitation, is vulnerable to undue influence, including, without limitation, any person known by the licensee to have recently been involved in a motor vehicle accident, involved in a work-related accident, or injured by, or as the result of the actions of, another person. As used in this subsection:

(a) "Designated agent" means a person who renders service to a licensee on a contract basis and is not an employee of the licensee.

(b) "Solicitation" means the attempt to acquire a new patient through information obtained from a law enforcement agency, medical facility or the report of any other party, which information indicates that the potential new patient may be vulnerable to undue influence, as described in this subsection.

15. Employing, directly or indirectly, any person as a chiropractor's assistant unless the person has been issued a certificate by the Board pursuant to NRS 634.123, or has applied for such a certificate and is awaiting the determination of the Board concerning the application.

16. Aiding, abetting, commanding, counseling, encouraging, inducing or soliciting an insurer or other third-party payor to reduce or deny payment or reimbursement for the care or treatment of a patient, unless such action is supported by:

(a) The medical records of the patient; or

(b) An examination of the patient by the chiropractic physician taking such action.

17. *Violating ~~any~~ a lawful order of the Board, ~~any~~ a lawful agreement with the Board, or any of the provisions of this chapter or any regulation adopted pursuant thereto.*

Sec. 2. NRS 634.190 is hereby amended to read as follows:

634.190 1. The person charged is entitled to a hearing before the Board, but the failure of the person charged to attend his hearing or his failure to defend himself does not delay or void the proceedings. The Board may, for good cause shown, continue any hearing from time to time.

2. If the Board finds the person guilty as charged in the complaint, it may by order:

(a) Place the person on probation for a specified period or until further order of the Board.

(b) Administer to the person a public reprimand.

(c) Limit the practice of the person to, or by the exclusion of, one or more specified branches of chiropractic.

(d) Suspend the license of the person to practice chiropractic for a specified period or until further order of the Board.

(e) Revoke the license of the person to practice chiropractic.

(f) Impose a fine of not more than \$10,000 ~~for~~ *for each act which constitutes a ground for disciplinary action*, which must be deposited with the State Treasurer for credit to the State General Fund.

↪ The order of the Board may contain such other terms, provisions or conditions as the Board deems proper and which are not inconsistent with law.

3. If the Board finds that a licensee has violated the provisions of NRS 439B.425, the Board shall suspend his license for a specified period or until further order of the Board.

4. The Board shall not administer a private reprimand.

5. An order that imposes discipline and the findings of fact and conclusions of law supporting that order are public records.

Senator Carlton moved the adoption of the amendment.

Remarks by Senator Carlton.

Senator Carlton requested that her remarks be entered in the Journal.

Thank you, Mr. President. This places the words "a lawful" in front of the word "order" to make sure if the board is going to do this, that it actually is a "lawful order" of the board.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 31.

Bill read second time.

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

Amendment No. 32.

"SUMMARY—Revises provisions governing certain independent contractors with the State. (BDR 27-305)"

"AN ACT relating to state governmental administration; revising provisions governing independent contractors with the State; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under existing law, elective officers and the heads of departments, boards, commissions and institutions of the Executive Department of State Government are authorized to contract for the services of independent contractors, including the provision of security services for state agencies. (NRS 284.173, 284.174) With limited exceptions, existing law requires contracts with independent contractors to be approved by the State Board of Examiners, but the Clerk of the Board may approve contracts that are for less than a certain specified amount. (NRS 284.173) This bill repeals NRS 284.173 and 284.174 but replaces those sections with sections 2 and 3 of this bill which are added to chapter 333 of NRS, which relates to state purchasing. The new sections contain the same provisions as existing law except that the new sections: (1) require that if the contract is for services for which a license, certificate or other authorization is required by law, the independent contractor hold the appropriate current authorization required

by law for the services; (2) authorize the State Board of Examiners to determine the relevant amount rather than the relevant amount being specified in statute; and ~~((2))~~ (3) require the State Board of Examiners to prescribe a minimum amount of money under which such a contract is not required to be written or filed with the Legislative Counsel Bureau and the Clerk of the State Board of Examiners rather than the amount of \$2,000 being specified in statute.

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 2 and 3 of this act.

Sec. 2. 1. *A using agency may contract for the services of a person as an independent contractor. Except as otherwise provided by specific statute, each such contract must be awarded pursuant to this chapter.*

2. *An independent contractor is a natural person, firm or corporation who agrees to perform services for a fixed price according to his or its own methods and without subjection to the supervision or control of the other contracting party, except as to the results of the work, and not as to the means by which the services are accomplished.*

3. *For the purposes of this section:*

(a) *Travel, subsistence and other personal expenses may be paid to an independent contractor, if provided for in the contract, in such amounts as provided for in the contract. Those expenses must not be paid pursuant to the provisions of NRS 281.160.*

(b) *There must be no:*

(1) *Withholding of income taxes by the State;*

(2) *Coverage for industrial insurance provided by the State;*

(3) *Participation in group insurance plans which may be available to employees of the State;*

(4) *Participation or contributions by either the independent contractor or the State to the Public Employees' Retirement System;*

(5) *Accumulation of vacation leave or sick leave; or*

(6) *Coverage for unemployment compensation provided by the State if the requirements of NRS 612.085 for independent contractors are met.*

4. *An independent contractor is not in the classified or unclassified service of the State and has none of the rights or privileges available to officers or employees of the State of Nevada.*

5. *If the contract is for services for which a license, certificate, registration, permit or other type of authorization is required by law, an independent contractor must hold the appropriate, current authorization that is required by law for the services.*

6. *Except as otherwise provided in this subsection, each contract for the services of an independent contractor must be in writing. The form of the contract must be first approved by the Attorney General, and except as otherwise provided in subsection ~~(7)~~ 8, an executed copy of each contract*

must be filed with the Fiscal Analysis Division of the Legislative Counsel Bureau and the Clerk of the State Board of Examiners. The requirements of this subsection do not apply to contracts which are for less than the amount prescribed by the State Board of Examiners.

~~6.~~ 7. Except as otherwise provided in subsection ~~7.~~ 8. and except for contracts entered into by the Nevada System of Higher Education, each proposed contract with an independent contractor must be submitted to the State Board of Examiners. The contracts do not become effective without the prior approval of the State Board of Examiners, except that the State Board of Examiners may authorize its Clerk or his designee to approve contracts which are:

(a) For amounts less than the amount prescribed by the State Board of Examiners; or

(b) Entered into by the State Gaming Control Board for the purposes of investigating an applicant for or holder of a gaming license.

~~7.~~ 8. Copies of the following types of contracts need not be filed or approved as provided in subsections ~~5 and 6.~~ 6 and 7:

(a) Contracts executed by the Department of Transportation for any work of construction or reconstruction of highways.

(b) Contracts executed by the State Public Works Board or any other state department or agency for any work of construction or major repairs of state buildings, if the contracting process was controlled by the rules of open competitive bidding.

(c) Contracts executed by the Housing Division of the Department of Business and Industry.

(d) Contracts executed with business entities for any work of maintenance or repair of office machines and equipment.

~~8.~~ 9. The State Board of Examiners shall review each contract submitted for approval pursuant to subsection ~~6.~~ 7 to consider:

(a) Whether sufficient authority exists to expend the money required by the contract; and

(b) Whether the service which is the subject of the contract could be provided by a state agency in a more cost-effective manner.

➤ If the contract submitted for approval continues an existing contractual relationship, the State Board of Examiners shall ask each agency to ensure that the State is receiving the services that the contract purports to provide.

~~9.~~ 10. If the services of an independent contractor are contracted for to represent an agency of the State in any proceeding in any court, the contract must require that the independent contractor identify in all pleadings the specific state agency which he is representing.

~~10.~~ 11. The State Board of Examiners may adopt regulations to carry out of the provisions of this section.

Sec. 3. 1. If personnel of the Capitol Police Division of the Department of Public Safety are not available to provide security services for a building, office or other facility of a using agency, the using agency may,

pursuant to section 2 of this act, contract with one or more independent contractors to provide such services.

2. *An independent contractor with whom a using agency contracts pursuant to subsection 1 must:*

(a) *Be licensed as a private patrolman pursuant to chapter 648 of NRS or employed by a person so licensed; and*

(b) *Possess the skills required of and meet the same physical requirements as law enforcement personnel certified by the Peace Officers' Standards and Training Commission created pursuant to NRS 289.500.*

Sec. 4. NRS 41.0307 is hereby amended to read as follows:

41.0307 As used in NRS 41.0305 to 41.039, inclusive:

1. "Employee" includes an employee of a:

(a) Part-time or full-time board, commission or similar body of the State or a political subdivision of the State which is created by law.

(b) Charter school.

(c) University school for profoundly gifted pupils described in chapter 392A of NRS.

2. "Employment" includes any services performed by an immune contractor.

3. "Immune contractor" means any natural person, professional corporation or professional association which:

(a) Is an independent contractor with the State pursuant to ~~NRS 284.173;~~ *section 2 of this act;* and

(b) Contracts to provide medical services for the Department of Corrections.

↪ As used in this subsection, "professional corporation" and "professional association" have the meanings ascribed to them in NRS 89.020.

4. "Public officer" or "officer" includes:

(a) A member of a part-time or full-time board, commission or similar body of the State or a political subdivision of the State which is created by law.

(b) A public defender and any deputy or assistant attorney of a public defender or an attorney appointed to defend a person for a limited duration with limited jurisdiction.

(c) A district attorney and any deputy or assistant district attorney or an attorney appointed to prosecute a person for a limited duration with limited jurisdiction.

Sec. 5. NRS 176.0129 is hereby amended to read as follows:

176.0129 The Department of Administration shall, on an annual basis, contract for the services of an independent contractor, in accordance with the provisions of ~~NRS 284.173;~~ *section 2 of this act,* to:

1. Review sentences imposed in this State and the practices of the State Board of Parole Commissioners and project annually the number of persons who will be:

(a) In a facility or institution of the Department of Corrections;

- (b) On probation;
 - (c) On parole; and
 - (d) Serving a term of residential confinement,
- ↪ during the 10 years immediately following the date of the projection; and
2. Review preliminary proposals and information provided by the Commission and project annually the number of persons who will be:
- (a) In a facility or institution of the Department of Corrections;
 - (b) On probation;
 - (c) On parole; and
 - (d) Serving a term of residential confinement,
- ↪ during the 10 years immediately following the date of the projection, assuming the preliminary proposals were recommended by the Commission and enacted by the Legislature.

Sec. 6. NRS 232.548 is hereby amended to read as follows:

232.548 1. Except if a particular procedure for resolving a dispute is required by a specific statute, and except as otherwise provided in subsection 2, the Director may authorize any entity within the Department or any natural person who is subject to the authority of the Director to use alternative means of dispute resolution in any proceeding if the alternative means can be:

- (a) Carried out by the available personnel of the Department or persons under contract with the Department; and
- (b) Paid for with money that is available in the existing budget of the affected entity of the Department.

2. Before authorizing an entity of the Department to use alternative means of dispute resolution, the Director must notify the Attorney General. The Attorney General, within 30 days after his receipt of the notification from the Director, shall respond to the Director concerning the advisability of using alternative means of dispute resolution to resolve the dispute at issue. The Director shall consider the advice of the Attorney General but may authorize an entity of the Department to use alternative means of dispute resolution unless the Attorney General indicates in his response that he officially opposes the use of such means. If the Attorney General fails to respond within 30 days after his receipt of the notification, the Director may authorize the use of alternative means of dispute resolution.

3. The alternative means of dispute resolution may include, without limitation, evaluation of the facts and issues in a dispute by a neutral person, fact-finding, mediation, arbitration or other collaborative problem-solving processes designed to encourage persons to work together to develop agreeable solutions to disputes in lieu of litigation or adjudication of contested cases in administrative hearings.

4. Any entity which, or natural person who, has received authorization from the Director to use alternative means of dispute resolution may enter into a contract to facilitate the use of such means, subject to the approval of

the Attorney General, the limitations set forth in subsection 1 and the provisions of ~~[NRS 284.173,]~~ *section 2 of this act*.

Sec. 7. NRS 590.505 is hereby amended to read as follows:

590.505 1. The Board may adopt a seal for its own use which must have imprinted thereon the words "Board for the Regulation of Liquefied Petroleum Gas." The care and custody of the seal is the responsibility of the Secretary-Treasurer of the Board.

2. The Board may appoint an Executive Secretary and may employ or, pursuant to ~~[NRS 284.173,]~~ *section 2 of this act*, contract with such other technical, clerical or investigative personnel as it deems necessary. The Board shall fix the compensation of the Executive Secretary and all other employees and independent contractors. Such compensation must be paid out of the money of the Board. The Board may require the Executive Secretary and any other employees and independent contractors to give a bond to the Board for the faithful performance of their duties, the premiums on the bond being paid out of the money of the Board.

3. In carrying out the provisions of NRS 590.465 to 590.645, inclusive, and holding its regular or special meetings, the Board:

(a) Shall adopt written policies setting forth procedures and methods of operation for the Board.

(b) May adopt such regulations as it deems necessary.

4. The Board shall submit to the Legislature and the Governor a biennial report before September 1 of each even-numbered year, covering the biennium ending June 30 of that year, of its transactions during the preceding biennium, including a complete statement of the receipts and expenditures of the Board during the period and any complaints received by the Board.

5. The Board shall keep accurate records, minutes and audio recordings or transcripts of all meetings and, except as otherwise provided in NRS 241.035, the records, minutes, audio recordings and transcripts so kept must be open to public inspection at all reasonable times. The Board shall also keep a record of all applications for licenses and licenses issued by it. The record of applications and licenses is a public record.

Sec. 8. NRS 284.173 and 284.174 are hereby repealed.

Sec. 9. This act becomes effective on July 1, 2009.

TEXT OF REPEALED SECTIONS

284.173 Definition; contracts for services.

1. Elective officers and heads of departments, boards, commissions or institutions may contract for the services of persons as independent contractors. Except as otherwise provided by specific statute, each contract for services must be awarded pursuant to the provisions of chapter 333 of NRS.

2. An independent contractor is a natural person, firm or corporation who agrees to perform services for a fixed price according to his or its own methods and without subjection to the supervision or control of the other

contracting party, except as to the results of the work, and not as to the means by which the services are accomplished.

3. For the purposes of this section:

(a) Travel, subsistence and other personal expenses may be paid to an independent contractor, if provided for in the contract, in such amounts as provided for in the contract. Those expenses must not be paid pursuant to the provisions of NRS 281.160.

(b) There must be no:

- (1) Withholding of income taxes by the State;
- (2) Coverage for industrial insurance provided by the State;
- (3) Participation in group insurance plans which may be available to employees of the State;
- (4) Participation or contributions by either the independent contractor or the State to the Public Employees' Retirement System;
- (5) Accumulation of vacation leave or sick leave; or
- (6) Coverage for unemployment compensation provided by the State if the requirements of NRS 612.085 for independent contractors are met.

4. An independent contractor is not in the classified or unclassified service of the State, and has none of the rights or privileges available to officers or employees of the State of Nevada.

5. Except as otherwise provided in this subsection, each contract for the services of an independent contractor must be in writing. The form of the contract must be first approved by the Attorney General, and except as otherwise provided in subsection 7, an executed copy of each contract must be filed with the Fiscal Analysis Division of the Legislative Counsel Bureau and the Clerk of the State Board of Examiners. The State Board of Examiners may waive the requirements of this subsection in the case of contracts which are for amounts less than \$2,000.

6. Except as otherwise provided in subsection 7, and except contracts entered into by the Nevada System of Higher Education, each proposed contract with an independent contractor must be submitted to the State Board of Examiners. The contracts do not become effective without the prior approval of the State Board of Examiners, except that the State Board of Examiners may authorize its clerk or his designee to approve contracts which are:

(a) For amounts less than \$10,000 or, in contracts necessary to preserve life and property, for amounts less than \$25,000.

(b) Entered into by the State Gaming Control Board for the purposes of investigating an applicant for or holder of a gaming license.

➔ The State Board of Examiners shall adopt regulations to carry out the provisions of this section.

7. Copies of the following types of contracts need not be filed or approved as provided in subsections 5 and 6:

(a) Contracts executed by the Department of Transportation for any work of construction or reconstruction of highways.

(b) Contracts executed by the State Public Works Board or any other state department or agency for any work of construction or major repairs of state buildings if the contracting process was controlled by the rules of open competitive bidding.

(c) Contracts executed by the Housing Division of the Department of Business and Industry.

(d) Contracts executed with business entities for any work of maintenance or repair of office machines and equipment.

8. The State Board of Examiners shall review each contract submitted for approval pursuant to subsection 6 to consider:

(a) Whether sufficient authority exists to expend the money required by the contract; and

(b) Whether the service which is the subject of the contract could be provided by a state agency in a more cost-effective manner.

↳ If the contract submitted for approval continues an existing contractual relationship, the Board shall ask each agency to ensure that the State is receiving the services that the contract purports to provide.

9. If the services of an independent contractor are contracted for to represent an agency of the State in any proceeding in any court, the contract must require the independent contractor to identify in all pleadings the specific state agency which he is representing.

284.174 Contracts for security services when personnel of Capitol Police Division not available.

1. If personnel of the Capitol Police Division of the Department of Public Safety are not available to provide security services for a building, office or other facility of a state agency, the state agency may, pursuant to NRS 284.173, contract with one or more independent contractors to provide such services.

2. An independent contractor with whom a state agency contracts pursuant to subsection 1 must:

(a) Be licensed as a private patrolman pursuant to chapter 648 of NRS or employed by a person so licensed; and

(b) Possess the skills required of and meet the same physical requirements as law enforcement personnel certified by the Peace Officers' Standards and Training Commission created pursuant to NRS 289.500.

Senator Lee moved the adoption of the amendment.

Remarks by Senator Lee.

Senator Lee requested that his remarks be entered in the Journal.

Thank you, Mr. President. This requires that independent contractors, whose services are secured under chapter 333 of the *Nevada Revised Statutes*, be appropriately licensed in accordance with Nevada law.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 40.

Bill read second time.

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

Amendment No. 37.

"SUMMARY—Revises provisions relating to the licensure of psychologists. (BDR 54-320)"

"AN ACT relating to psychologists; revising provisions relating to applications for licensure as a psychologist to require the submission of fingerprints ~~to~~ or verification that the fingerprints were taken and directly forwarded by an authorized entity to the Central Repository for Nevada Records of Criminal History; revising provisions relating to examinations for licensure; eliminating the right of an applicant to request a review of his examination by the Board; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Section 1 of this bill defines "national examination" to mean the Examination for Professional Practice in Psychology in the form administered by the Association of State and Provincial Psychology Boards and approved for use in this State by the Board of Psychological Examiners.

Section 3 of this bill revises the requirements for an application for a license to practice psychology in this State to add the submission of a complete set of fingerprints and written permission authorizing the Board to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report ~~to~~ or verification that the set of fingerprints was directly forwarded to the Central Repository by the entity taking the prints.

Existing law provides that the Board may require an applicant for a license to pass an oral examination in whatever applied or theoretical fields it deems appropriate, in addition to a written examination. (NRS 641.180) Section 4 of this bill eliminates: (1) the requirement that the additional examination be conducted orally; (2) the provisions relating to the frequency, time, location and supervision of the examination; (3) the requirement that the Board supply each applicant with a copy of the results of his written examination provided to the Board by the Association; and (4) the right of the applicant to request that the Board review his examination if he fails the examination.

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

Section 1. Chapter 641 of NRS is hereby amended by adding thereto a new section to read as follows:

"National examination" means the Examination for Professional Practice in Psychology in the form administered by the Association of State and Provincial Psychology Boards and approved for use in this State by the Board.

Sec. 2. NRS 641.020 is hereby amended to read as follows:

641.020 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 641.021 to 641.027, inclusive, and section 1 of this act have the meanings ascribed to them in those sections.

Sec. 3. NRS 641.160 is hereby amended to read as follows:

641.160 Each person desiring a license must ~~make~~:

1. *Make* application to the Board upon a form, and in a manner, prescribed by the Board. The application must be accompanied by the application fee prescribed by the Board and include all information required to complete the application.

2. As part of his application and at his own expense:

(a) Arrange to have a complete set of his fingerprints taken by a law enforcement agency or other authorized entity acceptable to the Board; and

(b) Submit to the Board ~~to~~:

(1) A complete set of fingerprints and written permission authorizing the Board to forward the fingerprints to ~~the~~:

(I) The Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for a report on the applicant's background; and

(II) Such other law enforcement agencies as the Board deems necessary for ~~its~~ a report ~~to~~ on the applicant's background; or

(2) Written verification, on a form prescribed by the Board stating that the set of fingerprints of the applicant was taken and directly forwarded electronically or by other means to the Central Repository for Nevada Records of Criminal History and that the applicant provided written permission authorizing the law enforcement agency or other authorized entity taking the fingerprints to submit the fingerprints to:

(1) The Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for a report on the applicant's background; and

(II) Such other law enforcement agencies as the Board deems necessary for a report on the applicant's background.

3. The Board may:

(a) Unless the applicant's fingerprints are directly forwarded pursuant to subparagraph (2) of paragraph (b) of subsection 2, submit those fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation and to such other law enforcement agencies as the Board deems necessary; and

(b) Request from each agency to which the Board submits the fingerprints any information regarding the applicant's background as the Board deems necessary.

4. An application is not considered complete and received for purposes of evaluation pursuant to subsection 2 of NRS 641.170 until the Board receives a complete set of fingerprints or verification that the fingerprints have been forwarded electronically or by other means to the Central

Repository for Nevada Records of Criminal History, and written authorization from the applicant pursuant to this subsection.

Sec. 4. NRS 641.180 is hereby amended to read as follows:

641.180 1. Except as otherwise provided in this section and NRS 641.190, each applicant for a license must pass the ~~[Examination for the Professional Practice of Psychology in the form administered by the Association of State and Provincial Psychology Boards and approved for use in this State by the Board.]~~ *national examination.* In addition to ~~[this written]~~ *the national examination*, the Board may require an ~~[oral]~~ examination in whatever applied or theoretical fields it deems appropriate.

2. ~~[The examination must be given at least once a year, and may be given more often if deemed necessary by the Board. The examination must be given at a time and place, and under such supervision, as the Board may determine.]~~

3. ~~[The Board shall notify each applicant of the results of his [written] national examination and [supply him with a copy of all material information about those results provided to the Board by the Association of State and Provincial Psychology Boards.]~~

4. ~~[If an applicant fails the examination, he may request in writing that the Board review his examination.]~~

5. ~~[any other examination required pursuant to subsection 1.]~~

3. The Board may waive the requirement of ~~[a written]~~ *the national examination* for a person who:

(a) Is licensed in another state;

(b) Has *at least* 10 ~~[years]~~ *years'* experience; and

(c) Is a diplomate in the American Board of Professional Psychology or a fellow in the American Psychological Association, or who has other equivalent status as determined by the Board.

Sec. 5. NRS 641.370 is hereby amended to read as follows:

641.370 1. The Board shall charge and collect not more than the following fees respectively:

For the ~~[written]~~ *national examination*, in addition to the actual cost to the Board of the examination \$100

For ~~[the special oral]~~ *any other examination* ~~[]~~ *required pursuant to the provisions of subsection 1 of NRS 641.180*, in addition to the actual costs to the Board of the examination..... 100

For the issuance of an initial license 25

For the biennial renewal of a license..... 500

For the restoration of a license suspended for the nonpayment of the biennial fee for the renewal of a license 100

For the registration of a firm, partnership or corporation which engages in or offers to engage in the practice of psychology 300

For the registration of a nonresident to practice as a consultant..... 100

2. An applicant who passes the *national* examination and *any other examination required pursuant to the provisions of subsection 1 of NRS 641.180* and who is eligible for a license shall pay the biennial fee for the renewal of a license , which must be prorated for the period from the date the license is issued to the end of the biennium.

3. In addition to the fees set forth in subsection 1, the Board may charge and collect a fee for the expedited processing of a request or for any other incidental service it provides. The fee must not exceed the cost to provide the service.

Sec. 6. This act becomes effective upon passage and approval.

Senator Carlton moved the adoption of the amendment.

Remarks by Senator Carlton.

Senator Carlton requested that her remarks be entered in the Journal.

Thank you, Mr. President. This amendment clarifies the requirements for submitting fingerprints to the Board of Psychological Examiners.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 58.

Bill read second time.

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

Amendment No. 38.

"SUMMARY—Revises provisions governing the licensure and regulation of audiologists and speech pathologists. (BDR 54-362)"

"AN ACT relating to the Board of Examiners for Audiology and Speech Pathology; exempting certain doctoral students in audiology from the provisions governing the licensure and regulation of audiologists and speech pathologists; revising the qualifications for a license to practice audiology; revising provisions relating to certain ~~temporary~~ licenses; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Section 1 of this bill revises the exemption of students in speech pathology and audiology from the provisions governing the licensure and regulation of audiologists and speech pathologists, requiring both to be supervised by a licensed professional and requiring that audiology students be pursuing a doctoral degree in audiology. (NRS 637B.080)

Section 2 of this bill revises the requirements to obtain a license as a speech pathologist or audiologist by removing the requirement for supervised clinical experience and removing the qualification to receive a license on the basis of certain equivalent training and experience. Section 2 also requires a doctoral degree in audiology for licensure as an audiologist. (NRS 637B.160)

Section 3 of this bill revises the provisions governing the issuance of temporary licenses by discontinuing temporary licenses in audiology and by authorizing the issuance of ~~temporary~~ *provisional* licenses in speech pathology to applicants who have completed the curriculum for a master's degree in and passed an examination on speech pathology but have not yet received a degree. Section 3 also ~~provides a method to convert a temporary license to a permanent license. (NRS 637B.200)~~ *requires the Board of Examiners for Audiology and Speech Pathology to adopt regulations governing provisional licenses.*

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

Section 1. NRS 637B.080 is hereby amended to read as follows:

637B.080 The provisions of this chapter do not apply to:

1. Any physician or any person who is working with patients or clients under the direct, immediate supervision of a physician and for whom the physician is directly responsible.
 2. Any hearing aid specialist who is licensed pursuant to chapter 637A of NRS and who is acting within the scope of his license.
 3. Any person who:
 - (a) Holds a current credential as an audiologist or a speech pathologist issued by the Department of Education;
 - (b) Is employed as an audiologist or a speech pathologist by a federal agency or the Department of Health and Human Services;
 - (c) Is a graduate student ~~intern~~ enrolled in a program or school approved by the Board, ~~and~~ is pursuing a ~~graduate~~ master's degree in ~~audiology or~~ speech pathology ~~and~~ *and is supervised by an appropriately licensed speech pathologist;*
 - (d) *Is a graduate student enrolled in a program or school approved by the Board, is pursuing a doctoral degree in audiology and is supervised by an appropriately licensed audiologist;*
 - (e) Is a registered nurse employed as a school nurse; or
 - ~~(e)~~ (f) Holds a current certificate from the Council on the Education of the Deaf as a teacher,
- ↪ and who does not engage in the private practice of audiology or of speech pathology in this State.

Sec. 2. NRS 637B.160 is hereby amended to read as follows:

637B.160 1. An applicant for a license to engage in the practice of audiology or speech pathology must be issued a license by the Board if he:

- (a) Is over the age of 21 years;
- (b) Is a citizen of the United States ~~and~~ or is lawfully entitled to remain and work in the United States;
- (c) Is of good moral character;
- (d) Meets the requirements for education ~~for training and experience~~ provided by subsection 2;

(e) ~~Has completed at least 300 clock hours of supervised clinical experience in audiology or speech pathology, or both;~~

~~(f) Applies for the license in the manner provided by the Board;~~

~~(g) (f) Passes any examination required by this chapter;~~

~~(h) (g) Pays the fees provided for in this chapter; and~~

~~(i) (h) Submits all information required to complete an application for a license.~~

2. An applicant must possess a master's degree in ~~audiology or in~~ speech pathology *or a doctoral degree in audiology* from an accredited educational institution . ~~for possess equivalent training and experience. If he seeks to qualify on the basis of equivalent training and experience, the applicant must submit to the Board satisfactory evidence that he has obtained at least 60 semester credits, or equivalent quarter credits, in courses related to the normal development, function and use of speech and language or hearing, including, but not limited to, the management of disorders of speech or hearing and the legal, professional and ethical practices of audiology or speech pathology. At least 24 of the 60 credits, excluding any credits obtained for a thesis or dissertation, must have been obtained for courses directly relating to audiology or speech pathology.~~

Sec. 3. NRS 637B.200 is hereby amended to read as follows:

637B.200 1. The Board shall issue a ~~temporary~~ provisional license to practice ~~audiology or~~ speech pathology ~~;~~ upon *completion of the application and the payment of the required fee* ~~;~~ to any person who ~~is so licensed in another state and who meets all the qualifications for licensing in this State other than passing the examination.~~ :

(a) *Has successfully completed all course work and clinical practicum hours for a master's degree in speech pathology;*

(b) *Has passed an examination by an examining service approved by the Board; and*

(c) *Has not earned a master's degree in speech pathology.*

2. ~~[A temporary license issued pursuant to this section is valid until the Board publishes the results of the examination next administered after the license is issued.] *The Board shall convert a temporary license to a permanent license upon receipt of proof that the holder of the temporary license has earned a master's degree in speech pathology within 6 months after the issuance of the temporary license. If the holder of a temporary license does not submit proof that he has earned a master's degree in speech pathology within 6 months after the issuance of the temporary license, the temporary license will expire.* A provisional license issued pursuant to this section is valid for not more than 6 months and may not be renewed.~~

3. The Board shall adopt regulations governing the issuance of and conditions relating to a provisional license.

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

Senator Carlton moved the adoption of the amendment.

Remarks by Senator Carlton.

Senator Carlton requested that her remarks be entered in the Journal.

Thank you, Mr. President. The board was using the term "temporary," and we asked them to switch to the term "provisional" and create a new provisional licensing scheme.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 61.

Bill read second time and ordered to third reading.

Senate Bill No. 121.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 108.

"SUMMARY—~~[Makes various changes concerning the sale of subdivided land in certain circumstances.]~~ *Provides an exemption from certain licensing and regulation requirements for persons engaged in the sale of certain subdivisions.* (BDR 10-250)"

"AN ACT relating to real property; exempting from certain licensing and regulation requirements persons who are engaged in the sale of a subdivision which consists solely of undivided interests, which is not located in the State of Nevada, which is offered for investment only and which does not contain lots or parcels; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

~~[Sections 1 and 3 of this]~~ *Existing law provides that a sale of subdivided land must comply with certain licensing and regulation requirements. (Chapter 119 of NRS) Existing law exempts certain types of subdivisions or sales of an interest in a subdivision from complying with the provisions of chapter 119 of NRS. (NRS 119.120-119.125) This bill ~~exempt~~ exempts from the licensing and regulation requirements of chapter 119 of NRS ~~[119.160]~~ the sale of those subdivisions which consist solely of undivided interests, ~~[and]~~ which do not contain lots or parcels. ~~[(NRS 119.130, 119.160) Section 2 of this bill exempts persons or brokers proposing to offer or sell any such subdivision from the requirement to submit certain data concerning the subdivision to the Real Estate Division of the Department of Business and Industry. (NRS 119.140)]~~ which are not located in the State of Nevada and which are offered for investment purposes only. This bill also provides for: (1) the application for the exemption; (2) the termination of the exemption if the property report from another jurisdiction is revoked, withdrawn or suspended, or a cease and desist order is entered regarding the sale of the land; and (3) a process for the Real Estate Division of the Department of Business and Industry to address complaints filed by a person against the owner, broker or seller of land under this exemption.*

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

Section 1. ~~[NRS 119.130 is hereby amended to read as follows:~~

~~119.130 1. No subdivision or lot, parcel, unit or interest in any subdivision may in any way be offered or sold in this State by any person until:~~

~~(a) He has appointed in writing the Secretary of State to be his agent, upon whom all process, in any action or proceeding against him, may be served, and in this writing he agrees that any process against him which is served on the Secretary of State is of the same legal validity as if served on him and that the appointment continues in force as long as any liability remains outstanding against him in this State. The written appointment must be acknowledged before a notary public and must be filed in the Office of the Secretary of State with a fee of \$10 for accepting and transmitting any legal process served on the Secretary of State. Copies certified by the Secretary of State are sufficient evidence of the appointment and agreement.~~

~~(b) [He] Except as otherwise provided in subsection 5 of NRS 119.160, he has received a license under NRS 119.160.~~

~~2. Service of process authorized by paragraph (a) of subsection 1 must be made by filing with the Secretary of State:~~

~~(a) Two copies of the legal 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 legal process to the licensee, by registered or certified mail prepaid to the licensee.] (Deleted by amendment.)~~

Sec. 2. [NRS 119.140 is hereby amended to read as follows:

~~119.140 Any person or broker proposing to offer or sell any subdivision or lot, parcel, unit or interest therein in this State, excluding a subdivision which consists solely of undivided interests and which does not contain any lots or parcels, shall first submit to the Division:~~

~~1. The name and address of each person owning or controlling an interest of 10 percent or more.~~

~~2. The name, principal occupation and address of every officer, director, partner, owner, associate or trustee of the subdivider.~~

~~3. The legal description and area of lands.~~

~~4. A true statement of the condition of the title to the land, including all encumbrances thereon.~~

~~5. A true statement of the terms and conditions on which it is intended to dispose of the land and copies of the instruments which will be delivered to a purchaser to evidence his interest in the subdivision and of the contracts and other agreements which a purchaser will be required to agree to or sign.~~

~~6. A true statement of the provisions, if any, that have been made for public utilities in the proposed subdivision, including water, electricity, gas, telephone and sewerage facilities.~~

~~7. A true statement of the use for which the proposed subdivision will be offered.~~

~~8. A true statement of the provisions, if any, limiting the use or occupancy of the parcels in the subdivision.~~

~~9. A true statement of the maximum depth of fill used, or proposed to be used on each lot, and a true statement on the soil conditions in the subdivision supported by engineering reports showing the soil has been, or will be, prepared in accordance with the recommendations of a licensed civil engineer.~~

~~10. A true statement of the amount of indebtedness which is a lien upon the subdivision or any part thereof, and which was incurred to pay for the construction of any on site or off site improvement, or any community or recreational facility, and the names and addresses of the holders of the indebtedness together with an indication of their relationship, if any, to the owner and subdivider.~~

~~11. A true statement or reasonable estimate, if applicable, of the amount of any indebtedness which has been or is proposed to be incurred by an existing or proposed special district, entity, taxing area or assessment district, within the boundaries of which the subdivision, or any part thereof, is located, and which is to pay for the construction or installation of any improvement or to furnish community or recreational facilities to the subdivision, and which amounts are to be obtained by ad valorem tax or assessment, or by a special assessment or tax upon the subdivision, or any part thereof.~~

~~12. A true statement describing any agricultural activities or conditions in the area which may adversely affect residents of the subdivision, including any odors, cultivation and related dust, agricultural burning, application of pesticides, or irrigation and drainage.~~

~~13. Such other information as the owner, his agent or subdivider may wish to present.~~

~~14. A completed application for a license in such form and containing such additional information as the Division may require on its filing forms.~~

~~15. The fees prescribed by this chapter.] (*Deleted by amendment.*)~~

Sec. 3. ~~[NRS 119.160 is hereby amended to read as follows:~~

~~119.160 1. [The] *Except as otherwise provided in subsection 5, the Administrator shall make an examination of any subdivision, and shall, unless there are grounds for denial, issue to the subdivider a property report authorizing the sale or lease, or the offer for sale or lease, in this State of the lots or parcels in the subdivision. The report must contain the data obtained in accordance with NRS 119.140 and which the Administrator determines are necessary to carry out the purposes of this chapter. The Administrator may publish the report.*~~

~~2. The grounds for denial are:~~

~~(a) Failure to comply with any of the provisions in this chapter or the rules and regulations of the Division pertaining thereto.~~

~~(b) That the sale or lease would constitute misrepresentation to or deceit or fraud of the purchasers or lessees.~~

~~(c) Inability to deliver title or other interest contracted for.~~

~~(d) Inability to demonstrate that adequate financial arrangements have been made for all off-site improvements included in the offering.~~

~~(e) Inability to demonstrate that adequate financial arrangements have been made for any community, recreational or other facilities included in the offering.~~

~~(f) Failure to make a showing that the parcels can be used for the purpose for which they are offered.~~

~~(g) Failure to provide in the contract or other writing the use or uses for which the parcels are offered, together with any covenants or conditions relative thereto.~~

~~(h) Agreements or bylaws to provide for management or other services pertaining to common facilities in the offering, which fail to comply with the regulations of the Division.~~

~~(i) Failure to demonstrate that adequate financial arrangements have been made for any guaranty or warranty included in the offering.~~

~~3. If the Administrator finds that grounds for denial exist, he shall issue an order so stating to the owner or subdivider no later than 30 days after receipt of the information required to be filed by NRS 119.130 and 119.140. The Administrator may, alternatively, issue a temporary permit to be effective for not more than 6 months from the date of issuance. If the Administrator issues an order of denial, the owner or developer may appeal the order to the Director who shall, within 5 days of the receipt of the appeal, determine whether grounds for denial exist. If the Director finds that grounds for denial exist, he shall confirm the denial. If the Director confirms the denial, the owner or developer may appeal to the Real Estate Commission, which shall conduct a hearing and either confirm the denial or order a license issued within 30 days of the receipt of the appeal.~~

~~4. If it appears to the Administrator that a statement of record, or any amendment thereto, is on its face incomplete or inaccurate in any material respect, the Administrator shall so advise the developer within a reasonable time after the filing of the statement or the amendment, but before the date the statement or amendment would otherwise be effective. This notification serves to suspend the effective date of the statement or the amendment until 30 days after the developer files such additional information as the Administrator requires. Any developer, upon receipt of such notice, may request a hearing, and the hearing must be held within 20 days after receipt of the request by the Administrator.~~

~~5. The licensing requirements of this section do not apply to a subdivision which consists solely of undivided interests and which does not contain any lots or parcels. (Deleted by amendment.)~~

Sec. 4. Chapter 119 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The provisions of this chapter do not apply, unless the method of disposition is adopted to evade those provisions or the provisions of the

Interstate Land Sales Full Disclosure Act, 15 U.S.C. §§ 1701 to 1720, inclusive, upon notification to the Division by the person electing to be exempt under this subsection, to the sale of an undivided interest in unimproved land if:

(a) The land has not been divided into lots or parcels;

(b) The land is not located in this State; and

(c) The undivided interest is offered for investment purposes and not for short- or long-term residential development purposes.

2. The seller of land exempted pursuant to this section must provide a property report from the jurisdiction where the land is located to each potential purchaser of the land.

3. The Division shall adopt regulations prescribing the application for an exemption pursuant to this section. The application must be posted by the Division on its Internet website. The application must contain:

(a) All information necessary to determine if an applicant is qualified for the exemption, including, without limitation, the information contained in paragraphs (a), (b) and (c) of subsection 1;

(b) The name, address, telephone number and license number, if any, of the owner, broker or seller of the land; and

(c) A property report issued by the jurisdiction where the land is located.

4. An application for an exemption pursuant to this section must be accompanied by the applicable fee specified in NRS 119.320.

5. An owner, broker or seller of land who applies for an exemption pursuant to this section must notify the Division of any change of his address, telephone number or other contact information within 10 days after such change. The Division shall update its records to reflect any changes in such information without charge to the owner, broker or seller.

6. If the property report issued by another jurisdiction and submitted as part of the application for exemption pursuant to this section is revoked, withdrawn or suspended, or a cease and desist order is issued by the jurisdiction concerning activities relating to the land, the exemption granted pursuant to this section is automatically revoked.

7. If a person files a complaint against an owner, broker or seller of land exempted from this chapter pursuant to this section, the Division shall:

(a) Provide the person with the contact information of the owner, broker or seller of the land that the Division has on file; and

(b) If the owner, broker or seller is a licensed or registered broker in another jurisdiction, provide the information contained in the complaint to the appropriate regulatory agency of the other jurisdiction.

Senator Care moved the adoption of the amendment.

Remarks by Senator Care.

Senator Care requested that his remarks be entered in the Journal.

Amendment No. 108 to Senate Bill No. 121 replaces the original bill with a new exemption category for the sale, in Nevada to Nevada residents, of land interests in another state where property reports are already required.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 130.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 107.

"SUMMARY—Revises certain provisions governing certificates of permission to perform marriages. (BDR 11-468)"

"AN ACT relating to marriage; revising provisions concerning the application for, issuance of and revocation of certificates of permission to perform marriages; revising provisions certifying the persons who may solemnize a marriage; requiring the Secretary of State to establish a database of persons who may solemnize a marriage; revising provisions governing the validity of a marriage; providing for the revocation of authority of a minister or other person authorized to solemnize a marriage after he is no longer authorized to solemnize marriages by his church or religious organization; revising the contents of a certificate of marriage; providing a penalty; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Section 3 of this bill defines the term "other person authorized to solemnize a marriage" as a person, other than a minister, who has been authorized to solemnize a marriage according to the usages of his church or religious organization. Sections 4 and 6-19 of this bill amend existing law to grant the same rights and responsibilities for solemnizing a marriage to a "person authorized to solemnize a marriage" as the statutes do for a minister. (Chapter 122 of NRS)

Section 4 of this bill creates an affidavit, to be filed with the county clerk, to revoke the authority of a minister or other person authorized to solemnize a marriage if he no longer has the authority to solemnize a marriage within his church or religious organization.

Section 8 of this bill amends existing law to allow a person authorized to solemnize a marriage to: (1) legally join together a husband and wife; and (2) obtain a certificate of permission to perform marriages from a county clerk. Section 8 also allows a person authorized to solemnize a marriage who resides outside of Nevada to solemnize a marriage in this State under certain circumstances. (NRS 122.062)

Sections 9 and 10 of this bill amend existing law to allow a person, other than a minister, who has been authorized to solemnize a marriage according to the usages of his church or religious organization to apply for a certificate of permission to perform marriages. Sections 9 and 10 also remove the requirement that the solemnization of marriages be only incidental to the ministry provided to his church or religious organization and requires a new affidavit of authority to solemnize marriages to be submitted with the

marriages), filed in the County of, on the day of the month of, of the year, to solemnize marriages.

I am duly authorized by (name of church or religious organization) to complete and submit this affidavit.

.....
Signature of Official

.....
Name of Official
(type or print name)

.....
Title of Official

.....
Address

.....
City, State and Zip Code

.....
Telephone Number

Signed and sworn to (or affirmed) before me this day of the month of of the year

.....
Notary Public for
..... *County, Nevada.*

My appointment expires

Sec. 5. NRS 122.002 is hereby amended to read as follows:
122.002 ~~{As used in this chapter, "commissioner}~~ "Commissioner township" means a township whose population is 15,500 or more, as most recently certified by the Governor pursuant to NRS 360.285, and which is located in a county whose population is 100,000 or more.

Sec. 6. NRS 122.030 is hereby amended to read as follows:
122.030 1. With respect to any marriage solemnized before January 1, 1971, the original certificate and records of marriage made by the judge, justice or minister, as prescribed in this chapter, and the record thereof by the recorder of the county, or a copy or abstract of the record certified by the recorder, must be received in all courts and places as presumptive evidence of the fact of the marriage.

2. With respect to any marriage solemnized on or after January 1, 1971, the original certificate and records of marriage made by the judge, justice, minister ~~{}~~ or other person authorized to solemnize a marriage, commissioner of civil marriages or deputy commissioner of civil marriages, as prescribed in this chapter, and the record thereof by the county recorder or the county clerk, as the case may be, or a copy or abstract of the record certified by the county recorder or the county clerk, as the case may be, must be received in all courts and places as presumptive evidence of the fact of the marriage.

Sec. 7. NRS 122.050 is hereby amended to read as follows:

122.050 The marriage license must contain the name of each applicant as shown in the documents presented pursuant to subsection 2 of NRS 122.040 and must be substantially in the following form:

MARRIAGE LICENSE
(EXPIRES 1 YEAR AFTER ISSUANCE)

State of Nevada }
 }ss.
County of }

These presents are to authorize any minister or other person authorized to solemnize a marriage who has obtained a certificate of permission to perform marriages, any Supreme Court justice or district judge within this State, or justice of the peace within a township wherein he is permitted to solemnize marriages or if authorized pursuant to subsection 3 of NRS 122.080, or a municipal judge if authorized pursuant to subsection 4 of NRS 122.080 or any commissioner of civil marriages or his deputy within a commissioner township wherein they are permitted to solemnize marriages, to join in marriage of (City, town or location), State of State of birth (If not in U.S.A., name of country); Date of birth Father's name Father's state of birth (If not in U.S.A., name of country) Mother's maiden name Mother's state of birth (If not in U.S.A., name of country) Number of this marriage (1st, 2nd, etc.) ... Wife deceased Divorced Annulled When Where And of (City, town or location), State of State of birth (If not in U.S.A., name of country); Date of birth Father's name Father's state of birth (If not in U.S.A., name of country) Mother's maiden name Mother's state of birth (If not in U.S.A., name of country) Number of this marriage (1st, 2nd, etc.) ... Husband deceased Divorced Annulled When Where; and to certify the marriage according to law.

Witness my hand and the seal of the county, this ... day of the month of of the year

(Seal)
Clerk
.....
Deputy clerk

Sec. 8. NRS 122.062 is hereby amended to read as follows:

122.062 1. Any licensed, ~~or~~ ordained or appointed minister or other person authorized to solemnize a marriage in good standing within his ~~denomination, whose denomination, governing body and~~ church, ~~or any~~ religious organization, or either of them, ~~are~~ incorporated, ~~or~~ organized or established in this State, may join together as husband and wife persons who present a marriage license obtained from any county clerk of the State, if the minister or other person authorized to solemnize a marriage first obtains a certificate of permission to perform marriages as provided in ~~this section and~~ NRS ~~122.064~~ 122.062 to 122.073, inclusive, ~~and~~ section 4 of this

act. The fact that a minister *or other person authorized to solemnize a marriage* is retired does not disqualify him from obtaining a certificate of permission to perform marriages if, before his retirement, he had active charge of a ~~[congregation within this State]~~ *church or religious organization* for a period of at least 3 years.

2. A temporary replacement for a licensed, ~~for~~ *ordained or appointed minister or other person authorized to solemnize a marriage* certified pursuant to ~~[this section and]~~ NRS ~~[122.064]~~ 122.062 to 122.073, inclusive, and section 4 of this act may solemnize marriages pursuant to subsection 1 during such time as he may be authorized to do so by the county clerk in the county in which he is a temporary replacement, for a period not to exceed 90 days. The minister *or other person authorized to solemnize a marriage* whom he temporarily replaces shall provide him with a written authorization which states the period during which it is effective.

3. Any chaplain who is assigned to duty in this State by the Armed Forces of the United States may solemnize marriages if he obtains a certificate of permission to perform marriages from the county clerk of the county in which his duty station is located. The county clerk shall issue such a certificate to a chaplain upon proof by him of his military status as a chaplain and of his assignment.

4. A county clerk may authorize a licensed, ~~for~~ *ordained or appointed minister or other person authorized to solemnize a marriage* whose ~~[congregation]~~ *residence and church or religious organization* is in another state *or who is retired, if his service was as described in subsection 1,* to perform marriages in the county if the county clerk satisfies himself that the minister *or other person authorized to solemnize a marriage* is in good standing with his ~~[denomination or]~~ *church [] or religious organization pursuant to this section.* The authorization must be in writing and need not be filed with any other public officer. A separate authorization is required for each marriage performed. Such a minister *or other person authorized to solemnize a marriage* may perform not more than five marriages in this State in any calendar year ~~[]~~ *and must acknowledge that he is subject to the jurisdiction of the county clerk with respect to the provisions of this chapter governing the conduct of ministers or other persons authorized to solemnize a marriage to the same extent as if he were a minister or other person authorized to solemnize a marriage residing in this State.*

Sec. 9. NRS 122.064 is hereby amended to read as follows:

122.064 1. A certificate of permission *to perform marriages* may be obtained only from the county clerk of the county in which the minister *or other person authorized to solemnize a marriage* resides, after the filing of a proper application. The initial application must:

- (a) Be in writing and be verified by the applicant. ~~[for his superior.]~~
- (b) Include the date of licensure, ~~for~~ *ordination [] or [both,] appointment* of the minister ~~[]~~ *or other person authorized to solemnize a marriage,* and

I am duly authorized by (name of church or religious organization) to complete and submit this affidavit.

.....
Signature of Official

.....
Name of Official
(type or print name)

.....
Title of Official

.....
Address

.....
City, State and Zip Code

.....
Telephone Number

Signed and sworn to (or affirmed) before me this day of the month of of the year

.....
Notary Public for

..... County, Nevada.

My appointment expires

Sec. 10. NRS 122.064 is hereby amended to read as follows:

122.064 1. A certificate of permission to perform marriages may be obtained only from the county clerk of the county in which the minister or other person authorized to solemnize a marriage resides, after the filing of a proper application. The initial application shall:

- (a) Be in writing and verified by the applicant . ~~{or his superior.}~~
- (b) Show the date of licensure , ~~{or}~~ ordination ~~{,}~~ or ~~{both,}~~ appointment of the minister ~~{,}~~ or other person authorized to solemnize a marriage, and the name of the ~~{denomination, governing body and}~~ church ~~{,}~~ or ~~{any of them,}~~ religious organization with which he is affiliated.
- (c) Be accompanied by ~~{two copies}~~ one copy of the ~~{denominational standing of the applicant,}~~ affidavit of authority to solemnize marriages described in subsection 5 . ~~{, one of which the county clerk shall file with the Secretary of State.}~~

2. ~~{For the purpose of determining}~~ To determine the qualifications of any minister or other person authorized to solemnize a marriage who has filed an application for a certificate, the county clerk with whom such application has been filed may require : ~~{that}~~

- (a) The ~~{congregation}~~ church or religious organization of ~~{such}~~ the minister or other person authorized to solemnize a marriage to furnish any evidence which the county clerk considers necessary or helpful.
- (b) The district attorney and the sheriff to conduct an investigation of the background and present activities of the minister ~~{,}~~ or other person authorized to solemnize a marriage.

3. In addition to the requirement of good standing, the county clerk shall, before approving an initial application , satisfy himself that:

(a) The applicant's ministry is ~~{primarily}~~ one of service to his ~~{congregation}~~ church or ~~{denomination, and that his performance of marriages will be incidental to such service,}~~ religious organization or, in the case of a retired minister ~~{}~~ or other person authorized to solemnize a marriage, that his active ministry was of such a nature.

(b) No certificate previously issued to the applicant has been cancelled for a knowing violation of the laws of this State or of the United States.

(c) The applicant has not been convicted of a felony, released from confinement or completed his parole or probation, whichever occurs later, within 10 years before the date of the application.

4. The county clerk may require any applicant to submit information in addition to that required by this section.

5. *The affidavit of authority to solemnize marriages must be in substantially the following form:*

AFFIDAVIT OF AUTHORITY TO SOLEMNIZE MARRIAGES

State of Nevada }
 }ss.
County of }

The (name of church or religious organization) is organized and carries on its work in the State of Nevada. Its active meetings are located at (street address, city or town). The (name of church or religious organization) hereby finds that (name of minister or other person authorized to solemnize marriages) is in good standing and is authorized by the (name of church or religious organization) to solemnize a marriage.

I am duly authorized by (name of church or religious organization) to complete and submit this affidavit.

.....
Signature of Official

.....
Name of Official
(type or print name)

.....
Title of Official

.....
Address

.....
City, State and Zip Code

.....
Telephone Number

Signed and sworn to (or affirmed) before me this day of the month of of the year

.....

Notary Public for

..... County, Nevada.

My appointment expires

Sec. 11. NRS 122.066 is hereby amended to read as follows:

122.066 1. The Secretary of State shall establish and maintain a statewide database of ministers or other persons authorized to solemnize a marriage. The database must:

(a) Serve as the official list of ministers or other persons authorized to solemnize a marriage approved in this State;

(b) Provide for a single method of storing and managing the official list;

(c) Be a uniform, centralized and interactive database;

(d) Be electronically secure and accessible to each county clerk in this State;

(e) Contain the name, mailing address and other pertinent information of each minister or other person authorized to solemnize a marriage as prescribed by the Secretary of State; and

(f) Include a unique identifier assigned by the Secretary of State to each minister or other person authorized to solemnize a marriage.

2. If the county clerk approves an application ~~for~~ for a certificate of permission to perform marriages, he shall ~~notify the Secretary of State of such approval within 10 days thereafter. After receipt of such notification,~~ :

(a) Enter all information contained in the application into the electronic statewide database of ministers or other persons authorized to solemnize a marriage maintained by the Secretary of State ~~shall immediately certify the name of~~ [such] ~~the minister or other person authorized to solemnize a marriage to each county clerk and county recorder in the State~~

~~2~~ not later than 10 days after the certificate of permission to perform marriages is approved by the county clerk; and

(b) Provide to the Secretary of State all information related to the minister or other person authorized to solemnize a marriage pursuant to paragraph (e) of subsection 1.

3. Upon approval of an application pursuant to subsection ~~1~~ 3, the minister or other person authorized to solemnize a marriage:

(a) Shall comply with the laws of this State governing the solemnization of marriage and conduct of ministers or other persons authorized to solemnize a marriage;

(b) Is subject to further review or investigation by the county clerk to ensure that he continues to meet the statutory requirements for a person authorized to solemnize a marriage; and

(c) Shall provide the county clerk with any changes to his status or information, including, without limitation, the address or telephone number of the church or religious organization or any other information pertaining to certification.

~~3~~ 4. A certificate of permission ~~shall be~~ is valid until the county clerk has received ~~it~~

(a) ~~A written statement that the minister is no longer in good standing within his denomination, signed by a trustee, warden, responsible superior or other officer of such minister's congregation authorized to speak for it; or~~

(b) ~~A written statement that the minister to whom a certificate of permission was granted is no longer a minister, signed by a trustee, warden, responsible superior or other officer of such former minister's congregation authorized to speak for it.~~

~~3. The written statements required to be sent by a trustee, warden, responsible supervisor or other officer of a congregation} an affidavit of revocation of authority to solemnize marriages pursuant to section 4 of this act.~~

~~{4.}~~ 5. ~~An affidavit of revocation of authority to solemnize marriages that is received pursuant to subsection {2 shall} {3} 4 must be sent to the county clerk within 5 days {following the time} after the minister or other person authorized to solemnize a marriage ceased to be a member of the {denomination} church or religious organization in good standing or ceased to be a minister or other person authorized to solemnize a marriage {of the congregation.~~

~~4.}~~ *for the church or religious organization.*

~~{5.}~~ 6. ~~If the county clerk in the county where the certificate of permission was issued has reason to believe that the minister or other person authorized to solemnize a marriage is no longer in good standing within his {denomination,} church or religious organization, or that he is no longer a minister {,} or other person authorized to solemnize a marriage, or that such {denomination} church or religious organization no longer exists, {such} the county clerk may require satisfactory proof of {such minister's denominational} the good standing {,} of the minister or other person authorized to solemnize a marriage. If such proof is not presented within 15 days, the county clerk shall revoke the certificate of permission {and shall so notify the Secretary of State.} by amending the electronic record of the minister or other person authorized to solemnize a marriage in the statewide database pursuant to subsection 1.~~

~~{5.}~~ ~~{6.}~~ 7. ~~If any minister or other person authorized to solemnize a marriage to whom a certificate of permission has been issued severs ties with his {congregation} church or religious organization or moves from the county in which his certificate was issued, the certificate shall expire immediately upon such severance or move, and the {trustee, warden, responsible superior or other officer of the congregation authorized to speak for it} church or religious organization shall, within 5 days {following} after the severance or move, {give written notice of the fact of such severance or move to the county clerk who issued the certificate.} file an affidavit of revocation of authority to solemnize marriages pursuant to section 4 of this act. If the minister or other person authorized to solemnize a marriage voluntarily advises the county clerk of the county in which his certificate was issued of his severance with his church or religious organization, or that he~~

has moved from the county, the certificate shall expire immediately upon such severance or move without any notification to the county clerk by the church or religious organization.

8. The Secretary of State may adopt regulations concerning the creation and administration of the statewide database. This section does not prohibit the Secretary of State from making the database publicly accessible for the purpose of viewing ministers or other persons who are authorized to solemnize a marriage in this State.

Sec. 12. NRS 122.068 is hereby amended to read as follows:

122.068 1. Any county clerk who has issued a certificate of permission to perform marriages to a minister or other person authorized to solemnize a marriage pursuant to NRS 122.062 to 122.073, inclusive, and section 4 of this act may revoke ~~such~~ the certificate for good cause shown after a hearing.

2. If the certificate of permission to perform marriages of any minister or other person authorized to solemnize a marriage is revoked, the county clerk shall inform the Secretary of State of ~~such~~ that fact, and the Secretary of State shall immediately remove the name of ~~such~~ the minister or other person authorized to solemnize a marriage from the official list contained in the database of ministers or other persons authorized to solemnize a marriage and shall notify each county clerk and county recorder in the State of ~~such fact.~~ the revocation.

Sec. 13. NRS 122.071 is hereby amended to read as follows:

122.071 Any minister or other person authorized to solemnize a marriage whose application for a certificate of permission to perform marriages or renewal of such certificate is denied, or whose certificate of permission is revoked, is entitled to judicial review of such action in the district court of the county in which such action was taken.

Sec. 14. NRS 122.073 is hereby amended to read as follows:

122.073 Each county clerk may prescribe additional regulations, which shall not conflict with the provisions of this chapter, relating to the issuance and revocation of certificates of permission ~~to~~ to perform marriages.

Sec. 15. NRS 122.090 is hereby amended to read as follows:

122.090 No marriage solemnized before any person professing to be a judge, justice, minister ~~or~~ or other person authorized to solemnize a marriage, commissioner of civil marriages or deputy commissioner of civil marriages shall be deemed or adjudged to be void, nor shall the validity thereof be in any way affected on account of any want of jurisdiction or authority, provided it be consummated with a full belief on the part of the persons so married, or either of them, that they have been lawfully joined in marriage.

Sec. 16. NRS 122.110 is hereby amended to read as follows:

122.110 1. In the solemnization of marriage, no particular form is required except that the parties shall declare, in the presence of the justice, judge, minister ~~or~~ or other person authorized to solemnize a marriage,

122.185 The office of the commissioner of civil marriages and each room therein shall prominently display on the wall, or other appropriate place, a sign informing all people who avail themselves of the services of the commissioner of civil marriages of the following facts:

1. That the solemnization of the marriage by the commissioner of civil marriages is not necessary for a valid marriage and that the parties wishing to be married may have a justice of the peace within a township where such justice of the peace is permitted to perform marriages, or any minister *or other person authorized to solemnize a marriage* of their choice who holds a valid certificate *of permission to perform marriages* within the State , perform the ceremony;

2. The amount of the fee to be charged for solemnization of a marriage, including any extra charge to be made for solemnizing a marriage after regular working hours in the office of the commissioner of civil marriages;

3. That all fees charged are paid into the county general fund of the particular county involved;

4. That other than the statutory fee, the commissioner of civil marriages and the deputy commissioners of civil marriages are precluded by law from receiving any gratuity fee or remuneration whatsoever for solemnizing a marriage; and

5. That if the commissioner of civil marriages, any deputy commissioner of civil marriages, or any other employee in the office of the commissioner or in the office of the county clerk solicits such an extra gratuity fee or other remuneration, the matter should be reported to the district attorney for such county.

Sec. 19. NRS 122.220 is hereby amended to read as follows:

122.220 1. It is unlawful for any Supreme Court justice, judge of a district court, justice of the peace, municipal judge, minister ~~[of any religious society or congregation,]~~ *or other person authorized to solemnize a marriage*, commissioner of civil marriages or deputy commissioner of civil marriages to join together as husband and wife persons allowed by law to be joined in marriage, until the persons proposing such marriage exhibit to him a license from the county clerk as provided by law.

2. Any Supreme Court justice, judge of a district court, justice of the peace, municipal judge, minister ~~{}~~ *or other person authorized to solemnize a marriage*, commissioner of civil marriages or deputy commissioner of civil marriages who violates the provisions of subsection 1 is guilty of a misdemeanor.

Sec. 20. 1. This section and sections 1 to 9, inclusive, and 11 to 19, inclusive, of this act become effective on July 1, 2009.

2. Section 9 of this act expires by limitation on the date of the repeal of the federal law requiring each state to establish procedures for withholding, suspending or restricting the use of professional, occupational and recreational licenses for child support arrearages and for noncompliance with certain processes relating to paternity or child support proceedings.

3. Section 10 of this act becomes effective on the date of the repeal of the federal law requiring each state to establish procedures for withholding, suspending or restricting the use of professional, occupational and recreational licenses for child support arrearages and for noncompliance with certain processes relating to paternity or child support proceedings.

Senator Care moved the adoption of the amendment.

Remarks by Senator Care.

Senator Care requested that his remarks be entered in the Journal.

Amendment No. 107 to Senate Bill No. 130 requires the Secretary of State to establish an electronic database of ministers and others authorized to solemnize marriages that would be directly accessible to county clerks who certify these individuals. This amendment was requested by the Secretary of State to improve the cumbersome list currently in existence.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 156.

Bill read second time and ordered to third reading.

Senate Bill No. 168.

Bill read second time.

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

Amendment No. 217.

"SUMMARY—Revises provisions relating to prescription drugs. (BDR 54-1011)"

"AN ACT relating to pharmacy; requiring that the label of a prescription drug contain certain warnings; providing a penalty; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

This bill requires that the label attached to any prescription drug dispensed in this State contain a written warning which must state, ~~["Caution: If the person to whom this drug is prescribed is less than 25 years of age, the person or his caregiver is advised to review the pamphlet and other information which is included with the prescription." The portion of the label which contains the warning must be printed on a blue background.]~~ *"WARNING: Review boxed warning information included with this prescription" if the prescription drug is required to have a boxed warning pursuant to federal law.* (NRS 639.2801) A violation of any provision of this bill is punishable as a misdemeanor. (NRS 639.310)

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

Section 1. NRS 639.2801 is hereby amended to read as follows:

639.2801 *1.* Unless specified to the contrary in writing on the prescription by the prescribing practitioner, all prescriptions filled by any practitioner must be dispensed in a container to which is affixed a label or other device which clearly shows:

~~{1.}~~ (a) The date.

~~{2.}~~ (b) The name, address and prescription serial number of the practitioner who filled the prescription.

~~{3.}~~ (c) The names of the prescribing practitioner and of the person for whom prescribed.

~~{4.}~~ (d) The number of dosage units.

~~{5.}~~ (e) The symptom or purpose for which the drug is prescribed, if included by the practitioner pursuant to NRS 639.2352.

~~{6.}~~ (f) Specific directions for use given by the prescribing practitioner.

~~{7.}~~ (g) The expiration date of the effectiveness of the drug or medicine dispensed, if that information is included on the original label of the manufacturer of that drug or medicine. If the expiration date specified by the manufacturer is not less than 1 year after the date of dispensing, the practitioner may use a date that is 1 year after the date of dispensing as the expiration date.

~~{8.}~~ (h) The proprietary or generic name of the drug or medicine as written by the prescribing practitioner.

~~{9.}~~ (i) The strength of the drug or medicine.

~~{10.}~~

2. The label *described in subsection 1* must contain the warning:
~~following warnings:~~

~~(a)~~ Caution: Do not use with alcohol or nonprescribed drugs without consulting the prescribing practitioner.

~~(b) Caution: If the person to whom this drug is prescribed is less than 25 years of age, the person or his caregiver is advised to review the pamphlet and other information which is included with the prescription.~~

3. ~~{The portion of the label which contains the warning described in paragraph (b) of subsection 2 must be printed on a blue background.}~~ If a prescription filled by any practitioner requires a boxed warning pursuant to 21 C.F.R. § 201.57(c)(1), the label described in subsection 1 must contain the warning:

WARNING: Review boxed warning information included with this prescription.

Senator Carlton moved the adoption of the amendment.

Remarks by Senators Carlton and Washington.

Senator Carlton requested that the following remarks be entered in the Journal.

SENATOR CARLTON:

Amendment No. 217 to Senate Bill No. 168 removes the requirement that a warning label be placed on the container of any prescription drug provided to patients under the age of 21 years. The amendment requires that a warning label be placed on the container of any prescription drug that requires a black-box warning associated with the drug pursuant to the federal regulation that directs that the patient review the safety information provided with that prescription.

Right now, if you are taking a drug that is a black-box drug, there is a pamphlet that is put in the bag with the prescription bottle. With this amendment, not only will you get the pamphlet but, also, there will be a sticker or notation on the prescription bottle warning the patient and

everyone else in the house, that the drug has a black-box warning and to be aware that there are significant side effects associated with that drug.

SENATOR WASHINGTON:

How much room will there be on the container for that labeling to be placed?

SENATOR CARLTON:

Some of the retailers will have a sticker on the side. One of our major retailers has gone to a new type of label where down the side of the label it lists all the notations. There are six categories where they can list the black-box warnings. There is a spot for it on the bottle.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 173.

Bill read second time.

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

Amendment No. 75.

"SUMMARY—Provides for the construction of bus turnouts at certain locations in certain counties. (BDR 22-584)"

"AN ACT relating to local governmental planning; providing for the construction of bus turnouts at certain locations in certain counties; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under existing law, the regional transportation commission in a county whose population is 400,000 or more (currently Clark County) has the authority to provide for the construction and maintenance of benches and shelters for passengers of public mass transportation. (NRS 373.1183) Additionally, the regional transportation commission is required to work with the regional planning coalition concerning plans for capital improvements. (NRS 278.02584)

Section 1 of this bill requires that the regional transportation commission in a county whose population is 400,000 or more designate, on or before December 31, 2009, 10 bus stops at which a bus turnout—an area for loading and unloading passengers outside of the lanes of traffic—must be constructed by December 31, 2012. Such a bus turnout must be constructed on land owned by the State or a local government. ~~The local government which owns the land and the~~ commission must ~~enter into an agreement to jointly provide for and~~ fund the construction of the bus turnout. On and after January 1, 2013, section ~~3~~ 4 of this bill provides that the commission may designate annually up to ~~three~~ four locations at which a bus turnout must be constructed within 1 year. Pursuant to section 4, the county and the three largest incorporated cities within the county would each fund the construction of one of the four bus turnouts.

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

Section 1. Chapter 278 of NRS is hereby amended by adding thereto a new section to read as follows:

1. *Not later than December 31, 2009:*

(a) *Except as otherwise provided in subsection ~~4.1~~ 5, the commission shall designate 10 locations in the county that are owned by the State or by local governments and at which a bus turnout must be constructed pursuant to this section; and*

(b) *For each location designated pursuant to paragraph (a), the commission and the State or the local government that owns the location shall execute an interlocal or cooperative agreement that authorizes the construction of a bus turnout at the location.*

2. *For each location designated pursuant to subsection 1, the commission and the State or the local government that owns the location shall ~~be~~*

~~(a) Ensure~~ *ensure* that a bus turnout is constructed not later than December 31, 2012. ~~;~~ ~~and~~

~~(b) Subject to the agreement executed pursuant to paragraph (b) of subsection 1, jointly~~

3. *The commission shall fund the construction of ~~the~~ a bus turnout ~~;~~ ~~built~~ pursuant to this section.*

4. *When determining the locations to be designated pursuant to subsection 1, the commission shall consider, without limitation:*

(a) *The amount of traffic congestion at the location during hours of peak traffic;*

(b) *The extent of improvements to the location that would need to be completed before the bus turnout could be constructed;*

(c) *The proximity of the location to an intersection;*

(d) *The frequency with which buses receive and discharge passengers at the location;*

(e) *The number of bus passengers regularly using the bus stop at the location; ~~and~~*

(f) *The general need for a bus turnout at the location ~~;~~*

~~4.1~~ *; and*

(g) *Any obstacle that may prevent the completion of the construction of a bus turnout by the date set forth in subsection 2.*

5. *The commission shall not designate more than three locations pursuant to subsection 1 that are owned by the State or by the same local government.*

~~5.1~~ 6. *As used in this section:*

(a) *"Bus" has the meaning ascribed to it in NRS 484.021.*

(b) *"Bus turnout" means a fixed area that is:*

(1) *Adjacent or appurtenant to, or within reasonable proximity of, a public highway; and*

(2) *To be occupied exclusively by buses in receiving or discharging passengers.*

(c) "Commission" means the regional transportation commission created and organized pursuant to chapter 373 of NRS in a county whose population is 400,000 or more.

(d) "Local government" means any political subdivision of the State, including, without limitation, any county, city, town, board, airport authority, fire protection district, irrigation district, school district, hospital district or other special district which performs a governmental function and which is located within the jurisdiction of the commission.

(e) "Location" means a parcel of ~~land~~ real property which:

(1) Is owned by the State or by a local government;

(2) Is adjacent to a public highway; and

(3) Contains a bench, shelter or transit stop for passengers of public transportation.

(f) "Public highway" means any street, road, alley, thoroughfare, way or place of any kind used by the public or open to the use of the public as a matter of right for the purpose of vehicular traffic.

Sec. 2. NRS 278.02507 is hereby amended to read as follows:

278.02507 The provisions of NRS 278.02507 to 278.02598, inclusive, and section 1 of this act apply only to counties whose population is 400,000 or more and cities located within those counties.

Sec. 3. ~~Section 1 of this act is hereby amended to read as follows:~~

~~Section 1. 1. [Not later than December 31, 2009:~~

~~(a) Except as otherwise provided in subsection [4,] 6, the commission [shall designate 10] may designate annually not more than three locations in the county that are owned by local governments and at which a bus turnout must be constructed pursuant to this section. [; and~~

~~(b) For each location designated pursuant to paragraph (a), the commission and the local government that owns the location shall execute an interlocal or cooperative agreement that authorizes the construction of a bus turnout at the location.]~~

~~2. For each location designated pursuant to subsection 1, the commission and the local government that owns the location shall:~~

~~(a) Execute an interlocal or cooperative agreement that authorizes the construction of a bus turnout at the location;~~

~~(b) Ensure that a bus turnout is constructed not later than [December 31, 2012;] 1 year after the date on which the commission designates the location pursuant to subsection 1; and~~

~~[(b)] (c) Subject to the agreement executed pursuant to paragraph [(b) of subsection 1,] (a), jointly fund the construction of the bus turnout.~~

~~3. The commission shall:~~

~~(a) Compile a list of locations, in order of priority, that the commission may designate pursuant to subsection 1;~~

~~(b) Post the list on the Internet website maintained by the commission, if any;~~

~~(c) Annually update the list.~~

~~4. Except as otherwise provided in subsection 6, the locations that the commission designates pursuant to subsection 1 must be the first three locations, in order of priority, that are on the list compiled and updated pursuant to subsection 3.~~

~~5. When [determining] compiling the list of locations [to be designated] pursuant to subsection [1,] 3, the commission shall consider, without limitation:~~

~~(a) The amount of traffic congestion at the location during hours of peak traffic;~~

~~(b) The extent of improvements to the location that would need to be completed before the bus turnout could be constructed;~~

~~(c) The proximity of the location to an intersection;~~

~~(d) The frequency with which buses receive and discharge passengers at the location;~~

~~(e) The number of bus passengers regularly using the bus stop at the location; and~~

~~(f) The general need for a bus turnout at the location.~~

~~[4.] 6. The commission shall not designate more than [three locations] one location pursuant to subsection 1 that [are] is owned by the same local government.~~

~~[5.] 7. As used in this section:~~

~~(a) "Bus" has the meaning ascribed to it in NRS 484.021.~~

~~(b) "Bus turnout" means a fixed area that is:~~

~~(1) Adjacent or appurtenant to, or within reasonable proximity of, a public highway; and~~

~~(2) To be occupied exclusively by buses in receiving or discharging passengers.~~

~~(c) "Commission" means the regional transportation commission created and organized pursuant to chapter 373 of NRS in a county whose population is 400,000 or more.~~

~~(d) "Local government" means any political subdivision of the State, including, without limitation, any county, city, town, board, airport authority, fire protection district, irrigation district, school district, hospital district or other special district which performs a governmental function and which is located within the jurisdiction of the commission.~~

~~(e) "Location" means a parcel of unimproved real property which:~~

~~(1) Is owned by a local government;~~

~~(2) Is adjacent to a public highway; and~~

~~(3) Contains a bench, shelter or transit stop for passengers of public transportation.~~

~~(f) "Public highway" means any street, road, alley, thoroughfare, way or place of any kind used by the public or open to the use of the public as a matter of right for the purpose of vehicular traffic.~~
~~(Deleted by amendment.)~~

Sec. 4. *Section 1 of this act is hereby amended to read as follows:*

Section 1. Chapter 278 of NRS is hereby amended by adding thereto a new section to read as follows:

1. ~~[Not later than December 31, 2009:~~

~~(a) Except as otherwise provided in subsection ~~[5.]~~ 7, the commission ~~[shall designate 10 locations in]~~ *may require* the county ~~[that are owned by the State or by local governments and at which a] and the three largest incorporated cities in the county to each construct annually one~~ bus turnout ~~[must be constructed pursuant to this section; and~~~~

~~(b) For each location designated pursuant to paragraph (a),] at the locations designated by the commission . ~~[and the State or the local government that owns the location shall execute an interlocal or cooperative agreement that authorizes the construction of a bus turnout at the location.]~~~~

2. ~~[For each] If a~~ location designated pursuant to subsection 1 ~~[, the commission] is not owned by the county or city, the county or city~~ and the State or the local government that owns the location *shall execute an interlocal or cooperative agreement that authorizes the construction of a bus turnout at the location.*

3. *The county or city shall ensure that a bus turnout is constructed not later than* ~~[December 31, 2012.~~

~~3. The commission] 1 year after the date on which the commission designates the location pursuant to subsection 1.~~

4. *The county or city, as the case may be, shall fund the construction of a bus turnout ~~[built] required~~ pursuant to this section.*

~~[4. When determining]~~

5. *The commission shall:*

(a) Compile a list of locations, in order of priority, that the commission may designate pursuant to subsection 1;

(b) Post the list on the Internet website maintained by the commission, if any; and

(c) Annually update the list.

6. *When compiling the list of locations ~~[to be designated]~~ pursuant to subsection ~~[4.]~~ 5, the commission shall consider, without limitation:*

(a) The amount of traffic congestion at the location during hours of peak traffic;

(b) The extent of improvements to the location that would need to be completed before the bus turnout could be constructed;

(c) The proximity of the location to an intersection;

(d) The frequency with which buses receive and discharge passengers at the location;

(e) The number of bus passengers regularly using the bus stop at the location;

(f) The general need for a bus turnout at the location; and

(g) Any obstacle that may prevent the completion of the construction of a bus turnout ~~by the date set forth in subsection 2.~~

~~5.7~~ 7. The commission shall not designate more than ~~three locations~~ one location pursuant to subsection 1 that ~~are~~ is owned by the State or by the same local government.

~~6.8~~ 8. As used in this section:

(a) "Bus" has the meaning ascribed to it in NRS 484.021.

(b) "Bus turnout" means a fixed area that is:

(1) Adjacent or appurtenant to, or within reasonable proximity of, a public highway; and

(2) To be occupied exclusively by buses in receiving or discharging passengers.

(c) "Commission" means the regional transportation commission created and organized pursuant to chapter 373 of NRS in a county whose population is 400,000 or more.

(d) "Local government" means any political subdivision of the State, including, without limitation, any county, city, town, board, airport authority, fire protection district, irrigation district, school district, hospital district or other special district which performs a governmental function and which is located within the jurisdiction of the commission.

(e) "Location" means a parcel of real property which:

(1) Is owned by the State or by a local government;

(2) Is adjacent to a public highway; and

(3) Contains a bench, shelter or transit stop for passengers of public transportation.

(f) "Public highway" means any street, road, alley, thoroughfare, way or place of any kind used by the public or open to the use of the public as a matter of right for the purpose of vehicular traffic.

~~Sec. 4.1~~ Sec. 5. The provisions of NRS 354.599 do not apply to any additional expenses of a local government that are related to the provisions of this act.

~~Sec. 5.1~~ Sec. 6. 1. This section and sections 1, 2 and ~~4.1~~ 5 of this act become effective on July 1, 2009.

2. ~~Section 1 of this act expires by limitation on December 31, 2012.~~

~~3.1~~ Section 3.1 ~~4~~ of this act becomes effective on January 1, 2013. ~~4.1~~ and expires by limitation on December 31, 2023.

Senator Lee moved the adoption of the amendment.

Remarks by Senators Lee and Carlton.

Senator Lee requested that the following remarks be entered in the Journal.

SENATOR LEE:

Amendment No. 75 clarifies, throughout the bill, that the land designated for the construction of the bus turnouts must be owned by either the State of Nevada or local governments within Clark County.

It provides that the Regional Transportation Commission (RTC) in Clark County shall fund the construction of the first ten bus turnouts set forth in section 1 of the measure. It adds to the list of items the RTC shall consider when determining the placement of the bus turnouts "any obstacle that may prevent the completion" of the turnout within the required time frame. It deletes section 3 in its entirety and replaces it with a new section which does the following: clarifies that the RTC may require Clark County and the three largest incorporated cities therein to construct, on an annual basis, one bus turnout at the locations designated by the RTC. It clarifies that an interlocal, or cooperative agreement, authorizing the construction of a bus turnout must be executed between the county or city and the State or local government if the location so designated is not owned by the county or city. It provides that the county or city, as the case may be, shall fund the construction of the bus turnouts and ensure that a turnout is constructed within one year after the date on which the RTC designates the turnout location. It adds language from the deleted section regarding the compilation and posting, on the RTC's Internet website, the list of selected bus-turnout locations. It also adds a sunset clause to the bill of December 31, 2023, relating to the bus turnouts constructed after the first ten.

SENATOR CARLTON:

After the first round of bus turnouts are done, who will pay for the remainders on the list? Will it be the city, county or other businesses that are involved?

SENATOR LEE:

The money comes from existing Question 10 money. It will not come from the money they have now. It is Question 10 money that was raised a few years ago. Each entity will have one less shelter designed to take money from that location.

SENATOR CARLTON:

If utilities, cables and other right-of-way issues need to be moved, does the money from the Question 10 money go to help the entities that have to move all of their equipment cover the cost of moving that equipment?

SENATOR LEE:

Every entity sits on the RTC Board. The RTC Board, as a group, will come up with the top-ten places. If there are areas that have telephone poles, etc., in the way, they will be moved to the side to go to areas that we can work on immediately. In most of those cases, they will be moved another 50 feet or more away from the locations of the boxes, the electrical conduits, etc. They will be working in concert with each other not to harm the municipality.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 209.

Bill read second time.

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

Amendment No. 168.

"SUMMARY—Revises provisions governing the Governor Guinn Millennium Scholarship Program. (BDR 34-1097)"

"AN ACT relating to education; revising provisions governing the Governor Guinn Millennium Scholarship Program; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law creates the Governor Guinn Millennium Scholarship Program and prescribes the eligibility requirements for the Millennium Scholarship, including a requirement that a student must have graduated from a public or private high school in this State not more than 6 years before he applies for the Millennium Scholarship. Existing law also authorizes the Board of Regents of the University of Nevada to establish criteria with respect to certain students who have been on active duty serving in the Armed Forces of the United States to exempt such students from the 6-year limitation on applications for the Millennium Scholarship. (NRS 396.926, 396.930) This bill requires the Board of Regents to establish criteria with respect to students who actively served or participated in a charitable, religious or public service assignment or mission to exempt such students from the 6-year limitation on applications for the Millennium Scholarship. The criteria must provide for the award of Millennium Scholarships to those students who qualify for the exemption and who otherwise satisfy the eligibility criteria to the extent that money is available after all other obligations for the award of Millennium Scholarships for the current school year have been satisfied.

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

Section 1. NRS 396.930 is hereby amended to read as follows:

396.930 1. Except as otherwise provided in subsections 2 and 3, a student may apply to the Board of Regents for a Millennium Scholarship if he:

(a) Except as otherwise provided in paragraph (e) of subsection 2, has been a resident of this State for at least 2 years before he applies for the Millennium Scholarship;

(b) Except as otherwise provided in paragraph (c), graduated from a public or private high school in this State:

(1) After May 1, 2000, but not later than May 1, 2003; or

(2) After May 1, 2003, and, except as otherwise provided in ~~paragraph (e)~~ paragraphs (c), (d) and (f) of subsection 2, not more than 6 years before he applies for the Millennium Scholarship;

(c) Does not satisfy the requirements of paragraph (b) and:

(1) Was enrolled as a pupil in a public or private high school in this State with a class of pupils who were regularly scheduled to graduate after May 1, 2000;

(2) Received his high school diploma within 4 years after he was regularly scheduled to graduate; and

(3) Applies for the Millennium Scholarship not more than 6 years after he was regularly scheduled to graduate from high school;

(d) Maintained in high school in the courses designated by the Board of Regents pursuant to paragraph (b) of subsection 2, at least:

(1) A 3.00 grade point average on a 4.0 grading scale, if he was a member of the graduating class of 2003 or 2004;

(2) A 3.10 grade point average on a 4.0 grading scale, if he was a member of the graduating class of 2005 or 2006; or

(3) A 3.25 grade point average on a 4.0 grading scale, if he was a member of the graduating class of 2007 or a later graduating class; and

(e) Is enrolled in at least:

(1) Six semester credit hours in a community college within the System;

or

(2) Twelve semester credit hours in another eligible institution.

2. The Board of Regents:

(a) Shall define the core curriculum that a student must complete in high school to be eligible for a Millennium Scholarship.

(b) Shall designate the courses in which a student must earn the minimum grade point averages set forth in paragraph (d) of subsection 1.

(c) May establish criteria with respect to students who have been on active duty serving in the Armed Forces of the United States to exempt such students from the 6-year limitation on applications that is set forth in subparagraph (2) of paragraph (b) of subsection 1.

(d) Shall establish criteria with respect to students who have a documented physical or mental disability or who were previously subject to an individualized education program under the Individuals with Disabilities Education Act, 20 U.S.C. §§ 1400 et seq., or a plan under Title V of the Rehabilitation Act of 1973, 29 U.S.C. §§ 791 et seq. The criteria must provide an exemption for those students from:

(1) The 6-year limitation on applications that is set forth in subparagraph (2) of paragraph (b) of subsection 1 and subparagraph (3) of paragraph (c) of subsection 1 and any limitation applicable to students who are eligible pursuant to subparagraph (1) of paragraph (b) of subsection 1.

(2) The minimum number of credits prescribed in paragraph (e) of subsection 1.

(e) Shall establish criteria with respect to students who have a parent or legal guardian on active duty in the Armed Forces of the United States to exempt such students from the residency requirement set forth in paragraph (a) of subsection 1 or subsection 3.

(f) *Shall establish criteria with respect to students who have been actively serving or participating in a charitable, religious or public service assignment or mission to exempt such students from the 6-year limitation on applications that is set forth in subparagraph (2) of paragraph (b) of subsection 1. Such criteria must provide for the award of Millennium Scholarships to those students who qualify for the exemption and who otherwise meet the eligibility criteria to the extent that money is available to award Millennium Scholarships to the students after all other obligations for the award of Millennium Scholarships for the current school year have been satisfied.*

3. Except as otherwise provided in paragraph (c) of subsection 1, for students who did not graduate from a public or private high school in this

State and who, except as otherwise provided in paragraph (e) of subsection 2, have been residents of this State for at least 2 years, the Board of Regents shall establish:

(a) The minimum score on a standardized test that such students must receive; or

(b) Other criteria that students must meet,
 → to be eligible for Millennium Scholarships.

4. In awarding Millennium Scholarships, the Board of Regents shall enhance its outreach to students who:

(a) Are pursuing a career in education or health care;

(b) Come from families who lack sufficient financial resources to pay for the costs of sending their children to an eligible institution; or

(c) Substantially participated in an antismoking, antidrug or antialcohol program during high school.

5. The Board of Regents shall establish a procedure by which an applicant for a Millennium Scholarship is required to execute an affidavit declaring his eligibility for a Millennium Scholarship pursuant to the requirements of this section. The affidavit must include a declaration that the applicant is a citizen of the United States or has lawful immigration status, or that the applicant has filed an application to legalize his immigration status or will file an application to legalize his immigration status as soon as he is eligible to do so.

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

Senator Lee moved the adoption of the amendment.

Remarks by Senator Lee.

Senator Lee requested that his remarks be entered in the Journal.

Amendment No. 168 to Senate Bill No. 209 clarifies that the criteria for exemptions from the 6-year limitation on applications for a Millennium Scholarship must specify that the awards will be made to the extent that money is available after all other obligations for the current school year have been satisfied.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 218.

Bill read second time.

The following amendment was proposed by the Committee on Taxation:

Amendment No. 445.

"SUMMARY—Revises provisions governing certain fees charged by and certain duties performed by constables. (BDR 20-846)"

"AN ACT relating to constables; specifically authorizing constables to issue citations for failure to register vehicles that are required to be registered in this State; increasing the fee to which constables are entitled for removing or causing the removal of abandoned vehicles from public property; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Section 1 of this bill specifically authorizes constables to issue citations for the failure to register a vehicle that is required by existing law to be registered in this State. ~~It~~ *and requires constables to charge and collect a fee from the person to whom the citation is issued.* The citation is to be issued to the owner of the vehicle or the driver if the driver is not the owner but is the party responsible for registering the vehicle pursuant to existing law. (NRS 258.070) Sections 3 and 4 of this bill clarify that constables are entitled to demand and to view the certificate of registration and to request information to determine whether the vehicle is required to be registered in this State. (NRS 482.255, 482.385)

Section 2 of this bill increases the fee to which constables are entitled for their services of removing or causing the removal of an abandoned vehicle from public property from \$50 to \$100. *Section 2 also increases the amount the constable may collect when collecting all sums on execution or writ charged against a defendant from 2 percent of the first \$3,500 to 2 percent of the first \$10,000.* (NRS 258.125)

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

Section 1. NRS 258.070 is hereby amended to read as follows:

258.070 1. Each constable shall:

- (a) Be a peace officer in his township.
- (b) Serve all mesne and final process issued by a court of competent jurisdiction.
- (c) Execute the process, writs or warrants that he is authorized to receive pursuant to NRS 248.100.
- (d) Discharge such other duties as are or may be prescribed by law.

2. *Pursuant to the procedures and subject to the limitations set forth in chapters 482 and 484 of NRS, a constable may issue a citation to an owner or driver, as appropriate, of a vehicle that is required to be registered in this State if the constable determines that the vehicle is not properly registered. The constable shall, upon the issuance of such citation, charge and collect a fee of \$100 from the person to whom the citation is issued, which may be retained by the constable as compensation.*

3. If a sheriff or his deputy in any county in this State arrests a person charged with a criminal offense or in the commission of an offense, the sheriff or his deputy shall serve all process, whether mesne or final, and attend the court executing the order thereof in the prosecution of the person so arrested, whether in a justice court or a district court, to the conclusion, and whether the offense is an offense of which a justice of the peace has jurisdiction, or whether the proceeding is a preliminary examination or hearing. The sheriff or his deputy shall collect the same fees and in the same manner therefor as the constable of the township in which the justice court is held would receive for the same service.

Sec. 2. NRS 258.125 is hereby amended to read as follows:

258.125 1. Constables are entitled to the following fees for their services:

For serving a summons or other process by which a suit is commenced in civil cases	\$17
For summoning a jury before a justice of the peace	7
For taking a bond or undertaking	5
For serving an attachment against the property of a defendant	9
For serving subpoenas, for each witness	15
For a copy of any writ, process or order or other paper, when demanded or required by law, per folio	3
For drawing and executing every constable's deed, to be paid by the grantee, who must also pay for the acknowledgment thereof.....	20
For each certificate of sale of real property under execution	5
For levying any writ of execution or writ of garnishment, or executing an order of arrest in civil cases, or order for delivery of personal property, with traveling fees as for summons.....	9
For serving one notice required by law before the commencement of a proceeding for any type of eviction.....	26
For serving not fewer than 2 nor more than 10 such notices to the same location, each notice	20
For serving not fewer than 11 nor more than 24 such notices to the same location, each notice	17
For serving 25 or more such notices to the same location, each notice	15
For mileage in serving such a notice, for each mile necessarily and actually traveled in going only.....	\$2
But if two or more notices are served at the same general location during the same period, mileage may only be charged for the service of one notice.	
For each service in a summary eviction, except service of any notice required by law before commencement of the proceeding, and for serving notice of and executing a writ of restitution.....	21
For making and posting notices, and advertising property for sale on execution, not to include the cost of publication in a newspaper	9
For each warrant lawfully executed	48
For mileage in serving summons, attachment, execution, order, venire, subpoena, notice, summary eviction, writ of restitution or other process in civil suits, for each mile necessarily and actually traveled, in going only	2

But when two or more persons are served in the same suit, mileage may only be charged for the most distant, if they live in the same direction.

For mileage in making a diligent but unsuccessful effort to serve a summons, attachment, execution, order, venire, subpoena or other process in civil suits, for each mile necessarily and actually traveled, in going only2

But mileage may not exceed \$20 for any unsuccessful effort to serve such process.

2. A constable is also entitled to receive:

(a) For receiving and taking care of property on execution, attachment or order, his actual necessary expenses, to be allowed by the court which issued the writ or order, upon the affidavit of the constable that the charges are correct and the expenses necessarily incurred.

(b) For collecting all sums on execution or writ, to be charged against the defendant, on the first ~~[\$3,500.]~~ \$10,000, 2 percent thereof, and on all amounts over that sum, one-half of 1 percent.

(c) For service in criminal cases, except for execution of warrants, the same fees as are allowed sheriffs for like services, to be allowed, audited and paid as are other claims against the county.

(d) For removing or causing the removal of, pursuant to NRS 487.230, a vehicle that has been abandoned on public property, ~~[\$50.]~~ \$100.

3. Deputy sheriffs acting as constables are not entitled to retain for their own use any fees collected by them, but the fees must be paid into the county treasury on or before the fifth working day of the month next succeeding the month in which the fees were collected.

4. Constables shall, on or before the fifth working day of each month, account for and pay to the county treasurer all fees collected during the preceding month, except fees which may be retained as compensation.

Sec. 3. NRS 482.255 is hereby amended to read as follows:

482.255 1. Upon receipt of a certificate of registration, the owner shall place it or a legible copy in the vehicle for which it is issued and keep it in the vehicle. If the vehicle is a motorcycle, trailer or semitrailer, he shall carry the certificate in the tool bag or other convenient receptacle attached to the vehicle.

2. The owner or operator of a motor vehicle shall, upon demand, surrender the certificate of registration or the copy for examination to any peace officer, *including a constable, or a justice of the peace or deputy of the Department.*

3. No person charged with violating this section may be convicted if he produces in court a certificate of registration which was previously issued to him and was valid at the time of the demand.

Sec. 4. NRS 482.385 is hereby amended to read as follows:

482.385 1. Except as otherwise provided in subsection 4 and NRS 482.390, a nonresident owner of a vehicle of a type subject to

registration pursuant to the provisions of this chapter, owning any vehicle which has been registered for the current year in the state, country or other place of which the owner is a resident and which at all times when operated in this State has displayed upon it the registration license plate issued for the vehicle in the place of residence of the owner, may operate or permit the operation of the vehicle within this State without its registration in this State pursuant to the provisions of this chapter and without the payment of any registration fees to this State.

2. This section does not:

(a) Prohibit the use of manufacturers', distributors' or dealers' license plates issued by any state or country by any nonresident in the operation of any vehicle on the public highways of this State.

(b) Require registration of vehicles of a type subject to registration pursuant to the provisions of this chapter operated by nonresident common motor carriers of persons or property, contract motor carriers of persons or property, or private motor carriers of property as stated in NRS 482.390.

(c) Require registration of a vehicle operated by a border state employee.

3. When a person, formerly a nonresident, becomes a resident of this State, he shall:

(a) Within 60 days after becoming a resident; or

(b) At the time he obtains his driver's license,

↪ whichever occurs earlier, apply for the registration of each vehicle he owns which is operated in this State. When a person, formerly a nonresident, applies for a driver's license in this State, the Department shall inform the person of the requirements imposed by this subsection and of the penalties that may be imposed for failure to comply with the provisions of this subsection. A citation may be issued pursuant to this subsection only if the violation is discovered when the vehicle is halted or its driver arrested for another alleged violation or offense. A person who violates the provisions of this subsection is guilty of a misdemeanor and shall be punished by a fine of not less than \$250 nor more than \$500 and such fine is in addition to any fine or penalty imposed for the other alleged violation or offense for which the vehicle was halted or its driver arrested. In addition, the Department shall maintain or cause to be maintained a list or other record of persons who fail to comply with the provisions of this subsection and shall, at least once each month, provide a copy of that list or record to the Department of Public Safety.

4. Any resident operating upon a highway of this State a motor vehicle which is owned by a nonresident and which is furnished to the resident operator for his continuous use within this State, shall cause that vehicle to be registered within 60 days after beginning its operation within this State.

5. A person registering a vehicle pursuant to the provisions of subsection 3, 4 or 6 or pursuant to NRS 482.390:

(a) Must be assessed the registration fees and governmental services tax, as required by the provisions of this chapter and chapter 371 of NRS; and

(b) Must not be allowed credit on those taxes and fees for the unused months of his previous registration.

6. If a vehicle is used in this State for a gainful purpose, the owner shall immediately apply to the Department for registration, except as otherwise provided in NRS 482.390, 482.395 and 706.801 to 706.861, inclusive.

7. An owner registering a vehicle pursuant to the provisions of this section shall surrender the existing nonresident license plates and registration certificates to the Department for cancellation.

8. A vehicle may be cited for a violation of this section regardless of whether it is in operation or is parked on a highway, in a public parking lot or on private property which is open to the public if, after communicating with the owner or operator of the vehicle, the peace officer issuing the citation determines that:

(a) The owner of the vehicle is a resident of this State; or

(b) The vehicle is used in this State for a gainful purpose.

↳ *As used in this subsection, "peace officer" includes a constable.*

Senator Parks moved the adoption of the amendment.

Remarks by Senators Parks, Cegavske and Carlton.

Senator Parks requested that the following remarks be entered in the Journal.

SENATOR PARKS:

Amendment No. 445 to Senate Bill No. 218 establishes provisions for constables to charge, collect and retain a fee of \$100 upon issuance of a citation for a vehicle that is not properly registered.

This amendment also increases the base-fee amount that may be received by constables for collections on executions or writs charged against the defendant. The base amount of the constable's fee is increased from 2 percent of the first \$3,500 to 2 percent of the first \$10,000. It makes it consistent with other fees that are charged.

SENATOR CEGAVSKE:

Does all of this go into the constables' fund?

SENATOR PARKS:

Yes, the constables' function throughout the State is an enterprise fund. The money they generate is used for the operation of their office.

SENATOR CARLTON:

The constables did agree that they will not be chasing people around the city streets to write them tickets. I want to be certain the sponsor of the bill does put that on the record for legislative intent.

SENATOR PARKS:

Yes, that is the agreement that was presented by the constables in southern Nevada. This is not intended to be a chase after persons but rather due to a specific incident.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 219.

Bill read second time.

The following amendment was proposed by the Committee on Natural Resources:

Amendment No. 192.

"SUMMARY—Revises provisions governing assessments on real property located within a weed control district. (BDR 49-499)"

"AN ACT relating to weed control districts; removing the provision requiring a board of county commissioners to levy an assessment on all real property in the county which is in a weed control district and making the levy discretionary; requiring the board of county commissioners to hold at least one public hearing before levying an assessment under certain circumstances; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law requires a board of county commissioners to levy an assessment on all real property in the county which is in a weed control district. (NRS 555.215) This bill amends that provision so that the board of county commissioners is authorized, but not required, to levy such an assessment. This bill also requires the board of county commissioners to hold at least one public hearing to entertain applications for the exclusion of lands from the weed control district before levying such an assessment if certain circumstances occur.

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

Section 1. NRS 555.215 is hereby amended to read as follows:

555.215 1. ~~Upon~~ Except as otherwise provided in subsection 5, upon the preparation and approval of a budget in the manner required by the Local Government Budget and Finance Act, the board of county commissioners of each county having lands situated in the district ~~shall,~~ may, by resolution, levy an assessment upon all real property in the county which is in the weed control district.

2. Every assessment so levied is a lien against the property assessed.

3. Amounts collected in counties other than the county having the larger or largest proportion of the area of the district must be paid over to the board of county commissioners of that county for the use of the district.

4. The board of county commissioners of that county may obtain medium-term obligations pursuant to NRS 350.087 to 350.095, inclusive, of an amount of money not to exceed the total amount of the assessment, *if any*, to pay the expenses of controlling the weeds in the weed control district. The loans may be made only after the assessments, *if any*, are levied.

5. If a weed control district is created pursuant to NRS 555.203 on the basis that the board of county commissioners creating the weed control district will not exercise its discretion to levy an assessment against real property pursuant to this section and if, after the weed control district is created, the board of county commissioners decides to levy such an assessment, the board of county commissioners shall, before levying the assessment, hold at least one public hearing to entertain applications for the

exclusion of lands from the weed control district pursuant to paragraph (a) of subsection 3 of NRS 555.203.

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

Senator Parks moved the adoption of the amendment.

Remarks by Senator Parks.

Senator Parks requested that his remarks be entered in the Journal.

Amendment No. 192 to Senate Bill No. 219 provides that if a weed control district is created with the understanding that there would not be an assessment against real property, but then the district subsequently determines it needs to levy an assessment, a hearing as provided in NRS 555.203(3a) would be offered. NRS 555.203(3a) requires that a board of county commissioners hold at least one public hearing to entertain applications to exclude lands from the weed control district.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Schneider moved that Senate Bill No. 243 be taken from the Second Reading File and placed on the Second Reading File for the next legislative day.

Motion carried.

SECOND READING AND AMENDMENT

Senate Bill No. 298.

Bill read second time.

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

Amendment No. 216.

"SUMMARY—Authorizes the Board of Regents of the University of Nevada to plan for and establish programs for the study of *energy efficiency and* renewable energy resources within the Nevada System of Higher Education. (BDR 34-1075)"

"AN ACT relating to the Nevada System of Higher Education; authorizing the Board of Regents of the University of Nevada to plan for and establish programs for the study of *energy efficiency and* renewable energy resources within the Nevada System of Higher Education; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

This bill authorizes the Board of Regents of the University of Nevada to plan for and establish programs for the study of *energy efficiency and* renewable energy resources within the Nevada System of Higher Education. This bill also authorizes the Board of Regents to: (1) carry out the programs through joint ventures with one or more public or private entities; and (2) apply for any available grants and accept any gifts, grants or donations for the support of the programs.

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

Section 1. Chapter 396 of NRS is hereby amended by adding thereto a new section to read as follows:

1. *The Board of Regents may plan for and establish programs for the study of energy efficiency and renewable energy resources within the System.*

2. *The Board of Regents may carry out a program established pursuant to this section through a joint venture with one or more public or private entities, but the Board of Regents must have final authority to direct and supervise the program.*

3. *The Board of Regents may apply for any available grants and accept any gifts, grants or donations for the support of a program for the study of energy efficiency and renewable energy resources established pursuant to this section.*

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

Senator Cegavske moved the adoption of the amendment.

Remarks by Senators Cegavske and Horsford.

Senator Cegavske requested that the following remarks be entered in the Journal.

SENATOR CEGAVSKE:

Amendment No. 216 revises the following provision to Senate Bill No. 298. The amendment authorizes the Board of Regents to study energy efficiency in addition to renewable energy resources.

SENATOR HORSFORD:

What is the reason for this bill? Are they not authorized to do this currently without legislation?

SENATOR CEGAVSKE:

What we have been told is that the word "study" in this bill would help permit us to get federal dollars for this area. That is why we put this in the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 304.

Bill read second time.

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

Amendment No. 170.

"SUMMARY—Revises provisions relating to tests for certain communicable diseases. (BDR 40-844)"

"AN ACT relating to public health; revising provisions relating to certain tests for certain communicable diseases; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law requires physicians and persons who attend to pregnant women to conduct a test for syphilis on pregnant women during the third trimester of pregnancy. (NRS 442.010) Section 1 of this bill requires an additional test for syphilis during the first trimester of pregnancy.

The State Board of Health is required to regulate certain medical laboratories and may adopt regulations concerning those laboratories. (Chapter 652 of NRS) Federal laws and regulations relating to medical laboratories provide three categories of laboratory tests: (1) waived tests; (2) tests of moderate complexity; and (3) tests of high complexity. (42 C.F.R. § 493.5) Existing state law provides that regulations adopted by the Board may not be more stringent than the federal regulations unless the regulations relate to waived tests or the qualifications and duties of the personnel of a medical laboratory. (NRS 652.123) Section ~~4~~ 3 of this bill provides that regulations relating to tests for the detection of the human immunodeficiency virus, regardless of whether it is a waived test, may not be more stringent than federal regulations. Section 2 of this bill requires a laboratory which conducts a test for the detection of the human immunodeficiency virus that is classified as a waived test to: (1) conduct the test in accordance with the quality assurance guidelines established by the Centers for Disease Control and Prevention of the United States Department of Health and Human Services; and (2) comply with certain reporting requirements.

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

Section 1. NRS 442.010 is hereby amended to read as follows:

442.010 1. Except as *otherwise* provided in subsection 5, every:

(a) Physician attending a pregnant woman during gestation for conditions relating to her pregnancy shall make an examination, including a standard serological test, for the discovery of syphilis. He shall take or cause to be taken a sample of blood of the woman during the *first and third* ~~trimester~~ *trimesters* and shall submit the sample to a qualified laboratory for a standard serological test for syphilis.

(b) Person permitted by law to attend upon pregnant women, but not permitted by law to make blood tests in Nevada, shall cause a sample of the blood of the pregnant woman to be taken during the *first and third* ~~trimester~~ *trimesters* by a duly licensed physician and submitted to a qualified laboratory for a standard serological test for syphilis.

2. A qualified laboratory is one approved by the State Board of Health. A qualified serological test for syphilis is one recognized as such by the State Board of Health.

3. If the test is made in a state laboratory, it must be made without charge.

4. If the serological or physical examination test shows the pregnant woman is infected with syphilis, she immediately shall commence treatment for syphilis and shall continue treatment until discharged by a licensed physician.

5. If the pregnant woman objects to the taking of the sample of blood or the serological test because the test is contrary to the tenets or practices of her religion, the sample must not be taken and the test must not be performed.

Sec. 2. Chapter 652 of NRS is hereby amended by adding thereto a new section to read as follows:

A laboratory which conducts a laboratory test for the detection of the human immunodeficiency virus that is classified as a waived test pursuant to the provisions of Part 493 of Title 42 of the Code of Federal Regulations shall:

1. Conduct the test in accordance with the quality assurance guidelines relating to testing using rapid human immunodeficiency virus antibody tests established by the Centers for Disease Control and Prevention of the United States Department of Health and Human Services; and

2. Comply with the provisions of NRS 441A.150 and any regulations adopted pursuant to chapter 441A of NRS relating to the reporting of communicable diseases.

~~{Sec. 2.}~~ *Sec. 3. NRS 652.123 is hereby amended to read as follows:*

652.123 Regulations adopted by the Board pursuant to this chapter may not be more stringent than the provisions of Part 493 of Title 42 of the Code of Federal Regulations, except that the Board may adopt regulations which are more stringent relating to:

1. Any laboratory test, *other than a test for the detection of the human immunodeficiency virus*, classified as a waived test pursuant to the provisions of Part 493 of Title 42 of the Code of Federal Regulations; and

2. The qualifications and duties of the personnel of a medical laboratory.

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

Senator Parks moved the adoption of the amendment.

Remarks by Senator Parks.

Senator Parks requested that his remarks be entered in the Journal.

Amendment No. 170 to Senate Bill No. 304 adds a provision requiring a laboratory that conducts certain HIV testing to conduct the test in accordance with the quality-assurance guidelines established by the Center for Disease Control and Prevention of the U.S. Department of Health and Human Services and to comply with certain communicable disease reporting requirements.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 314.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 189.

"SUMMARY—Adopts the Uniform Power of Attorney Act. (BDR 13-183)"

"AN ACT relating to powers of attorney; adopting the Uniform Power of Attorney Act; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law provides for the use of powers of attorney for various purposes, including for conveyances of property and for making decisions relating to health care. (NRS 111.450, 111.460, 111.470, 449.800-449.860)

This bill repeals those existing provisions of law relating to powers of attorney and enacts the Uniform Power of Attorney Act, which was promulgated by the National Conference of Commissioners on Uniform State Laws in 2006.

Pursuant to the Act, a power of attorney may grant authority to an agent to act for a principal in a variety of matters relating to finance, real property, tangible personal property, stocks and bonds, banks and other financial institutions, business operations, insurance and annuities, estates, trusts and other beneficial interests, claims and litigation, personal and family maintenance, benefits from governmental programs or civil or military service, taxes and gifts. According to the National Conference of Commissioners on Uniform State Laws, the Uniform Act is intended to: (1) preserve the effectiveness of a durable power of attorney as a low-cost, flexible and private form of surrogate decision-making; (2) include mandatory safeguards for the protection of the principal, the agent and persons who are asked to rely on the agent's authority; (3) modernize the various areas of authority that may be granted to an agent and require authorization by the principal in express language where certain authority could dissipate the principal's property or alter the principal's estate plan; (4) establish an optional statutory form; (5) offer more clear guidelines for an agent to follow; (6) provide ways for the agent to give notice of resignation if the principal is incapacitated; (7) encourage acceptance of a power of attorney by third parties; and (8) enhance the usefulness of a durable power of attorney, while at the same time protecting the principal, the agent and those who deal with the agent.

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

Section 1. Title 13 of NRS is hereby amended by adding thereto a new chapter to consist of the provisions set forth as sections 2 to 75, inclusive, of this act.

Sec. 2. *As used in this chapter, unless the context otherwise requires, the words and terms defined in sections 3 to 17, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 3. *"Acknowledged" means purportedly verified before a notary public or other individual authorized to take acknowledgments.*

Sec. 4. *"Agent" means a person granted authority to act for a principal under a power of attorney, whether denominated an agent, attorney-in-fact or otherwise. The term includes an original agent, co-agent, successor agent and a person to which an agent's authority is delegated.*

Sec. 5. *"Durable," with respect to a power of attorney, means not terminated by the principal's incapacity.*

Sec. 6. *"Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic or similar capabilities.*

Sec. 7. *"Good faith" means honesty in fact.*

Sec. 8. *"Incapacity" means the inability of an individual to manage property or business affairs because the individual:*

1. *Has an impairment in the ability to receive and evaluate information or make or communicate decisions even with the use of technological assistance; or*

2. *Is:*

(a) *Missing;*

(b) *Detained, including incarcerated in a penal system; or*

(c) *Outside the United States and unable to return.*

Sec. 9. *"Person" means an individual, corporation, business trust, estate, trust, partnership, limited-liability company, association, joint venture, public corporation, government or governmental subdivision, agency or instrumentality, or any other legal or commercial entity.*

Sec. 10. *"Power of attorney" means a writing or other record that grants authority to an agent to act in the place of the principal, whether or not the term "power of attorney" is used.*

Sec. 11. *"Presently exercisable general power of appointment," with respect to property or a property interest subject to a power of appointment, means power exercisable at the time in question to vest absolute ownership in the principal individually, the principal's estate, the principal's creditors or the creditors of the principal's estate. The term includes a power of appointment not exercisable until the occurrence of a specified event, the satisfaction of an ascertainable standard, or the passage of a specified period only after the occurrence of the specified event, the satisfaction of the ascertainable standard or the passage of the specified period. The term does not include a power exercisable in a fiduciary capacity or only by will.*

Sec. 12. *"Principal" means an individual who grants authority to an agent in a power of attorney.*

Sec. 13. *"Property" means anything that may be the subject of ownership, whether real or personal, or legal or equitable, or any interest or right therein.*

Sec. 14. *"Record" means information which is inscribed on a tangible medium or which is stored in an electronic or other medium and is retrievable in perceivable form.*

Sec. 15. *"Sign" means, with present intent to authenticate or adopt a record:*

1. *To execute or adopt a tangible symbol; or*

2. *To attach to or logically associate with the record an electronic sound, symbol or process.*

Sec. 16. *"State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.*

Sec. 17. *"Stocks and bonds" means stocks, bonds, mutual funds, and all other types of securities and financial instruments, whether held directly or*

indirectly, or in any other manner. The term does not include commodity futures contracts and call or put options on stocks or stock indexes.

Sec. 18. *Sections 18 to 56, inclusive, of this act apply to all powers of attorney except:*

1. *A power to the extent it is coupled with an interest in the subject of the power, including a power given to or for the benefit of a creditor in connection with a credit transaction;*

2. *A power to make health care decisions;*

3. *A proxy or other delegation to exercise voting rights or management rights with respect to an entity; and*

4. *A power created on a form prescribed by a government or a governmental subdivision, agency or instrumentality for a governmental purpose.*

Sec. 19. *A power of attorney created under this chapter is durable unless it expressly provides that it is terminated by the incapacity of the principal.*

Sec. 20. 1. *A power of attorney must be signed by the principal or, in the principal's conscious presence, by another individual directed by the principal to sign the principal's name on the power of attorney. A signature on a power of attorney is presumed to be genuine if the principal acknowledges the signature before a notary public or other individual authorized by law to take acknowledgments.*

2. *If the principal resides in a hospital, assisted living facility or facility for skilled nursing at the time of execution of the power of attorney, a certification of competency of the principal from a physician, psychologist or psychiatrist must be attached to the power of attorney.*

3. *As used in this section:*

(a) *"Assisted living facility" has the meaning ascribed to it in NRS 422.2708.*

(b) *"Facility for skilled nursing" has the meaning ascribed to it in NRS 449.0039.*

(c) *"Hospital" has the meaning ascribed to it in NRS 449.012.*

Sec. 21. 1. *A power of attorney executed in this State on or after October 1, 2009, is valid if its execution complies with section 20 of this act.*

2. *A power of attorney executed in this State before October 1, 2009, is valid if its execution complied with the law of this State as it existed at the time of execution.*

3. *A power of attorney executed other than in this State is valid in this State if, when the power of attorney was executed, the execution complied with:*

(a) *The law of the jurisdiction that determines the meaning and effect of the power of attorney pursuant to section 22 of this act; or*

(b) *The requirements for a military power of attorney pursuant to 10 U.S.C. § 1044b.*

4. Except as otherwise provided by specific statute other than the provisions of this chapter, a photocopy or electronically transmitted copy of an original power of attorney has the same effect as the original power of attorney. An agent shall furnish an affidavit to a third party on demand stating that the instrument relied on is a true copy of the power of attorney and that, to the best of the agent's knowledge, the principal is alive and the relevant powers of the agent have not been altered or terminated.

Sec. 22. The meaning and effect of a power of attorney is determined by the law of the jurisdiction indicated in the power of attorney and, in the absence of an indication of jurisdiction, by the law of the jurisdiction in which the power of attorney was executed.

Sec. 23. 1. In a power of attorney, a principal may nominate a guardian of the principal's estate ~~for guardian of the principal's person~~ for consideration by the court if ~~protective~~ guardianship proceedings for the principal's estate or person are begun after the principal executes the power of attorney.

2. If, after a principal executes a power of attorney, a court appoints a guardian of the principal's estate ~~for other fiduciary charged with the management of some or all of the principal's property, the agent is accountable to the fiduciary as well as to the principal.~~, the power of attorney is terminated.

Sec. 24. 1. A power of attorney is effective when executed unless the principal provides in the power of attorney that it becomes effective at a future date or upon the occurrence of a future event or contingency.

2. If a power of attorney becomes effective upon the occurrence of a future event or contingency, the principal, in the power of attorney, may authorize one or more persons to determine in a writing or other record that the event or contingency has occurred.

3. If a power of attorney becomes effective upon the principal's incapacity and the principal has not authorized a person to determine whether the principal is incapacitated, or the person authorized is unable or unwilling to make the determination, the power of attorney becomes effective upon a determination in a writing or other record by a physician, psychiatrist or licensed psychologist that the principal is incapacitated.

4. A person authorized by the principal in the power of attorney to determine that the principal is incapacitated may act as the principal's personal representative pursuant to the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191, as amended, and applicable regulations, to obtain a determination of incapacity.

Sec. 25. 1. A power of attorney terminates when:

- (a) The principal dies;
- (b) The principal becomes incapacitated, if the power of attorney is not durable;
- (c) The principal revokes the power of attorney;
- (d) The power of attorney provides that it terminates;

(e) The limited purpose of the power of attorney is accomplished; or
(f) The principal revokes the agent's authority or the agent dies, becomes incapacitated or resigns, and the power of attorney does not provide for another agent to act under the power of attorney.

2. An agent's authority terminates when:

(a) The principal revokes the authority;
(b) The agent dies, becomes incapacitated or resigns;
(c) An action is filed for the dissolution or annulment of the agent's marriage to the principal or their legal separation, unless the power of attorney otherwise provides; or
(d) The power of attorney terminates.

3. Unless the power of attorney otherwise provides, an agent's authority is exercisable until the authority terminates under subsection 2, notwithstanding a lapse of time since the execution of the power of attorney.

4. Termination of an agent's authority or of a power of attorney is not effective as to the agent or another person that, without actual knowledge of the termination, acts in good faith under the power of attorney. An act so performed, unless otherwise invalid or unenforceable, binds the principal and the principal's successors in interest.

5. Incapacity of the principal of a power of attorney that is not durable does not revoke or terminate the power of attorney as to an agent or other person that, without actual knowledge of the incapacity, acts in good faith under the power of attorney. An act so performed, unless otherwise invalid or unenforceable, binds the principal and the principal's successors in interest.

6. The execution of a power of attorney does not revoke a power of attorney previously executed by the principal unless the subsequent power of attorney provides that the previous power of attorney is revoked or that all other powers of attorney are revoked.

Sec. 26. 1. A principal may designate two or more persons to act as co-agents. Unless the power of attorney otherwise provides, each co-agent may exercise its authority independently.

2. A principal may designate one or more successor agents to act if an agent resigns, dies, becomes incapacitated, is not qualified to serve or declines to serve. A principal may grant authority to designate one or more successor agents to an agent or other person designated by name, office or function. Unless the power of attorney otherwise provides, a successor agent:

(a) Has the same authority as that granted to the original agent; and
(b) May not act until all predecessor agents have resigned, died, become incapacitated, are no longer qualified to serve or have declined to serve.

3. Except as otherwise provided in subsection 4 and in the power of attorney, an agent that does not participate in or conceal a breach of fiduciary duty committed by another agent, including a predecessor agent, is not liable for the actions of the other agent.

4. An agent that has actual knowledge of a breach or imminent breach of fiduciary duty by another agent shall notify the principal and, if the principal is incapacitated, take any action reasonably appropriate in the circumstances to safeguard the principal's best interest. An agent that fails to notify the principal or take action as required by this subsection is liable for the reasonably foreseeable damages that could have been avoided if the agent had notified the principal or taken such action.

Sec. 27. Unless the power of attorney otherwise provides, an agent is entitled to reimbursement of expenses reasonably incurred on behalf of the principal.

Sec. 28. Except as otherwise provided in the power of attorney, a person accepts appointment as an agent under a power of attorney by exercising authority or performing duties as an agent or by any other assertion or conduct indicating acceptance.

Sec. 29. 1. Notwithstanding provisions in the power of attorney, an agent that has accepted appointment shall:

(a) Act in accordance with the principal's reasonable expectations to the extent actually known by the agent and, otherwise, in the principal's best interest;

(b) Act in good faith; and

(c) Act only within the scope of authority granted in the power of attorney.

2. Except as otherwise provided in the power of attorney, an agent that has accepted appointment shall:

(a) Act loyally for the principal's benefit;

(b) Act so as not to create a conflict of interest that impairs the agent's ability to act impartially in the principal's best interest;

(c) Act with the care, competence and diligence ordinarily exercised by agents in similar circumstances;

(d) Keep a record of all receipts, disbursements and transactions made on behalf of the principal;

(e) Cooperate with a person that has authority to make health care decisions for the principal; and

(f) Attempt to preserve the principal's estate plan, to the extent actually known by the agent, if preserving the plan is consistent with the principal's best interest based on all relevant factors, including:

(1) The value and nature of the principal's property;

(2) The principal's foreseeable obligations and need for maintenance;

(3) Minimization of taxes, including income, estate, inheritance, generation-skipping transfer and gift taxes; and

(4) Eligibility for a benefit, a program or assistance under a statute or regulation.

3. An agent that acts in good faith is not liable to any beneficiary of the principal's estate plan for failure to preserve the plan.

4. An agent that acts with care, competence and diligence for the best interest of the principal is not liable solely because the agent also benefits

from the act or has an individual or conflicting interest in relation to the property or affairs of the principal.

5. *If an agent is selected by the principal because of special skills or expertise possessed by the agent or in reliance on the agent's representation that the agent has special skills or expertise, the special skills or expertise must be considered in determining whether the agent has acted with care, competence and diligence under the circumstances.*

6. *Absent a breach of duty to the principal, an agent is not liable if the value of the principal's property declines.*

7. *An agent that exercises authority to delegate to another person the authority granted by the principal or that engages another person on behalf of the principal is not liable for an act, error of judgment or default of that person if the agent exercises care, competence and diligence in selecting and monitoring the person.*

8. *Except as otherwise provided in the power of attorney, an agent is not required to disclose receipts, disbursements or transactions conducted on behalf of the principal unless ordered by a court, or requested by the principal, a guardian or other fiduciary acting for the principal, a governmental agency having authority to protect the welfare of the principal or, upon the death of the principal, by the personal representative or successor in interest of the principal's estate. If so requested, within 30 days the agent shall comply with the request or provide a writing or other record substantiating why additional time is needed and shall comply with the request within an additional 30 days.*

Sec. 30. *A provision in a power of attorney relieving an agent of liability for breach of duty is binding on the principal and the principal's successors in interest, except to the extent the provision:*

1. *Relieves the agent of liability for breach of duty committed dishonestly, with an improper motive or with reckless indifference to the purposes of the power of attorney or the best interest of the principal; or*

2. *Was inserted as a result of an abuse of a confidential or fiduciary relationship with the principal.*

Sec. 31. 1. *The following persons may petition a court to construe a power of attorney or review the agent's conduct, and grant appropriate relief:*

(a) *The principal or the agent;*

(b) *A guardian or other fiduciary acting for the principal;*

(c) *A person authorized to make health care decisions for the principal;*

(d) *The principal's spouse, parent or descendant;*

(e) *An individual who would qualify as a presumptive heir of the principal;*

(f) *A person named as a beneficiary to receive any property, benefit or contractual right on the principal's death or as a beneficiary of a trust created by or for the principal that has a financial interest in the principal's estate;*

(g) A governmental agency having regulatory authority to protect the welfare of the principal;

(h) A person asked to accept the power of attorney; or

(i) The principal's caregiver or another person who demonstrates sufficient interest in the principal's welfare.

2. Upon motion by the principal, the court shall dismiss a petition filed under this section, unless:

(a) The court finds that the principal lacks capacity to revoke the agent's authority or the power of attorney; or

(b) A governmental agency has asserted abuse by the agent regarding the agent's actions under the power of attorney.

Sec. 32. An agent that violates this chapter is liable to the principal or the principal's successors in interest for the amount required to:

1. Restore the value of the principal's property to what it would have been had the violation not occurred; and

2. Reimburse the principal or the principal's successors in interest for the attorney's fees and costs paid on the agent's behalf.

Sec. 33. Unless the power of attorney provides a different method for an agent's resignation, an agent may resign by giving notice to the principal and, if the principal is incapacitated:

1. To a co-agent or successor agent; or

2. If there is no person described in subsection 1, to:

(a) The principal's spouse, parent or descendant;

(b) The principal's caregiver;

(c) Another person reasonably believed by the agent to have sufficient interest in the principal's welfare; or

(d) A governmental agency having authority to protect the welfare of the principal.

Sec. 34. 1. A person that in good faith accepts an acknowledged power of attorney without actual knowledge that the signature is not genuine may rely upon the presumption under section 20 of this act that the signature is genuine.

2. A person that in good faith accepts an acknowledged power of attorney without actual knowledge that the power of attorney is void, invalid or terminated, that the purported agent's authority is void, invalid or terminated, or that the agent is exceeding or improperly exercising the agent's authority may rely upon the power of attorney as if the power of attorney were genuine, valid and still in effect, the agent's authority were genuine, valid and still in effect, and the agent had not exceeded and had properly exercised the authority.

3. A person that is asked to accept an acknowledged power of attorney may request, and rely upon, without further investigation:

(a) An agent's certification under penalty of perjury of any factual matter concerning the principal, agent or power of attorney;

(b) An English translation of the power of attorney if the power of attorney contains, in whole or in part, language other than English; and

(c) An opinion of counsel as to any matter of law concerning the power of attorney if the person making the request provides in a writing or other record the reason for the request.

4. An English translation or an opinion of counsel requested under this section must be provided at the principal's expense unless the request is made more than ~~77~~ 10 business days after the power of attorney is presented for acceptance. If the request is made more than 10 business days after presentation of the power of attorney, the party requesting the translation shall pay for the translation.

5. For purposes of this section, a person that conducts activities through employees is without actual knowledge of a fact relating to a power of attorney, a principal or an agent if the employee conducting the transaction involving the power of attorney is without actual knowledge of the fact.

Sec. 35. 1. Except as otherwise provided in subsection 2:

(a) A person shall either accept an acknowledged power of attorney, or request a certification, a translation or an opinion of counsel pursuant to section 34 of this act, not later than ~~77~~ 10 business days after presentation of the power of attorney for acceptance;

(b) If a person requests a certification, a translation or an opinion of counsel pursuant to section 34 of this act, the person shall accept the power of attorney not later than 5 business days after receipt of the certification, translation or opinion of counsel; and

(c) A person may not require an additional or different form of power of attorney for authority granted in the power of attorney presented.

2. A person is not required to accept an acknowledged power of attorney if:

(a) The person is not otherwise required to engage in a transaction with the principal in the same circumstances;

(b) Engaging in a transaction with the agent or the principal in the same circumstances would be inconsistent with federal law;

(c) The person has actual knowledge of the termination of the agent's authority or of the power of attorney before exercise of the power;

(d) A request for a certification, a translation or an opinion of counsel pursuant to section 34 of this act is refused;

(e) The person in good faith believes that the power is not valid or that the agent does not have the authority to perform the act requested, whether or not a certification, a translation or an opinion of counsel has been requested or provided pursuant to section 34 of this act; or

(f) The person makes, or has actual knowledge that another person has made, a report pursuant to NRS 200.5093 stating a good faith belief that the principal may be subject to abuse, neglect, exploitation or isolation by the agent or a person acting for or with the agent.

3. A person that refuses in violation of this section to accept an acknowledged power of attorney is subject to:

- (a) A court order mandating acceptance of the power of attorney; and
- (b) Liability for reasonable attorney's fees and costs incurred in any action or proceeding that confirms the validity of the power of attorney or mandates acceptance of the power of attorney.

Sec. 36. Unless displaced by a provision of this chapter, the principles of law and equity supplement this chapter.

Sec. 37. This chapter does not supersede any other law applicable to financial institutions or other entities, and the other law controls if inconsistent with this chapter.

Sec. 38. The remedies under this chapter are not exclusive and do not abrogate any right or remedy under the laws of this State other than this chapter.

Sec. 39. 1. An agent under a power of attorney may do the following on behalf of the principal or with the principal's property only if the power of attorney expressly grants the agent the authority and exercise of the authority is not otherwise prohibited by another agreement or instrument to which the authority or property is subject:

- (a) Create, amend, revoke or terminate an inter vivos trust;
 - (b) Make a gift;
 - (c) Create or change rights of survivorship;
 - (d) Create or change a beneficiary designation;
 - (e) Delegate authority granted under the power of attorney;
 - (f) Waive the principal's right to be a beneficiary of a joint and survivor annuity, including a survivor benefit under a retirement plan;
 - (g) Exercise fiduciary powers that the principal has authority to delegate;
- or

(h) Disclaim property, including a power of appointment.

2. Notwithstanding a grant of authority to do an act described in subsection 1, unless the power of attorney otherwise provides, an agent that is not a spouse of the principal may not exercise authority under a power of attorney to create in the agent, or in an individual to whom the agent owes a legal obligation of support, an interest in the principal's property, whether by gift, right of survivorship, beneficiary designation, disclaimer or otherwise.

Sec. 40. 1. Except as otherwise provided in section 39 of this act, if a power of attorney grants to an agent authority to do all acts that a principal could do or refers to general authority or cites a section of this chapter in which the authority is described, the agent has the general authority described in this chapter.

2. A reference in a power of attorney to any part of a section in this chapter incorporates the entire section as if it were set out in full in the power of attorney.

3. A principal may modify authority incorporated by reference.

4. *Except as otherwise provided in section 39 of this act, if the subjects over which authority is granted in a power of attorney are similar or overlap, the broadest authority controls.*

5. *Authority granted in a power of attorney is exercisable with respect to property that the principal has when the power of attorney is executed or acquires later, whether or not the property is located in this State and whether or not the authority is exercised or the power of attorney is executed in this State.*

6. *An act performed by an agent pursuant to a power of attorney has the same effect and inures to the benefit of and binds the principal and the principal's successors in interest as if the principal had performed the act.*

Sec. 41. *Except as otherwise provided in the power of attorney, by executing a power of attorney that incorporates by reference a subject described in this chapter or that grants to an agent authority to do all acts that a principal could do pursuant to this chapter, a principal authorizes the agent to:*

1. *Demand, receive and obtain, by litigation or otherwise, money or another thing of value to which the principal is, may become or claims to be entitled, and conserve, invest, disburse or use anything so received or obtained for the purposes intended;*

2. *Contract in any manner with any person, on terms agreeable to the agent, to accomplish a purpose of a transaction and perform, rescind, cancel, terminate, reform, restate, release or modify the contract or another contract made by or on behalf of the principal;*

3. *Execute, acknowledge, seal, deliver, file or record any instrument or communication the agent considers desirable to accomplish a purpose of a transaction, including creating at any time a schedule listing some or all of the principal's property and attaching it to the power of attorney;*

4. *Initiate, participate in, submit to alternative dispute resolution, settle, oppose, propose or accept a compromise with respect to a claim existing in favor of or against the principal or intervene in litigation relating to the claim;*

5. *Seek on the principal's behalf the assistance of a court or other governmental agency to carry out an act authorized in the power of attorney;*

6. *Engage, compensate and discharge an attorney, accountant, discretionary investment manager, expert witness or other advisor;*

7. *Prepare, execute and file a record, report or other document to safeguard or promote the principal's interest under a statute or regulation;*

8. *Communicate with any representative or employee of a government or governmental subdivision, agency or instrumentality on behalf of the principal;*

9. *Access communications intended for, and communicate on behalf of, the principal, whether by mail, electronic transmission, telephone or other means; and*

10. Do any lawful act with respect to the subject and all property related to the subject.

Sec. 42. 1. Unless the power of attorney otherwise provides, language in a power of attorney granting general authority with respect to real property authorizes:

(a) The agent to demand, buy, lease, receive, accept as a gift or as security for an extension of credit, or otherwise acquire or reject an interest in real property or a right incident to real property;

(b) The agent to:

(1) Sell;

(2) Exchange;

(3) Convey with or without covenants, representations or warranties;

(4) Quitclaim;

(5) Release;

(6) Surrender;

(7) Retain title for security;

(8) Encumber;

(9) Partition;

(10) Consent to partitioning;

(11) Subject to an easement or covenant;

(12) Subdivide;

(13) Apply for zoning or other governmental permits;

(14) Plat or consent to platting;

(15) Develop;

(16) Grant an option concerning;

(17) Lease;

(18) Sublease;

(19) Contribute to an entity in exchange for an interest in that entity; or

(20) Otherwise grant or dispose of,

↪ an interest in real property or a right incident to real property;

(c) The agent to pledge or mortgage an interest in real property or right incident to real property as security to borrow money or pay, renew or extend the time of payment of a debt of the principal or a debt guaranteed by the principal;

(d) The agent to release, assign, satisfy or enforce by litigation or otherwise a mortgage, deed of trust, conditional sale contract, encumbrance, lien or other claim to real property which exists or is asserted;

(e) The agent to manage or conserve an interest in real property or a right incident to real property owned or claimed to be owned by the principal, including:

(1) Insuring against liability or casualty or other loss;

(2) Obtaining or regaining possession of or protecting the interest or right by litigation or otherwise;

(3) Paying, assessing, compromising or contesting taxes or assessments or applying for and receiving refunds in connection with them; and

(4) *Purchasing supplies, hiring assistance or labor, and making repairs or alterations to the real property;*

(f) *Use, develop, alter, replace, remove, erect or install structures or other improvements upon real property in or incident to which the principal has, or claims to have, an interest or right;*

(g) *The agent to participate in a reorganization with respect to real property or an entity that owns an interest in or right incident to real property and receive, and hold, and act with respect to stocks and bonds or other property received in a plan of reorganization, including:*

(1) *Selling or otherwise disposing of them;*

(2) *Exercising or selling an option, right of conversion or similar right with respect to them; and*

(3) *Exercising any voting rights in person or by proxy;*

(h) *The agent to change the form of title of an interest in or right incident to real property; and*

(i) *The agent to dedicate to public use, with or without consideration, easements or other real property in which the principal has, or claims to have, an interest.*

2. *Every power of attorney, or other instrument in writing, containing the power to convey any real property as agent or attorney for the owner thereof, or to execute, as agent or attorney for another, any conveyance whereby any real property is conveyed, or may be affected, must be recorded as other conveyances whereby real property is conveyed or affected are required to be recorded.*

3. *No such power of attorney or other instrument, recorded in the manner prescribed in subsection 2, shall be deemed to be revoked by any act of the principal, until the instrument containing such revocation is deposited for record in the same office in which the instrument containing the power is recorded.*

Sec. 43. *Unless the power of attorney otherwise provides, language in a power of attorney granting general authority with respect to tangible personal property authorizes:*

1. *The agent to demand, buy, receive, accept as a gift or as security for an extension of credit, or otherwise acquire or reject ownership or possession of tangible personal property or an interest in tangible personal property;*

2. *The agent to:*

(a) *Sell;*

(b) *Exchange;*

(c) *Convey with or without covenants, representations or warranties;*

(d) *Quitclaim;*

(e) *Release;*

(f) *Surrender;*

(g) *Create a security interest in;*

(h) *Grant options concerning;*

- (i) Lease;
 - (j) Sublease; or
 - (k) Otherwise dispose of,
 - ↳ tangible personal property or an interest in tangible personal property;
3. The agent to grant a security interest in tangible personal property or an interest in tangible personal property as security to borrow money or pay, renew or extend the time of payment of a debt of the principal or a debt guaranteed by the principal;
 4. The agent to release, assign, satisfy or enforce by litigation or otherwise, a security interest, lien or other claim on behalf of the principal, with respect to tangible personal property or an interest in tangible personal property;
 5. The agent to manage or conserve tangible personal property or an interest in tangible personal property on behalf of the principal, including:
 - (a) Insuring against liability or casualty or other loss;
 - (b) Obtaining or regaining possession of or protecting the property or interest, by litigation or otherwise;
 - (c) Paying, assessing, compromising or contesting taxes or assessments, or applying for and receiving refunds in connection with taxes or assessments;
 - (d) Moving the property from place to place;
 - (e) Storing the property for hire or on a gratuitous bailment; and
 - (f) Using and making repairs, alterations or improvements to the property; and
 6. The agent to change the form of title of an interest in tangible personal property.

Sec. 44. Unless the power of attorney otherwise provides, language in a power of attorney granting general authority with respect to stocks and bonds authorizes the agent to:

1. Buy, sell and exchange stocks and bonds;
2. Establish, continue, modify or terminate an account with respect to stocks and bonds;
3. Pledge stocks and bonds as security to borrow, pay, renew or extend the time of payment of a debt of the principal;
4. Receive certificates and other evidences of ownership with respect to stocks and bonds; and
5. Exercise voting rights with respect to stocks and bonds in person or by proxy, enter into voting trusts and consent to limitations on the right to vote.

Sec. 45. Unless the power of attorney otherwise provides, language in a power of attorney granting general authority with respect to commodities and options authorizes the agent to:

1. Buy, sell, exchange, assign, settle and exercise commodity futures contracts and call or put options on stocks or stock indexes traded on a regulated option exchange; and
2. Establish, continue, modify and terminate option accounts.

Sec. 46. 1. *Unless the power of attorney otherwise provides, language in a power of attorney granting general authority with respect to banks and other financial institutions authorizes the agent to:*

(a) Continue, modify and terminate an account or other banking arrangement made by or on behalf of the principal;

(b) Establish, modify and terminate an account or other banking arrangement with a bank, trust company, savings and loan association, credit union, thrift company, brokerage firm or other financial institution selected by the agent;

(c) Contract for services available from a financial institution, including renting a safe deposit box or space in a vault;

(d) Withdraw, by check, order, electronic funds transfer or otherwise, money or property of the principal deposited with or left in the custody of a financial institution;

(e) Receive statements of account, vouchers, notices and similar documents from a financial institution and act with respect to them;

(f) Enter a safe deposit box or vault and withdraw or add to the contents;

(g) Borrow money and pledge as security personal property of the principal necessary to borrow money or pay, renew or extend the time of payment of a debt of the principal or a debt guaranteed by the principal;

(h) Make, assign, draw, endorse, discount, guarantee and negotiate promissory notes, checks, drafts and other negotiable or nonnegotiable paper of the principal or payable to the principal or the principal's order, transfer money, receive the cash or other proceeds of those transactions, and accept a draft drawn by a person upon the principal and pay it when due;

(i) Receive for the principal and act upon a sight draft, warehouse receipt or other document of title whether tangible or electronic, or other negotiable or nonnegotiable instrument;

(j) Apply for, receive and use letters of credit, credit and debit cards, electronic transaction authorizations and traveler's checks from a financial institution and give an indemnity or other agreement in connection with letters of credit; and

(k) Consent to an extension of the time of payment with respect to commercial paper or a financial transaction with a financial institution.

2. *An agent who is not the spouse of the principal must not be listed on any account as a cosigner with right of survivorship, but must be listed on the account solely as power of attorney.*

Sec. 47. *Subject to the terms of a document or an agreement governing an entity or an entity ownership interest, and unless the power of attorney otherwise provides, language in a power of attorney granting general authority with respect to operation of an entity or business authorizes the agent to:*

1. *Operate, buy, sell, enlarge, reduce or terminate an ownership interest.*

2. *Perform a duty or discharge a liability and exercise in person or by proxy a right, power, privilege or option that the principal has, may have or claims to have.*

3. *Enforce the terms of an ownership agreement.*

4. *Initiate, participate in, submit to alternative dispute resolution, settle, oppose, propose or accept a compromise with respect to litigation to which the principal is a party because of an ownership interest.*

5. *Exercise in person or by proxy, or enforce by litigation or otherwise, a right, power, privilege or option the principal has or claims to have as the holder of stocks and bonds.*

6. *Initiate, participate in, submit to alternative dispute resolution, settle, oppose, propose or accept a compromise with respect to litigation to which the principal is a party concerning stocks and bonds.*

7. *With respect to an entity or business owned solely by the principal:*

(a) *Continue, modify, renegotiate, extend and terminate a contract made by or on behalf of the principal with respect to the entity or business before execution of the power of attorney;*

(b) *Determine:*

(1) *The location of its operation;*

(2) *The nature and extent of its business;*

(3) *The methods of manufacturing, selling, merchandising, financing, accounting and advertising employed in its operation;*

(4) *The amount and types of insurance carried; and*

(5) *The mode of engaging, compensating and dealing with its employees and accountants, attorneys or other advisors;*

(c) *Change the name or form of organization under which the entity or business is operated and enter into an ownership agreement with other persons to take over all or part of the operation of the entity or business; and*

(d) *Demand and receive money due or claimed by the principal or on the principal's behalf in the operation of the entity or business and control and disburse the money in the operation of the entity or business.*

8. *Put additional capital into an entity or business in which the principal has an interest.*

9. *Join in a plan of reorganization, consolidation, conversion, domestication or merger of the entity or business.*

10. *Sell or liquidate all or part of an entity or business.*

11. *Establish the value of an entity or business under a buy-out agreement to which the principal is a party.*

12. *Prepare, sign, file and deliver reports, compilations of information, returns or other papers with respect to an entity or business and make related payments.*

13. *Pay, compromise or contest taxes, assessments, fines or penalties and perform any other act to protect the principal from illegal or unnecessary taxation, assessments, fines or penalties with respect to an entity*

or business, including attempts to recover, in any manner permitted by law, money paid before or after the execution of the power of attorney.

Sec. 48. Unless the power of attorney otherwise provides, language in a power of attorney granting general authority with respect to insurance and annuities authorizes the agent to:

1. Continue, pay the premium or make a contribution on, modify, exchange, rescind, release or terminate a contract procured by or on behalf of the principal which insures or provides an annuity to either the principal or another person, whether or not the principal is a beneficiary under the contract;

2. Procure new, different and additional contracts of insurance and annuities for the principal and the principal's spouse, children and other dependents, ~~and~~ select the amount, type of insurance or annuity, and mode of payment ~~for~~ and name one or more beneficiaries in accordance with the principal's established estate plan and any restrictions to designate beneficiaries contained within the power of attorney;

3. Pay the premium or make a contribution on, modify, exchange, rescind, release or terminate a contract of insurance or annuity procured by the agent;

4. Apply for and receive a loan secured by a contract of insurance or annuity;

5. Surrender and receive the cash surrender value on a contract of insurance or annuity;

6. Exercise an election;

7. Exercise investment powers available under a contract of insurance or annuity;

8. Change the manner of paying premiums on a contract of insurance or annuity;

9. Change or convert the type of insurance or annuity with respect to which the principal has or claims to have authority described in this section;

10. Apply for and procure a benefit or assistance under a statute or regulation to guarantee or pay premiums of a contract of insurance on the life of the principal;

11. Collect, sell, assign, hypothecate, borrow against or pledge the interest of the principal in a contract of insurance or annuity;

12. Select the form and timing of the payment of proceeds from a contract of insurance or annuity; and

13. Pay, from proceeds or otherwise, compromise or contest, and apply for refunds in connection with, a tax or assessment levied by a taxing authority with respect to a contract of insurance or annuity or its proceeds or liability accruing by reason of the tax or assessment.

Sec. 49. 1. Unless the power of attorney otherwise provides, language in a power of attorney granting general authority with respect to estates, trusts and other beneficial interests authorizes the agent to:

(a) Accept, receive, receipt for, sell, assign, pledge or exchange a share in or payment from the fund;

(b) Demand or obtain money or another thing of value to which the principal is, may become or claims to be entitled by reason of the fund, by litigation or otherwise;

(c) Exercise for the benefit of the principal a presently exercisable general power of appointment held by the principal;

(d) Initiate, participate in, submit to alternative dispute resolution, settle, oppose, propose or accept a compromise with respect to litigation to ascertain the meaning, validity or effect of a deed, will, declaration of trust, or other instrument or transaction affecting the interest of the principal;

(e) Initiate, participate in, submit to alternative dispute resolution, settle, oppose, propose or accept a compromise with respect to litigation to remove, substitute or surcharge a fiduciary;

(f) Conserve, invest, disburse or use anything received for an authorized purpose; and

(g) Transfer an interest of the principal in real property, stocks and bonds, accounts with financial institutions or securities intermediaries, insurance, annuities and other property to the trustee of a revocable trust created by the principal as settlor or grantor.

2. As used in this section, "estates, trusts and other beneficial interests" means a trust, probate estate, escrow, custodianship or fund from which the principal is, may become or claims to be entitled to a share or payment.

Sec. 50. Unless the power of attorney otherwise provides, language in a power of attorney granting general authority with respect to claims and litigation authorizes the agent to:

1. Assert and maintain before a court or administrative agency a claim, claim for relief, cause of action, counterclaim, offset, recoupment or defense, including an action to recover property or other thing of value, recover damages sustained by the principal, eliminate or modify tax liability, or seek an injunction, specific performance or other relief;

2. Bring an action to determine adverse claims or intervene or otherwise participate in litigation;

3. Seek an attachment, garnishment, order of arrest or other preliminary, provisional or intermediate relief and use an available procedure to effect or satisfy a judgment, order or decree;

4. Make or accept a tender, offer of judgment or admission of facts, submit a controversy on an agreed statement of facts, consent to examination and bind the principal in litigation;

5. Submit to alternative dispute resolution, settle, and propose or accept a compromise;

6. Waive the issuance and service of process upon the principal, accept service of process, appear for the principal, designate persons upon which process directed to the principal may be served, execute and file or deliver stipulations on the principal's behalf, verify pleadings, seek appellate review,

procure and give surety and indemnity bonds, contract and pay for the preparation and printing of records and briefs, and receive, execute and file or deliver a consent, waiver, release, confession of judgment, satisfaction of judgment, notice, agreement or other instrument in connection with the prosecution, settlement or defense of a claim or litigation;

7. *Act for the principal with respect to bankruptcy or insolvency, whether voluntary or involuntary, concerning the principal or some other person, or with respect to a reorganization, receivership or application for the appointment of a receiver or trustee which affects an interest of the principal in property or other thing of value;*

8. *Pay a judgment, award or order against the principal or a settlement made in connection with a claim or litigation; and*

9. *Receive money or other thing of value paid in settlement of or as proceeds of a claim or litigation.*

Sec. 51. *Unless the power of attorney otherwise provides, language in a power of attorney granting general authority with respect to personal and family maintenance authorizes the agent to perform the acts necessary to maintain the customary standard of living of the principal, including, but not limited to, authorizing the agent to:*

1. *Make periodic payments of child support and other family maintenance required by a court or governmental agency or an agreement to which the principal is a party;*

2. *Provide normal domestic help, usual vacations and travel expenses, and funds for shelter, clothing, food, appropriate education, including postsecondary and vocational education, and other current living costs for the principal;*

3. *Pay expenses for necessary health care and custodial care on behalf of the principal;*

4. *Act as the principal's personal representative pursuant to the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191, as amended, and applicable regulations, in making decisions related to the past, present or future payment for the provision of health care consented to by the principal or anyone authorized under the law of this State to consent to health care on behalf of the principal;*

5. *Continue any provision made by the principal for automobiles or other means of transportation, including registering, licensing, insuring and replacing them;*

6. *Maintain credit and debit accounts for the convenience of the principal and open new accounts; and*

7. *Continue payments incidental to the membership or affiliation of the principal in a religious institution, club, society, order or other organization or to continue contributions to those organizations.*

Sec. 52. 1. *Unless the power of attorney otherwise provides, language in a power of attorney granting general authority with respect to benefits*

from governmental programs or civil or military service authorizes the agent to:

(a) Enroll in, apply for, select, reject, change, amend or discontinue, on the principal's behalf, a benefit or program;

(b) Prepare, file and maintain a claim of the principal for a benefit or assistance, financial or otherwise, to which the principal may be entitled under a statute or regulation;

(c) Initiate, participate in, submit to alternative dispute resolution, settle, oppose, propose or accept a compromise with respect to litigation concerning any benefit or assistance the principal may be entitled to receive under a statute or regulation;

(d) Receive the financial proceeds of a claim, and conserve, invest, disburse or use for a lawful purpose anything so received;

(e) Execute vouchers in the name of the principal for allowances and reimbursements payable by the United States or a foreign government or by a state or subdivision of a state to the principal, including allowances and reimbursements for transportation and for shipment of household effects; and

(f) Take possession and order the removal and shipment of property of the principal from a post, warehouse, depot, dock or other place of storage or safekeeping, either governmental or private, and execute and deliver a release, voucher, receipt, bill of lading, shipping ticket, certificate or other instrument for that purpose.

2. As used in this section, "benefits from governmental programs or civil or military service" means any benefit, program or assistance provided under a statute or regulation including Social Security, Medicare and Medicaid.

Sec. 53. 1. Unless the power of attorney otherwise provides, language in a power of attorney granting general authority with respect to retirement plans authorizes the agent to:

(a) Select the form and timing of payments under a retirement plan and withdraw benefits from a plan;

(b) Make a rollover, including a direct trustee-to-trustee rollover, of benefits from one retirement plan to another;

(c) Establish a retirement plan in the principal's name ~~for~~ and name one or more beneficiaries in accordance with the principal's established estate plan and any restrictions to designate beneficiaries contained within the power of attorney;

(d) Make contributions to a retirement plan;

(e) Exercise investment powers available under a retirement plan; and

(f) Borrow from, sell assets to or purchase assets from a retirement plan.

2. As used in this section, "retirement plan" means a plan or account created by an employer, the principal or another individual to provide retirement benefits or deferred compensation of which the principal is a

participant, beneficiary or owner, including a plan or account under the following sections of the Internal Revenue Code:

(a) An individual retirement account under section 408 of the Internal Revenue Code, 26 U.S.C. § 408, as amended;

(b) A Roth individual retirement account under section 408A of the Internal Revenue Code, 26 U.S.C. § 408A, as amended;

(c) A deemed individual retirement account under section 408(q) of the Internal Revenue Code, 26 U.S.C. § 408(q), as amended;

(d) An annuity or mutual fund custodial account under section 403(b) of the Internal Revenue Code, 26 U.S.C. § 403(b), as amended;

(e) A pension, profit-sharing, stock bonus or other retirement plan qualified under section 401(a) of the Internal Revenue Code, 26 U.S.C. § 401(a), as amended;

(f) A plan under section 457(b) of the Internal Revenue Code, 26 U.S.C. § 457(b), as amended; and

(g) A nonqualified deferred compensation plan under section 409A of the Internal Revenue Code, 26 U.S.C. § 409A, as amended.

Sec. 54. Unless the power of attorney otherwise provides, language in a power of attorney granting general authority with respect to taxes authorizes the agent to:

1. Prepare, sign and file federal, state, local and foreign income, gift, payroll, property, Federal Insurance Contributions Act and other tax returns, claims for refunds, requests for extension of time, petitions regarding tax matters and any other tax-related documents, including receipts, offers, waivers, consents, including consents and agreements under section 2032A of the Internal Revenue Code, 26 U.S.C. § 2032A, as amended, closing agreements, and any power of attorney required by the Internal Revenue Service or other taxing authority with respect to a tax year upon which the statute of limitations has not run and the following 25 tax years;

2. Pay taxes due, collect refunds, post bonds, receive confidential information, and contest deficiencies determined by the Internal Revenue Service or other taxing authority;

3. Exercise any election available to the principal under federal, state, local or foreign tax law; and

4. Act for the principal in all tax matters for all periods before the Internal Revenue Service or other taxing authority.

Sec. 55. 1. Unless the power of attorney otherwise provides, an agent has no authority to make a gift to any party on behalf of the principal.

2. If the power of attorney grants the agent the authority to make gifts, the agent may:

(a) Make outright to, or for the benefit of, a person, a gift of any of the principal's property, including by the exercise of a presently exercisable general power of appointment held by the principal, in an amount per donee not to exceed the annual dollar limits of the federal gift tax exclusion under

section 2503(b) of the Internal Revenue Code, 26 U.S.C. § 2503(b), as amended, without regard to whether the federal gift tax exclusion applies to the gift or, if the principal's spouse agrees to consent to a split gift pursuant to section 2513 of the Internal Revenue Code, 26 U.S.C. § 2513, as amended, in an amount per donee not to exceed twice the annual federal gift tax exclusion limit; and

(b) Consent, pursuant to section 2513 of the Internal Revenue Code, 26 .S.C. § 2513, as amended, to the splitting of a gift made by the principal's spouse in an amount per donee not to exceed the aggregate annual gift tax exclusions for both spouses.

3. An agent may make a gift of the principal's property only as the agent determines is consistent with the principal's objectives if actually known by the agent and, if unknown, as the agent determines is consistent with the principal's best interest based on all relevant factors, including:

- (a) The value and nature of the principal's property;
- (b) The principal's foreseeable obligations and need for maintenance;
- (c) Minimization of taxes, including income, estate, inheritance, generation-skipping transfer and gift taxes;
- (d) Eligibility for a benefit, a program or assistance under a statute or regulation; and
- (e) The principal's personal history of making or joining in making gifts.

4. As used in this section, a gift "for the benefit of" a person includes a gift to a trust, an account under the Uniform Transfers to Minors Act, and a tuition savings account or prepaid tuition plan as defined under section 529 of the Internal Revenue Code, 26 U.S.C. § 529, as amended.

Sec. 56. A document substantially in the following form may be used to create a statutory form power of attorney that has the meaning and effect prescribed by this chapter:

STATUTORY FORM POWER OF ATTORNEY

THIS IS AN IMPORTANT LEGAL DOCUMENT. IT CREATES A DURABLE POWER OF ATTORNEY FOR FINANCIAL MATTERS. BEFORE EXECUTING THIS DOCUMENT, YOU SHOULD KNOW THESE IMPORTANT FACTS:

1. THIS DOCUMENT GIVES THE PERSON YOU DESIGNATE AS YOUR AGENT THE POWER TO MAKE DECISIONS CONCERNING YOUR PROPERTY FOR YOU. YOUR AGENT WILL BE ABLE TO MAKE DECISIONS AND ACT WITH RESPECT TO YOUR PROPERTY (INCLUDING YOUR MONEY) WHETHER OR NOT YOU ARE ABLE TO ACT FOR YOURSELF.

2. THIS POWER OF ATTORNEY BECOMES EFFECTIVE IMMEDIATELY UNLESS YOU STATE OTHERWISE IN THE SPECIAL INSTRUCTIONS.

3. THIS POWER OF ATTORNEY DOES NOT AUTHORIZE THE AGENT TO MAKE HEALTH CARE DECISIONS FOR YOU.

4. THE PERSON YOU DESIGNATE IN THIS DOCUMENT HAS A DUTY TO ACT CONSISTENT WITH YOUR DESIRES AS STATED IN THIS DOCUMENT OR OTHERWISE MADE KNOWN OR, IF YOUR DESIRES ARE UNKNOWN, TO ACT IN YOUR BEST INTERESTS.

5. YOU SHOULD SELECT SOMEONE YOU TRUST TO SERVE AS YOUR AGENT. UNLESS YOU SPECIFY OTHERWISE, GENERALLY THE AGENT'S AUTHORITY WILL CONTINUE UNTIL YOU DIE OR REVOKE THE POWER OF ATTORNEY OR THE AGENT RESIGNS OR IS UNABLE TO ACT FOR YOU.

6. YOUR AGENT IS ENTITLED TO REASONABLE COMPENSATION UNLESS YOU STATE OTHERWISE IN THE SPECIAL INSTRUCTIONS.

7. THIS FORM PROVIDES FOR DESIGNATION OF ONE AGENT. IF YOU WISH TO NAME MORE THAN ONE AGENT YOU MAY NAME A CO-AGENT IN THE SPECIAL INSTRUCTIONS. CO-AGENTS ARE NOT REQUIRED TO ACT TOGETHER UNLESS YOU INCLUDE THAT REQUIREMENT IN THE SPECIAL INSTRUCTIONS.

8. IF YOUR AGENT IS UNABLE OR UNWILLING TO ACT FOR YOU, YOUR POWER OF ATTORNEY WILL END UNLESS YOU HAVE NAMED A SUCCESSOR AGENT. YOU MAY ALSO NAME A SECOND SUCCESSOR AGENT.

9. YOU HAVE THE RIGHT TO REVOKE THE AUTHORITY GRANTED TO THE PERSON DESIGNATED IN THIS DOCUMENT.

10. THIS DOCUMENT REVOKES ANY PRIOR DURABLE POWER OF ATTORNEY.

11. IF THERE IS ANYTHING IN THIS DOCUMENT THAT YOU DO NOT UNDERSTAND, YOU SHOULD ASK A LAWYER TO EXPLAIN IT TO YOU.

1. DESIGNATION OF AGENT.

I,
(insert your name) do hereby designate and appoint:

Name:

Address:

Telephone Number:

as my agent to make decisions for me and in my name, place and stead and for my use and benefit and to exercise the powers as authorized in this document.

2. DESIGNATION OF ALTERNATE AGENT.

(You are not required to designate any alternative agent but you may do so. Any alternative agent you designate will be able to make the same decisions as the agent designated above in the event that he or she is unable or unwilling to act as your agent. Also, if the agent designated in paragraph 1 is your spouse, his or her designation as your agent is automatically revoked by law if your marriage is dissolved.)

If my agent is unable or unwilling to act for me, then I designate the following person(s) to serve as my agent as authorized in this document, such person(s) to serve in the order listed below:

A. First Alternative Agent

Name:
Address:
Telephone Number:

B. Second Alternative Agent

Name:
Address:
Telephone Number:

3. OTHER POWERS OF ATTORNEY.

This Power of Attorney is intended to, and does, revoke any prior Power of Attorney for financial matters I have previously executed.

4. NOMINATION OF GUARDIAN.

If, after execution of this Power of Attorney, incompetency proceedings are initiated either for my estate or my person, I hereby nominate as my guardian or conservator for consideration by the court my agent herein named, in the order named.

5. GRANT OF GENERAL AUTHORITY.

I grant my agent and any successor agent(s) general authority to act for me with respect to the following subjects:

(INITIAL each subject you want to include in the agent's general authority. If you wish to grant general authority over all of the subjects you may initial "All Preceding Subjects" instead of initialing each subject.)

- [...] Real Property
- [...] Tangible Personal Property
- [...] Stocks and Bonds
- [...] Commodities and Options
- [...] Banks and Other Financial Institutions
- [...] Safe Deposit Boxes
- [...] Operation of Entity or Business
- [...] Insurance and Annuities
- [...] Estates, Trusts and Other Beneficial Interests
- [...] Legal Affairs, Claims and Litigation
- [...] Personal Maintenance
- [...] Benefits from Governmental Programs or Civil or Military Service
- [...] Retirement Plans
- [...] Taxes
- [...] All Preceding Subjects

6. GRANT OF SPECIFIC AUTHORITY.

My agent MAY NOT do any of the following specific acts for me UNLESS I have INITIALED the specific authority listed below:

(CAUTION: Granting any of the following will give your agent the authority to take actions that could significantly reduce your property or change how

your property is distributed at your death. INITIAL ONLY the specific authority you WANT to give your agent.)

[...] Create, amend, revoke or terminate an inter vivos, family, living, irrevocable or revocable trust

[...] Make a gift, subject to the limitations of NRS and any special instructions in this Power of Attorney

[...] Create or change rights of survivorship

[...] Create or change a beneficiary designation

[...] Waive the principal's right to be a beneficiary of a joint and survivor annuity, including a survivor benefit under a retirement plan

[...] Exercise fiduciary powers that the principal has authority to delegate

[...] Disclaim or refuse an interest in property, including a power of appointment

7. LIMITATION ON AGENT'S AUTHORITY.

An agent that is not my spouse MAY NOT use my property to benefit the agent or a person to whom the agent owes an obligation of support unless I have included that authority in the Special Instructions.

8. SPECIAL INSTRUCTIONS OR OTHER OR ADDITIONAL AUTHORITY GRANTED TO AGENT:

.....
.....
.....

9. DURABILITY AND EFFECTIVE DATE. *(INITIAL the clause(s) that applies.)*

[...] DURABLE. This Power of Attorney shall not be affected by my subsequent disability or incapacity.

[...] SPRINGING POWER. It is my intention and direction that my designated agent, and any person or entity that my designated agent may transact business with on my behalf, may rely on a written medical opinion issued by a licensed medical doctor stating that I am disabled or incapacitated, and incapable of managing my affairs, and that said medical opinion shall establish whether or not I am under a disability for the purpose of establishing the authority of my designated agent to act in accordance with this Power of Attorney.

[...] I wish to have this Power of Attorney become effective on the following date: ...

[...] I wish to have this Power of Attorney end on the following date: ...

10. THIRD PARTY PROTECTION.

Third parties may rely upon the validity of this Power of Attorney or a copy and the representations of my agent as to all matters relating to any power granted to my agent, and no person or agency who relies upon the representation of my agent, or the authority granted by my agent, shall incur any liability to me or my estate as a result of permitting my agent to exercise

any power unless a third party knows or has reason to know this Power of Attorney has terminated or is invalid.

11. RELEASE OF INFORMATION.

I agree to, authorize and allow full release of information, by any government agency, business, creditor or third party who may have information pertaining to my assets or income, to my agent named herein.

12. SIGNATURE AND ACKNOWLEDGMENT. YOU MUST DATE AND SIGN THIS POWER OF ATTORNEY. THIS POWER OF ATTORNEY WILL NOT BE VALID UNLESS IT IS ACKNOWLEDGED BEFORE A NOTARY PUBLIC.

I sign my name to this Power of Attorney for Health Care on (date) at (city), (state) (Signature)

CERTIFICATE OF ACKNOWLEDGMENT OF NOTARY PUBLIC

(You may use acknowledgment before a notary public instead of the statement of witnesses.)

State of Nevada }
}ss.
County of.....}

On this day of, in the year, before me, (here insert name of notary public) personally appeared (here insert name of principal) personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to this instrument, and acknowledged that he or she executed it. I declare under penalty of perjury that the person whose name is ascribed to this instrument appears to be of sound mind and under no duress, fraud or undue influence.

NOTARY SEAL (Signature of Notary Public)

IMPORTANT INFORMATION FOR AGENT

1. Agent's Duties. When you accept the authority granted under this Power of Attorney, a special legal relationship is created between you and the principal. This relationship imposes upon you legal duties that continue until you resign or the Power of Attorney is terminated or revoked. You must:

(a) Do what you know the principal reasonably expects you to do with the principal's property or, if you do not know the principal's expectations, act in the principal's best interest;

(b) Act in good faith;

(c) Do nothing beyond the authority granted in this Power of Attorney; and

(d) Disclose your identity as an agent whenever you act for the principal by writing or printing the name of the principal and signing your own name as "agent" in the following manner:

(Principal's Name) by (Your Signature) as Agent

2. *Unless the Special Instructions in this Power of Attorney state otherwise, you must also:*

- (a) Act loyally for the principal's benefit;*
- (b) Avoid conflicts that would impair your ability to act in the principal's best interest;*
- (c) Act with care, competence, and diligence;*
- (d) Keep a record of all receipts, disbursements and transactions made on behalf of the principal;*
- (e) Cooperate with any person that has authority to make health care decisions for the principal to do what you know the principal reasonably expects or, if you do not know the principal's expectations, to act in the principal's best interest; and*
- (f) Attempt to preserve the principal's estate plan if you know the plan and preserving the plan is consistent with the principal's best interest.*

3. *Termination of Agent's Authority. You must stop acting on behalf of the principal if you learn of any event that terminates this Power of Attorney or your authority under this Power of Attorney. Events that terminate a Power of Attorney or your authority to act under a Power of Attorney include:*

- (a) Death of the principal;*
- (b) The principal's revocation of the Power of Attorney or your authority;*
- (c) The occurrence of a termination event stated in the Power of Attorney;*
- (d) The purpose of the Power of Attorney is fully accomplished; or*
- (e) If you are married to the principal, your marriage is dissolved.*

4. *Liability of Agent. The meaning of the authority granted to you is defined in this chapter. If you violate this chapter or act outside the authority granted in this Power of Attorney, you may be liable for any damages caused by your violation.*

5. *If there is anything about this document or your duties that you do not understand, you should seek legal advice.*

Sec. 57. *Sections 57 to 73, inclusive, of this act apply to any power of attorney containing the authority to make health care decisions.*

Sec. 58. *As used in sections 57 to 73, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 59 to 65, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 59. *"Attending physician" means the physician who has primary responsibility for the treatment and care of the patient.*

Sec. 60. *"Declaration" means a writing executed in accordance with the requirements of NRS 449.600.*

Sec. 61. *"Health care facility" includes:*

- 1. Any medical facility; and*
- 2. Any facility for the dependent.*

Sec. 62. *"Life-sustaining treatment" means a medical procedure or intervention that, when administered to a patient, serves only to prolong the process of dying.*

Sec. 63. *"Provider of health care" has the meaning ascribed to it in NRS 629.031.*

Sec. 64. *"Qualified patient" means a patient, 18 years of age or older, who has executed a declaration and who has been determined by the attending physician to be in a terminal condition.*

Sec. 65. *"Terminal condition" means an incurable and irreversible condition that cannot be cured or modified by any known current medical therapy or treatment, and which, without the administration of life-sustaining treatment, will in the opinion of the attending physician result in death within a relatively short time period.*

Sec. 66. 1. *Any adult person may execute a power of attorney enabling the agent named in the power of attorney to make decisions concerning health care for the principal if that principal becomes incapable of giving informed consent concerning such decisions.*

2. *A power of attorney for health care must be signed by the principal. The principal's signature on the power of attorney for health care must be:*

- (a) Acknowledged before a notary public; or*
- (b) Witnessed by two adult witnesses who know the principal personally.*

3. *Neither of the witnesses to a principal's signature may be:*

- (a) A provider of health care;*
- (b) An employee of a provider of health care;*
- (c) An operator of a health care facility;*
- (d) An employee of a health care facility; or*
- (e) The agent.*

4. *At least one of the witnesses to a principal's signature must be a person who is:*

- (a) Not related to the principal by blood, marriage or adoption; and*
- (b) To the best of the witnesses' knowledge, not entitled to any part of the estate of the principal upon the death of the principal.*

Sec. 67. 1. *In a power of attorney for health care, a principal may nominate a guardian of the principal's person for consideration by the court if guardianship proceedings for the principal's person are begun after the principal executes the power of attorney.*

2. *If, after a principal executes a power of attorney for health care, a court appoints a guardian of the principal's person, the power of attorney is terminated. The guardian shall follow any provisions contained in the power of attorney for health care delineating the principal's wishes for medical and end-of-life care.*

Sec. 68. 1. *A power of attorney for health care is effective when executed unless the principal provides in the power of attorney that it becomes effective at a future date or upon incapacity.*

2. *If a power of attorney for health care becomes effective upon the principal's incapacity, the power of attorney becomes effective upon a determination in a writing or other record by a physician, psychiatrist or licensed psychologist that the principal is incapacitated.*

3. *An agent named in the power of attorney for health care may act as the principal's personal representative pursuant to the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191, as amended, and applicable regulations, to obtain a determination of incapacity.*

Sec. 69. 1. *A power of attorney for health care terminates when:*

(a) *The principal dies;*
(b) *The principal revokes the power of attorney;*
(c) *The power of attorney includes a termination date; or*
(d) *The principal revokes the agent's authority or the agent dies, becomes incapacitated or resigns, and the power of attorney does not provide for another agent to act under the power of attorney.*

2. *An agent's authority under a power of attorney for health care terminates when:*

(a) *The principal revokes the authority;*
(b) *The agent dies, becomes incapacitated or resigns;*
(c) *An action is filed for the dissolution or annulment of the agent's marriage to the principal, unless the power of attorney otherwise provides; or*
(d) *The power of attorney includes a termination date.*

3. *Unless the power of attorney for health care otherwise provides, an agent's authority is exercisable until the authority terminates under subsection 2, notwithstanding a lapse of time since the execution of the power of attorney.*

4. *Termination of an agent's authority or of a power of attorney for health care is not effective as to the agent or another person that, without actual knowledge of the termination, acts in good faith under the power of attorney. An act so performed, unless otherwise invalid or unenforceable, binds the principal and the principal's successors in interest.*

5. *An execution of a power of attorney for health care automatically revokes any previous power of attorney to make health care decisions.*

6. *If a power of attorney for health care terminates while the principal is unable to make decisions concerning health care, the power of attorney for health care remains valid until the principal is again able to make such decisions.*

Sec. 70. 1. *A principal may designate two or more persons to act as co-agents. Unless the power of attorney for health care otherwise provides, each co-agent may exercise its authority independently.*

2. *A principal may designate one or more successor agents to act if an agent resigns, dies, becomes incapacitated, is not qualified to serve or declines to serve. Unless the power of attorney for health care otherwise provides, a successor agent:*

(a) *Has the same authority as that granted to the original agent; and*
(b) *May not act until all predecessor agents have resigned, died, become incapacitated, are no longer qualified to serve or have declined to serve.*

Sec. 71. 1. *Except as otherwise provided in subsection 2, a principal may not name as agent in a power of attorney for health care:*

- (a) *His provider of health care;*
- (b) *An employee of his provider of health care;*
- (c) *An operator of a health care facility; or*
- (d) *An employee of a health care facility.*

2. *A principal may name as agent any person identified in subsection 1 if that person is the spouse, legal guardian or next of kin of the principal.*

Sec. 72. 1. *The agent may not consent to:*

- (a) *Commitment or placement of the principal in a facility for treatment of mental illness;*
- (b) *Convulsive treatment;*
- (c) *Psychosurgery;*
- (d) *Sterilization;*
- (e) *Abortion;*
- (f) *Aversive intervention, as that term is defined in NRS 449.766;*
- (g) *Experimental medical, biomedical or behavioral treatment, or participation in any medical, biomedical or behavioral research program; or*
- (h) *Any other treatment to which the principal, in the power of attorney for health care, states that the agent may not consent.*

2. *The agent must make decisions concerning the use or nonuse of life-sustaining treatment which conform to the known desires of the principal. The principal may make these desires known in the power of attorney for health care.*

Sec. 73. *The form of a power of attorney for health care ~~for a principal with a disability~~ must be substantially as follows:*

**DURABLE POWER OF ATTORNEY
FOR HEALTH CARE DECISIONS**

WARNING TO PERSON EXECUTING THIS DOCUMENT

THIS IS AN IMPORTANT LEGAL DOCUMENT. IT CREATES A DURABLE POWER OF ATTORNEY FOR HEALTH CARE. BEFORE EXECUTING THIS DOCUMENT, YOU SHOULD KNOW THESE IMPORTANT FACTS:

1. **THIS DOCUMENT GIVES THE PERSON YOU DESIGNATE AS YOUR ~~(ATTORNEY-IN-FACT)~~ AGENT THE POWER TO MAKE HEALTH CARE DECISIONS FOR YOU. THIS POWER IS SUBJECT TO ANY LIMITATIONS OR STATEMENT OF YOUR DESIRES THAT YOU INCLUDE IN THIS DOCUMENT. THE POWER TO MAKE HEALTH CARE DECISIONS FOR YOU MAY INCLUDE CONSENT, REFUSAL OF CONSENT OR WITHDRAWAL OF CONSENT TO ANY CARE, TREATMENT, SERVICE OR PROCEDURE TO MAINTAIN, DIAGNOSE OR TREAT A PHYSICAL OR MENTAL CONDITION. YOU MAY STATE IN THIS DOCUMENT ANY TYPES OF TREATMENT OR PLACEMENTS THAT YOU DO NOT DESIRE.**

2. THE PERSON YOU DESIGNATE IN THIS DOCUMENT HAS A DUTY TO ACT CONSISTENT WITH YOUR DESIRES AS STATED IN THIS DOCUMENT OR OTHERWISE MADE KNOWN OR, IF YOUR DESIRES ARE UNKNOWN, TO ACT IN YOUR BEST INTERESTS.

3. EXCEPT AS YOU OTHERWISE SPECIFY IN THIS DOCUMENT, THE POWER OF THE PERSON YOU DESIGNATE TO MAKE HEALTH CARE DECISIONS FOR YOU MAY INCLUDE THE POWER TO CONSENT TO YOUR DOCTOR NOT GIVING TREATMENT OR STOPPING TREATMENT WHICH WOULD KEEP YOU ALIVE.

4. UNLESS YOU SPECIFY A SHORTER PERIOD IN THIS DOCUMENT, THIS POWER WILL EXIST INDEFINITELY FROM THE DATE YOU EXECUTE THIS DOCUMENT AND, IF YOU ARE UNABLE TO MAKE HEALTH CARE DECISIONS FOR YOURSELF, THIS POWER WILL CONTINUE TO EXIST UNTIL THE TIME WHEN YOU BECOME ABLE TO MAKE HEALTH CARE DECISIONS FOR YOURSELF.

5. NOTWITHSTANDING THIS DOCUMENT, YOU HAVE THE RIGHT TO MAKE MEDICAL AND OTHER HEALTH CARE DECISIONS FOR YOURSELF SO LONG AS YOU CAN GIVE INFORMED CONSENT WITH RESPECT TO THE PARTICULAR DECISION. IN ADDITION, NO TREATMENT MAY BE GIVEN TO YOU OVER YOUR OBJECTION, AND HEALTH CARE NECESSARY TO KEEP YOU ALIVE MAY NOT BE STOPPED IF YOU OBJECT.

6. YOU HAVE THE RIGHT TO REVOKE THE APPOINTMENT OF THE PERSON DESIGNATED IN THIS DOCUMENT TO MAKE HEALTH CARE DECISIONS FOR YOU BY NOTIFYING THAT PERSON OF THE REVOCATION ORALLY OR IN WRITING.

7. YOU HAVE THE RIGHT TO REVOKE THE AUTHORITY GRANTED TO THE PERSON DESIGNATED IN THIS DOCUMENT TO MAKE HEALTH CARE DECISIONS FOR YOU BY NOTIFYING THE TREATING PHYSICIAN, HOSPITAL OR OTHER PROVIDER OF HEALTH CARE ORALLY OR IN WRITING.

8. THE PERSON DESIGNATED IN THIS DOCUMENT TO MAKE HEALTH CARE DECISIONS FOR YOU HAS THE RIGHT TO EXAMINE YOUR MEDICAL RECORDS AND TO CONSENT TO THEIR DISCLOSURE UNLESS YOU LIMIT THIS RIGHT IN THIS DOCUMENT.

9. THIS DOCUMENT REVOKES ANY PRIOR DURABLE POWER OF ATTORNEY FOR HEALTH CARE.

10. IF THERE IS ANYTHING IN THIS DOCUMENT THAT YOU DO NOT UNDERSTAND, YOU SHOULD ASK A LAWYER TO EXPLAIN IT TO YOU.

1. DESIGNATION OF HEALTH CARE AGENT.

I,

(insert your name) do hereby designate and appoint:

Name:

Address:

Telephone Number:
as my ~~attorney in fact~~ agent to make health care decisions for me as authorized in this document.

(Insert the name and address of the person you wish to designate as your ~~attorney in fact~~ agent to make health care decisions for you. Unless the person is also your spouse, legal guardian or the person most closely related to you by blood, none of the following may be designated as your ~~attorney in fact~~ agent: (1) your treating provider of health care; (2) an employee of your treating provider of health care; (3) an operator of a health care facility; or (4) an employee of an operator of a health care facility.)

2. CREATION OF DURABLE POWER OF ATTORNEY FOR HEALTH CARE.

By this document I intend to create a durable power of attorney by appointing the person designated above to make health care decisions for me. This power of attorney shall not be affected by my subsequent incapacity.

3. GENERAL STATEMENT OF AUTHORITY GRANTED.

In the event that I am incapable of giving informed consent with respect to health care decisions, I hereby grant to the ~~attorney in fact~~ agent named above full power and authority: to make health care decisions for me before or after my death, including consent, refusal of consent or withdrawal of consent to any care, treatment, service or procedure to maintain, diagnose or treat a physical or mental condition ~~+~~; to request, review and receive any information, verbal or written, regarding my physical or mental health, including, without limitation, medical and hospital records; to execute on my behalf any releases or other documents that may be required to obtain medical care and/or medical and hospital records, EXCEPT any power to enter into any arbitration agreements or execute any arbitration clauses in connection with admission to any health care facility including any skilled nursing facility; and subject only to the limitations and special provisions, if any, set forth in paragraph 4 or 6.

4. SPECIAL PROVISIONS AND LIMITATIONS.

(Your ~~attorney in fact~~ agent is not permitted to consent to any of the following: commitment to or placement in a mental health treatment facility, convulsive treatment, psychosurgery, sterilization or abortion. If there are any other types of treatment or placement that you do not want your ~~attorney in fact's~~ agent's authority to give consent for or other restrictions you wish to place on his or her ~~attorney in fact's~~ agent's authority, you should list them in the space below. If you do not write any limitations, your ~~attorney in fact~~ agent will have the broad powers to make health care decisions on your behalf which are set forth in paragraph 3, except to the extent that there are limits provided by law.)

In exercising the authority under this durable power of attorney for health care, the authority of my ~~attorney in fact~~ agent is subject to the following special provisions and limitations:

.....
.....
.....
.....

5. DURATION.

I understand that this power of attorney will exist indefinitely from the date I execute this document unless I establish a shorter time. If I am unable to make health care decisions for myself when this power of attorney expires, the authority I have granted my ~~attorney-in-fact~~ agent will continue to exist until the time when I become able to make health care decisions for myself.

(IF APPLICABLE)

I wish to have this power of attorney end on the following date:

6. STATEMENT OF DESIRES.

(With respect to decisions to withhold or withdraw life-sustaining treatment, your ~~attorney-in-fact~~ agent must make health care decisions that are consistent with your known desires. You can, but are not required to, indicate your desires below. If your desires are unknown, your ~~attorney-in-fact~~ agent has the duty to act in your best interests; and, under some circumstances, a judicial proceeding may be necessary so that a court can determine the health care decision that is in your best interests. If you wish to indicate your desires, you may INITIAL the statement or statements that reflect your desires and/or write your own statements in the space below.)

(If the statement reflects your desires, initial the box next to the statement.)

1. I desire that my life be prolonged to the greatest extent possible, without regard to my condition, the chances I have for recovery or long-term survival, or the cost of the procedures.

[.....]

2. If I am in a coma which my doctors have reasonably concluded is irreversible, I desire that life-sustaining or prolonging treatments not be used. (Also should utilize provisions of NRS 449.535 to 449.690, inclusive, if this subparagraph is initialed.)

[.....]

3. If I have an incurable or terminal condition or illness and no reasonable hope of long-term recovery or survival, I desire that life-sustaining or prolonging treatments not be used. (Also should utilize provisions of NRS 449.535 to

449.690, inclusive, if this subparagraph is initialed.) [.....]

4. Withholding or withdrawal of artificial nutrition and hydration may result in death by starvation or dehydration. I want to receive or continue receiving artificial nutrition and hydration by way of the gastrointestinal tract after all other treatment is withheld. [.....]

5. I do not desire treatment to be provided and/or continued if the burdens of the treatment outweigh the expected benefits. My ~~attorney in fact~~ agent is to consider the relief of suffering, the preservation or restoration of functioning, and the quality as well as the extent of the possible extension of my life. [.....]

(If you wish to change your answer, you may do so by drawing an "X" through the answer you do not want, and circling the answer you prefer.)

Other or Additional Statements of Desires:

.....
.....
.....

7. DESIGNATION OF ALTERNATE ~~ATTORNEY IN FACT~~ AGENT.

(You are not required to designate any alternative ~~attorney in fact~~ agent but you may do so. Any alternative ~~attorney in fact~~ agent you designate will be able to make the same health care decisions as the ~~attorney in fact~~ agent designated in paragraph 1, page 2, in the event that he or she is unable or unwilling to act as your ~~attorney in fact~~ agent. Also, if the ~~attorney in fact~~ agent designated in paragraph 1 is your spouse, his or her designation as your ~~attorney in fact~~ agent is automatically revoked by law if your marriage is dissolved.)

If the person designated in paragraph 1 as my ~~attorney in fact~~ agent is unable to make health care decisions for me, then I designate the following persons to serve as my ~~attorney in fact~~ agent to make health care decisions for me as authorized in this document, such persons to serve in the order listed below:

- A. First Alternative ~~Attorney in Fact~~ Agent
 - Name:
 - Address:
 - Telephone Number:
- B. Second Alternative ~~Attorney in Fact~~ Agent
 - Name:

Address:

Telephone Number :

8. PRIOR DESIGNATIONS REVOKED.

I revoke any prior durable power of attorney for health care.

9. WAIVER OF CONFLICT OF INTEREST.

If my designated agent is my spouse or is one of my children, then I waive any conflict of interest in carrying out the provisions of this Durable Power of Attorney for Health Care that said spouse or child may have by reason of the fact that he or she may be a beneficiary of my estate.

10. CHALLENGES.

If the legality of any provision of this Durable Power of Attorney for Health Care is questioned by my physician, my agent or a third party, then my agent is authorized to commence an action for declaratory judgment as to the legality of the provision in question. The cost of any such action is to be paid from my estate. This Durable Power of Attorney for Health Care must be construed and interpreted in accordance with the laws of the State of Nevada.

11. NOMINATION OF GUARDIAN.

If, after execution of this Durable Power of Attorney for Health Care, incompetency proceedings are initiated either for my estate or my person, I hereby nominate as my guardian or conservator for consideration by the court my agent herein named, in the order named.

12. RELEASE OF INFORMATION.

I agree to, authorize and allow full release of information by any government agency, medical provider, business, creditor or third party who may have information pertaining to my health care, to my agent named herein, pursuant to the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191, as amended, and applicable regulations.

(YOU MUST DATE AND SIGN THIS POWER OF ATTORNEY)

I sign my name to this Durable Power of Attorney for Health Care on (date) at (city), (state)

..... (Signature)

(THIS POWER OF ATTORNEY WILL NOT BE VALID FOR MAKING HEALTH CARE DECISIONS UNLESS IT IS EITHER (1) SIGNED BY AT LEAST TWO QUALIFIED WITNESSES WHO ARE PERSONALLY KNOWN TO YOU AND WHO ARE PRESENT WHEN YOU SIGN OR ACKNOWLEDGE YOUR SIGNATURE OR (2) ACKNOWLEDGED BEFORE A NOTARY PUBLIC.)

CERTIFICATE OF ACKNOWLEDGMENT OF NOTARY PUBLIC

(You may use acknowledgment before a notary public instead of the statement of witnesses.)

State of Nevada }
 }ss.
County of..... }

On this day of, in the year .., before me, (here insert name of notary public) personally appeared (here insert name of principal) personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to this instrument, and acknowledged that he or she executed it. I declare under penalty of perjury that the person whose name is ascribed to this instrument appears to be of sound mind and under no duress, fraud or undue influence.

NOTARY SEAL
(Signature of Notary Public)

STATEMENT OF WITNESSES

(You should carefully read and follow this witnessing procedure. This document will not be valid unless you comply with the witnessing procedure. If you elect to use witnesses instead of having this document notarized, you must use two qualified adult witnesses. None of the following may be used as a witness: (1) a person you designate as the ~~attorney-in-fact;~~ agent; (2) a provider of health care; (3) an employee of a provider of health care; (4) the operator of a health care facility; or (5) an employee of an operator of a health care facility. At least one of the witnesses must make the additional declaration set out following the place where the witnesses sign.)

I declare under penalty of perjury that the principal is personally known to me, that the principal signed or acknowledged this durable power of attorney in my presence, that the principal appears to be of sound mind and under no duress, fraud or undue influence, that I am not the person appointed as ~~attorney-in-fact~~ agent by this document and that I am not a provider of health care, an employee of a provider of health care, the operator of a community care facility or an employee of an operator of a health care facility.

Signature: Residence Address:
Print Name:
Date:
Signature: Residence Address:
Print Name:
Date:

(AT LEAST ONE OF THE ABOVE WITNESSES MUST ALSO SIGN THE FOLLOWING DECLARATION.)

I declare under penalty of perjury that I am not related to the principal by blood, marriage or adoption and that to the best of my knowledge, I am not entitled to any part of the estate of the principal upon the death of the principal under a will now existing or by operation of law.

Signature:
Signature:

Names: Address:

Print Name:

Date:

COPIES: *You should retain an executed copy of this document and give one to your ~~attorney-in-fact~~ agent. The power of attorney should be available so a copy may be given to your providers of health care.*

Sec. 74. *In applying and construing this chapter, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among the states that enact it.*

Sec. 75. *This chapter modifies, limits and supersedes the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. §§ 7001 et seq., but does not modify, limit or supersede section 101(c) of that Act, 15 U.S.C. § 7001(c), or authorize electronic delivery of any of the notices described in section 103(b) of that Act, 15 U.S.C. § 7003(b).*

Sec. 76. NRS 200.495 is hereby amended to read as follows:

200.495 1. A professional caretaker who fails to provide such service, care or supervision as is reasonable and necessary to maintain the health or safety of a patient is guilty of criminal neglect of a patient if:

(a) The act or omission is aggravated, reckless or gross;

(b) The act or omission is such a departure from what would be the conduct of an ordinarily prudent, careful person under the same circumstances that it is contrary to a proper regard for danger to human life or constitutes indifference to the resulting consequences;

(c) The consequences of the negligent act or omission could have reasonably been foreseen; and

(d) The danger to human life was not the result of inattention, mistaken judgment or misadventure, but the natural and probable result of an aggravated reckless or grossly negligent act or omission.

2. Unless a more severe penalty is prescribed by law for the act or omission which brings about the neglect, a person who commits criminal neglect of a patient:

(a) If the neglect results in death, is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 20 years.

(b) If the neglect results in substantial bodily harm, is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 6 years, or by a fine of not more than \$5,000, or by both fine and imprisonment.

(c) If the neglect does not result in death or substantial bodily harm, is guilty of a gross misdemeanor.

3. For the purposes of this section, a patient is not neglected for the sole reason that:

(a) According to his desire, he is being furnished with treatment by spiritual means through prayer alone in accordance with the tenets and

practices of a church or religious denomination. Subsection 1 does not authorize or require any medical care or treatment over the implied or express objection of such a patient.

(b) Life-sustaining treatment was withheld or withdrawn in accordance with a valid declaration by the patient or his ~~attorney-in-fact~~ agent pursuant to ~~[NRS 449.810.]~~ *section 66 of this act.*

4. Upon the conviction of a person for a violation of the provisions of subsection 1, the Attorney General shall give notice of the conviction to the licensing boards which:

- (a) Licensed the facility in which the criminal neglect occurred; and
- (b) If applicable, licensed the person so convicted.

5. As used in this section:

(a) "Medical facility" has the meaning ascribed to it in NRS 449.0151.

(b) "Patient" means a person who resides or receives health care in a medical facility.

(c) "Professional caretaker" means a person who:

(1) Holds a license, registration or permit issued pursuant to title 54 or chapter 449 of NRS;

(2) Is employed by, an agent of or under contract to perform services for, a medical facility; and

(3) Has responsibility to provide care to patients.

↪ The term does not include a person who is not involved in the day-to-day operation or management of a medical facility unless that person has actual knowledge of the criminal neglect of a patient and takes no action to cure such neglect.

Sec. 77. NRS 449.613 is hereby amended to read as follows:

449.613 1. A declaration that designates another person to make decisions governing the withholding or withdrawal of life-sustaining treatment may, but need not, be in the following form:

DECLARATION

If I should have an incurable and irreversible condition that, without the administration of life-sustaining treatment, will, in the opinion of my attending physician, cause my death within a relatively short time, and I am no longer able to make decisions regarding my medical treatment, I appoint or, if he or she is not reasonably available or is unwilling to serve,, to make decisions on my behalf regarding withholding or withdrawal of treatment that only prolongs the process of dying and is not necessary for my comfort or to alleviate pain, pursuant to NRS 449.535 to 449.690, inclusive. (If the person or persons I have so appointed are not reasonably available or are unwilling to serve, I direct my attending physician, pursuant to those sections, to withhold or withdraw treatment that only prolongs the process of dying and is not necessary for my comfort or to alleviate pain.)

Strike language in parentheses if you do not desire it.

If you wish to include this statement in this declaration, you must INITIAL the statement in the box provided:

Withholding or withdrawal of artificial nutrition and hydration may result in death by starvation or dehydration. Initial this box if you want to receive or continue receiving artificial nutrition and hydration by way of the gastrointestinal tract after all other treatment is withheld pursuant to this declaration. [.....

Signed this day of, ... Signature Address.....

The declarant voluntarily signed this writing in my presence. Witness..... Address..... Witness..... Address.....

Name and address of each designee. Name Address.....

2. The designation of an ~~attorney in fact~~ agent pursuant to ~~NRS 111.460 or 449.800 to 449.860, inclusive,~~ sections 2 to 75, inclusive, of this act, or the judicial appointment of a guardian, who is authorized to make decisions regarding the withholding or withdrawal of life-sustaining treatment, constitutes for the purpose of NRS 449.535 to 449.690, inclusive, a declaration designating another person to act for the declarant pursuant to subsection 1.

Sec. 78. NRS 449.905 is hereby amended to read as follows:

449.905 "Advance directive" means an advance directive for health care.

The term includes:

- 1. A declaration governing the withholding or withdrawal of life-sustaining treatment as set forth in NRS 449.535 to 449.690, inclusive;
2. A durable power of attorney for health care ~~decisions~~ as set forth in ~~NRS 449.800 to 449.860, inclusive;~~ sections 57 to 73, inclusive, of this act; and
3. A do-not-resuscitate order as defined in NRS 450B.420.

Sec. 79. NRS 449.945 is hereby amended to read as follows:

449.945 1. The provisions of NRS 449.900 to 449.965, inclusive, do not require a provider of health care to inquire whether a patient has an advance directive registered on the Registry or to access the Registry to determine the terms of the advance directive.

2. A provider of health care who relies in good faith on the provisions of an advance directive retrieved from the Registry is immune from criminal and civil liability as set forth in:

(a) NRS 449.630, if the advance directive is a declaration governing the withholding or withdrawal of life-sustaining treatment executed pursuant to NRS 449.535 to 449.690, inclusive, or a durable power of attorney for health care ~~decisions~~ executed pursuant to ~~NRS 449.800 to 449.860, inclusive;~~ *sections 57 to 73, inclusive, of this act;* or

(b) NRS 450B.540, if the advance directive is a do-not-resuscitate order as defined in NRS 450B.420.

Sec. 80. NRS 450B.440 is hereby amended to read as follows:

450B.440 "Health care facility" has the meaning ascribed to it in ~~NRS 449.800;~~ *section 61 of this act.*

Sec. 81. NRS 450B.520 is hereby amended to read as follows:

450B.520 Except as otherwise provided in NRS 450B.525:

1. A qualified patient may apply to the health authority for a do-not-resuscitate identification by submitting an application on a form provided by the health authority. To obtain a do-not-resuscitate identification, the patient must comply with the requirements prescribed by the board and sign a form which states that he has informed each member of his family within the first degree of consanguinity or affinity, whose whereabouts are known to him, or if no such members are living, his legal guardian, if any, or if he has no such members living and has no legal guardian, his caretaker, if any, of his decision to apply for an identification.

2. An application must include, without limitation:

(a) Certification by the patient's attending physician that the patient suffers from a terminal condition;

(b) Certification by the patient's attending physician that the patient is capable of making an informed decision or, when he was capable of making an informed decision:

(1) He executed:

(I) A written directive that life-resuscitating treatment be withheld under certain circumstances; or

(II) A durable power of attorney for health care ~~decisions~~ pursuant to ~~NRS 449.800 to 449.860, inclusive;~~ *sections 57 to 73, inclusive, of this act;* or

(2) He was issued a do-not-resuscitate order pursuant to NRS 450B.510;

(c) A statement that the patient does not wish that life-resuscitating treatment be undertaken in the event of a cardiac or respiratory arrest;

(d) The name, signature and telephone number of the patient's attending physician; and

(e) The name and signature of the patient or the ~~attorney-in-fact or~~ agent who is authorized to make health care decisions on the patient's behalf pursuant to a durable power of attorney for health care decisions.

Sec. 82. NRS 451.595 is hereby amended to read as follows:

451.595 1. As used in this section:

(a) "Advance health-care directive" means a power of attorney for health care or other record signed by a prospective donor, or executed in the manner

set forth in ~~[NRS 449.840,]~~ *section 66 of this act*, containing the prospective donor's direction concerning a health-care decision for the prospective donor.

(b) "Declaration" means a record signed by a prospective donor, or executed as set forth in NRS 449.600, specifying the circumstances under which life-sustaining treatment may be withheld or withdrawn from the prospective donor.

(c) "Health-care decision" means any decision made regarding the health care of the prospective donor.

2. If a prospective donor has a declaration or advance health-care directive and the terms of the declaration or advance health-care directive and the express or implied terms of the potential anatomical gift are in conflict concerning the administration of measures necessary to ensure the medical suitability of a part for transplantation or therapy:

(a) The attending physician of the prospective donor shall confer with the prospective donor to resolve the conflict or, if the prospective donor is incapable of resolving the conflict, with:

(1) An agent acting under the declaration or advance health-care directive of the prospective donor; or

(2) If an agent is not named in the declaration or advance health-care directive or the agent is not reasonably available, any other person authorized by law, other than by a provision of NRS 451.500 to 451.598, inclusive, to make a health-care decision for the prospective donor.

(b) The conflict must be resolved as expeditiously as practicable.

(c) Information relevant to the resolution of the conflict may be obtained from the appropriate procurement organization and any other person authorized to make an anatomical gift of the prospective donor's body or part under NRS 451.556.

(d) Before the resolution of the conflict, measures necessary to ensure the medical suitability of the part may not be withheld or withdrawn from the prospective donor, if withholding or withdrawing the measures is not medically contraindicated for the appropriate treatment of the prospective donor at the end of his life.

Sec. 83. NRS 457.020 is hereby amended to read as follows:

457.020 As used in this chapter, unless the context requires otherwise:

1. "Cancer" means all malignant neoplasms, regardless of the tissue of origin, including malignant lymphoma and leukemia.

2. "Health care facility" has the meaning ascribed to it in ~~[NRS 449.800]~~ *section 61 of this act* and also includes freestanding facilities for plastic reconstructive, oral and maxillofacial surgery.

3. "Health Division" means the Health Division of the Department of Health and Human Services.

Sec. 84. NRS 631.313 is hereby amended to read as follows:

631.313 1. A licensed dentist may assign to a person in his employ who is a dental hygienist, dental assistant or other person directly or indirectly involved in the provision of dental care only such intraoral tasks as

may be permitted by a regulation of the Board or by the provisions of this chapter.

2. The performance of these tasks must be:

(a) If performed by a dental assistant or a person, other than a dental hygienist, who is directly or indirectly involved in the provision of dental care, under the supervision of the licensed dentist who made the assignment.

(b) If performed by a dental hygienist, authorized by the licensed dentist of the patient for whom the tasks will be performed, except as otherwise provided in NRS 631.287.

3. No such assignment is permitted that requires:

(a) The diagnosis, treatment planning, prescribing of drugs or medicaments, or authorizing the use of restorative, prosthodontic or orthodontic appliances.

(b) Surgery on hard or soft tissues within the oral cavity or any other intraoral procedure that may contribute to or result in an irremediable alteration of the oral anatomy.

(c) The administration of general anesthesia, conscious sedation or deep sedation except as otherwise authorized by regulations adopted by the Board.

(d) The performance of a task outside the authorized scope of practice of the employee who is being assigned the task.

4. A dental hygienist may, pursuant to regulations adopted by the Board, administer local anesthesia or nitrous oxide in a health care facility, as defined in ~~NRS 449.800,~~ *section 61 of this act*, if:

(a) He is so authorized by the licensed dentist of the patient to whom the local anesthesia or nitrous oxide is administered; and

(b) The health care facility has licensed medical personnel and necessary emergency supplies and equipment available when the local anesthesia or nitrous oxide is administered.

Sec. 85. NRS 639.0155 is hereby amended to read as follows:

639.0155 "Wholesale distribution" means the distribution of drugs to persons other than consumers or patients, but does not include:

1. Sales within a company.

2. The purchase or other acquisition of a drug by a health care facility or a pharmacy that is a member of a purchasing organization.

3. The sale, purchase or trade of a drug or an offer to sell, purchase or trade a drug:

(a) By a charitable organization, as defined by section 501(c)(3) of the Internal Revenue Code of 1954, ~~{(} 26 U.S.C. § 501(c)(3), {)}~~ to a nonprofit affiliate of the organization.

(b) Between health care facilities or pharmacies that are under common control.

(c) For emergency medical reasons.

(d) Pursuant to a prescription.

4. A transfer of drugs, in an amount not to exceed 5 percent of the total annual sales, by a retail pharmacy to another retail pharmacy to alleviate a temporary shortage.

5. The distribution of drug samples by a representative of the manufacturer or distributor.

6. The sale, purchase or exchange of blood or blood components for transfusions.

↪ As used in this section, "health care facility" has the meaning ascribed to it in ~~[NRS 449.800.]~~ *section 61 of this act.*

Sec. 86. NRS 111.450, 111.460, 111.470, 449.800, 449.810, 449.820, 449.830, 449.840, 449.850 and 449.860 are hereby repealed.

Sec. 87. Except as otherwise provided in this act:

1. This act applies to a power of attorney created before, on or after October 1, 2009.

2. This act applies to a judicial proceeding concerning a power of attorney commenced on or after October 1, 2009.

3. This act applies to a judicial proceeding concerning a power of attorney commenced before October 1, 2009, unless the court finds that the application of a provision of this act would substantially interfere with the effective conduct of the judicial proceeding or prejudice the rights of a party, in which case that provision does not apply and the superseded law applies.

4. An act done before October 1, 2009, is not affected by this act.

LEADLINES OF REPEALED SECTIONS

111.450 Power of attorney to convey real property: Acknowledgment; recordation and revocation.

111.460 Power of attorney for principal with a disability: Execution; actions binding; accounting to guardian.

111.470 Power of attorney for principal with a disability: Power not terminated by death, disability or incompetence of principal; affidavit of attorney-in-fact or agent as evidence of nonrevocation or nontermination.

449.800 Definitions.

449.810 Execution of power of attorney to make decisions concerning health care; conditions.

449.820 Persons not eligible for designation as attorney-in-fact.

449.830 Power of attorney: Form.

449.840 Power of attorney: Acknowledgment; witnesses.

449.850 Attorney-in-fact: Prohibited acts; duties.

449.860 Designation of attorney-in-fact: Alternate; revocation; validity; expiration.

Senator Care moved the adoption of the amendment.

Remarks by Senator Care.

Senator Care requested that his remarks be entered in the Journal.

Amendment No. 189 to Senate Bill No. 314 makes only technical revisions to the bill concerning powers of attorney.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 348.

Bill read second time and ordered to third reading.

Senate Bill No. 391.

Bill read second time and ordered to third reading.

Senate Joint Resolution No. 2.

Resolution read second time.

The following amendment was proposed by the Committee on Natural Resources:

Amendment No. 386.

"SUMMARY—Urges Congress to take certain actions concerning wilderness areas and wilderness study areas. (BDR R-604)"

SENATE JOINT RESOLUTION—Urging the Nevada Congressional Delegation and Congress to take certain actions concerning wilderness areas and wilderness study areas.

Legislative Counsel's Digest:

Federal law provides for the establishment of wilderness areas and wilderness study areas on public lands. This resolution urges the Nevada Congressional Delegation and Congress: (1) to comply with the definitions and requirements found in the Wilderness Act, 16 U.S.C. §§ 1131 et seq., before approving new wilderness areas; (2) to seek the release of wilderness study areas that have been determined by the Bureau of Land Management of the United States Department of the Interior not to meet the requirements for such a designation; and (3) to support the establishment of a schedule for the timely release of wilderness study areas that are found unsuitable for designation as wilderness areas. ~~and (4) not to enact legislation concerning public lands without the support of the affected counties.~~

WHEREAS, The provisions of 16 U.S.C. §§ 1131 et seq., commonly referred to as the Wilderness Act, establish the National Wilderness Preservation System, which consists of areas of federal public lands that are designated by Congress as wilderness areas; and

WHEREAS, The Wilderness Act includes specific definitions and requirements for designating public lands as wilderness areas; and

WHEREAS, The provisions of the Wilderness Act and the Federal Land Policy and Management Act of 1976, 43 U.S.C. §§ 1701 et seq., provide for the study of certain areas of land to determine whether those areas, commonly known as wilderness study areas, are suitable for designation as wilderness areas; and

WHEREAS, In accordance with the provisions of the Wilderness Act and the Federal Land Policy and Management Act, the Bureau of Land Management of the United States Department of the Interior, in the late 1970s, conducted an initial inventory of approximately 49 million acres of

public lands in Nevada to determine the suitability of those lands for designation as wilderness areas or identification as wilderness study areas and, in 1980, recommended that approximately 5.1 million acres of those lands be identified as wilderness study areas; and

WHEREAS, Although many of the areas that were not appropriate for designation as wilderness areas or identification as wilderness study areas have been released for multiple use under the Federal Land Policy and Management Act, the Bureau of Land Management continues to manage approximately 2.55 million acres of public lands in Nevada identified as wilderness study areas; and

WHEREAS, ~~{Counties}~~ *The residents of this State* rely on the use of federal lands for mining, livestock grazing and recreation, and wilderness designations raise concerns regarding access to and use of public lands for economic development, fire suppression and recreation; and

~~{ WHEREAS, Any federal legislation concerning the use of public lands must recognize the unique aspects of each county and should therefore be developed in cooperation with the affected counties; and }~~

WHEREAS, Decisions concerning whether to designate wilderness study areas as wilderness areas or to release those areas for multiple use are important and must be made in a timely manner and without any unnecessary delays so that those lands which are suitable for designation as wilderness areas may be afforded full protection as wilderness areas, and those lands which are not suitable for designation as wilderness areas may be released for use and management for the public good in accordance with law; now, therefore, be it

RESOLVED BY THE SENATE AND ASSEMBLY OF THE STATE OF NEVADA, JOINTLY, That the members of the Nevada Legislature urge the Nevada Congressional Delegation and Congress:

1. To comply fully with the definitions and requirements found in the Wilderness Act in determining whether to designate public lands as wilderness areas or identify public lands as wilderness study areas;

2. To seek the release of wilderness study areas that have been determined by the Bureau of Land Management not to meet the requirements for designation as wilderness areas; *and*

3. To support the establishment of a schedule for the timely release of wilderness study areas that do not meet the requirements for designation as wilderness areas; ~~and~~

~~4. Not to adopt any legislation concerning the use of public lands, the designation of wilderness areas or the identification of wilderness study areas unless the legislation receives a resolution of support from the boards of county commissioners of the affected counties; and be it further~~

RESOLVED, That the Secretary of the Senate prepare and transmit a copy of this resolution to the Vice President of the United States as the presiding officer of the United States Senate, the Speaker of the House of

Representatives and each member of the Nevada Congressional Delegation; and be it further

RESOLVED, That this resolution becomes effective upon passage.

Senator Parks moved the adoption of the amendment.

Remarks by Senator Parks.

Senator Parks requested that his remarks be entered in the Journal.

Amendment No. 386 to Senate Joint Resolution No. 2 replaces a reference to "counties" with "residents of this State." The amendment also removes language requiring the federal government to develop public lands policy in cooperation with affected counties. Finally, the amendment removes language in the resolution that would have urged Nevada's Congressional Delegation and Congress not to adopt legislation concerning the designation of wilderness areas without a resolution of support from the affected counties' commissioners.

Amendment adopted.

Resolution ordered reprinted, engrossed and to third reading.

Senate Joint Resolution No. 7.

Resolution read second time.

The following amendment was proposed by the Committee on Natural Resources:

Amendment No. 165.

"SUMMARY—Expresses opposition to congressional enactment of the National Landscape Conservation System. (BDR R-983)"

SENATE JOINT RESOLUTION—Expressing opposition to congressional enactment of the National Landscape Conservation System.

WHEREAS, ~~[Congressional leaders have indicated that during the 111th Congress, they plan to consider the]~~ *The* Omnibus Public Land Management Act of 2009, which contains over 150 public lands bills, ~~[many of which have not been fully heard by the various committees of jurisdiction or]~~ *has recently* been approved by both Houses of Congress ~~[and]~~ and *signed by the President of the United States; and*

WHEREAS, The National Landscape Conservation System (NLCS) is part of the Omnibus package and was created through administrative action, not congressional enactment, and the administrative reach of NLCS extends to more than 27 million acres of federal lands administered by the Bureau of Land Management, the vast majority of which are located in 12 western states, including Nevada, and include 15 national monuments, 13 national conservation areas, 177 wilderness areas, 608 wilderness study areas, 2,052 miles of wild and scenic rivers and over 5,350 miles of national scenic and historic trails; and

WHEREAS, NLCS imposes a whole new management protocol for managing these lands based on the vague and nebulous concept of "values," and the management scheme for these lands will now become even more subjective by injecting into management plans undefined terms such as "viewsheds," "soundscapes" and even "smellscapes"; and

WHEREAS, Multiple-use management of these public lands will be compromised by this new management priority, thus jeopardizing current and

vital land uses such as recreation, grazing and mining, to name a few, all of which are industries vital to Nevada's economic viability; and

WHEREAS, This vague and undefined management tool is currently available to be employed to shut down millions of public land acres and invalidate legal and legitimate oil and gas leases to exploration and subsequent production at a time when domestic energy development is vital, even critical, to our national security interests; now, therefore, be it

RESOLVED BY THE SENATE AND ASSEMBLY OF THE STATE OF NEVADA, JOINTLY, That the members of the 75th Session of the Nevada Legislature join the Nevada Association of Counties in expressing their strong opposition to any congressional action that ~~would~~ unnecessarily ~~lock~~ *locks* up and ~~reduce~~ *reduces* public access to federal lands, and further express their opposition to ~~codifying through congressional action~~ the *codification, by congressional enactment of the Omnibus Public Land Management Act of 2009, of the* National Landscape Conservation System as creating an undefined and vague management scheme for the public lands that does not provide clarity or reasoned purpose or advance the national interest of energy independence and protect multiple-use, sustained-yield management of the public lands; and be it further

RESOLVED, That the Secretary of the Senate prepare and transmit a copy of this resolution to the *President of the United States, the* Vice President of the United States as the presiding officer of the United States Senate, the Speaker of the House of Representatives, *the Director of the Bureau of Land Management* and each member of the Nevada Congressional Delegation; and be it further

RESOLVED, That this resolution becomes effective upon passage.

Senator Parks moved the adoption of the amendment.

Remarks by Senator Parks.

Senator Parks requested that his remarks be entered in the Journal.

Amendment No. 165 to Senate Joint Resolution No. 7 makes slight wording changes to the resolution. Rather than expressing opposition to the Omnibus Public Land Management Act of 2009, being considered in Congress, the language is changed because Congress recently passed the bill and it was signed by the President. The amendment also adds the President of the United States and the Director of the Bureau of Land Management to the list of recipients of the resolution.

Amendment adopted.

Resolution ordered reprinted, engrossed and to the third reading.

Senate Joint Resolution No. 4 of the 74th Session.

Resolution read second time and ordered to third reading.

GENERAL FILE AND THIRD READING

Senate Bill No. 7.

Bill read third time.

Senator Horsford moved that Senate Bill No. 7 be taken from the General File and rereferred to the Committee on Finance.

Motion carried.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Horsford moved that Senate Bill No. 17 be rereferred to the Committee on Finance upon return from reprint.

Motion carried.

Senator Horsford moved that Senate Bill No. 20 be rereferred to the Committee on Finance upon return from reprint.

Motion carried.

Senator Horsford moved that Senate Bill No. 24 be rereferred to the Committee on Finance upon return from reprint.

Motion carried.

Senator Washington moved that the Senate recess subject to the call of the Chair.

Motion carried.

Senate in recess at 12:55 p.m.

SENATE IN SESSION

At 1:01 p.m.

President Krolicki presiding.

Quorum present.

Senator Horsford moved that the action whereby Senate Bill No. 7 was rereferred to the Committee on Finance be rescinded.

Motion carried.

Senator Horsford moved that Senate Bill No. 7 be taken from General File and placed on the Secretary's desk.

Motion carried.

Senator Horsford moved that the motion whereby Senate Bill No. 17 was rereferred to the Committee on Finance upon return from reprint be rescinded.

Motion carried.

GENERAL FILE AND THIRD READING

Senate Bill No. 62.

Bill read third time.

Roll call on Senate Bill No. 62:

YEAS—21.

NAYS—None.

Senate Bill No. 62 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 76.

Bill read third time.

Roll call on Senate Bill No. 76:

YEAS—21.

NAYS—None.

Senate Bill No. 76 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 94.

Bill read third time.

Roll call on Senate Bill No. 94:

YEAS—21.

NAYS—None.

Senate Bill No. 94 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 108.

Bill read third time.

Roll call on Senate Bill No. 108:

YEAS—21.

NAYS—None.

Senate Bill No. 108 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 125.

Bill read third time.

Roll call on Senate Bill No. 125:

YEAS—21.

NAYS—None.

Senate Bill No. 125 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 131.

Bill read third time.

Roll call on Senate Bill No. 131:

YEAS—21.

NAYS—None.

Senate Bill No. 131 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 134.

Bill read third time.

Roll call on Senate Bill No. 134:

YEAS—21.

NAYS—None.

Senate Bill No. 134 having received a constitutional majority,
Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 144.

Bill read third time.

Roll call on Senate Bill No. 144:

YEAS—21.

NAYS—None.

Senate Bill No. 144 having received a constitutional majority,
Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 158.

Bill read third time.

Roll call on Senate Bill No. 158:

YEAS—21.

NAYS—None.

Senate Bill No. 158 having received a constitutional majority,
Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Senate Bill No. 162.

Bill read third time.

Roll call on Senate Bill No. 162:

YEAS—21.

NAYS—None.

Senate Bill No. 162 having received a constitutional majority,
Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 164.

Bill read third time.

Roll call on Senate Bill No. 164:

YEAS—21.

NAYS—None.

Senate Bill No. 164 having received a constitutional majority,
Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 170.

Bill read third time.

Roll call on Senate Bill No. 170:

YEAS—21.

NAYS—None.

Senate Bill No. 170 having received a constitutional majority,
Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 174.

Bill read third time.

Roll call on Senate Bill No. 174:

YEAS—21.

NAYS—None.

Senate Bill No. 174 having received a constitutional majority,
Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Senate Bill No. 204.

Bill read third time.

Roll call on Senate Bill No. 204:

YEAS—21.

NAYS—None.

Senate Bill No. 204 having received a constitutional majority,
Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 217.

Bill read third time.

Roll call on Senate Bill No. 217:

YEAS—20.

NAYS—Carlton.

Senate Bill No. 217 having received a constitutional majority,
Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 222.

Bill read third time.

Roll call on Senate Bill No. 222:

YEAS—21.

NAYS—None.

Senate Bill No. 222 having received a constitutional majority,
Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Senate Bill No. 231.

Bill read third time.

Roll call on Senate Bill No. 231:

YEAS—20.

NAYS—Horsford.

Senate Bill No. 231 having received a constitutional majority,
Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Senate Bill No. 238.

Bill read third time.

Roll call on Senate Bill No. 238:

YEAS—18.

NAYS—Cegavske, Hardy, Nolan—3.

Senate Bill No. 238 having received a constitutional majority,
Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 240.

Bill read third time.

Roll call on Senate Bill No. 240:

YEAS—21.

NAYS—None.

Senate Bill No. 240 having received a constitutional majority,
Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 244.

Bill read third time.

Roll call on Senate Bill No. 244:

YEAS—21.

NAYS—None.

Senate Bill No. 244 having received a constitutional majority,
Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 246.

Bill read third time.

The following amendment was proposed by the Committee on Energy,
Infrastructure and Transportation:

Amendment No. 316.

"SUMMARY—Revises provisions governing the sale of vehicles.
(BDR 43-989)"

"AN ACT relating to vehicles; prohibiting a manufacturer from requiring a
dealer to alter substantially an existing facility of the dealer or construct a
new facility except under certain circumstances; prohibiting a manufacturer

from taking adverse action against a dealer relating to the exportation of a vehicle outside the United States except under certain circumstances; providing for the licensure of an agent of a broker; revising provisions governing the modification or replacement of a franchise; establishing fees; providing a penalty; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Section 2 of this bill prohibits a manufacturer from requiring a dealer to alter substantially an existing facility or to construct a new facility for any new vehicles that are handled by the dealer under certain circumstances. Section 2 also provides that such a requirement constitutes a modification of the franchise of the dealer.

Section 3 of this bill prohibits a manufacturer from taking adverse action against a dealer who sells a vehicle which is later exported outside the United States, unless the dealer had actual knowledge of or reasonably should have known of the exportation of the vehicle.

Sections 5 and 14 of this bill provide for the licensure of an agent for a broker of vehicles in this State. A person who violates the provisions governing the licensure of such agents is guilty of a misdemeanor.

Section 8 of this bill provides that if a manufacturer is purchased by another manufacturer or entity, a dealer must be offered a franchise agreement that is substantially similar to the franchise agreement offered to other dealers of the same line-make vehicles. Section 8 defines such vehicles as those vehicles which are offered for sale, lease or distribution under the same name, trademark, service mark or brand of the manufacturer of the vehicles. (NRS 482.36354)

Section 13 of this bill provides that the forms for the application for credit and contracts to be used in the sale of vehicles prescribed by the Commissioner of Financial Institutions must contain a provision that provides if the seller elects to rescind the contract, he must provide written notice to the buyer not ~~less~~ more than 20 days after the date of the contract. (NRS 97.299)

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

Section 1. Chapter 482 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 5, inclusive, of this act.

Sec. 2. 1. *A manufacturer shall not require a dealer:*

(a) *To alter substantially an existing facility of the dealer; or*

(b) *To construct a new facility,*

↪ for any new vehicles that are handled by the dealer, unless the alteration or new construction constitutes a reasonable facility requirement in accordance with the franchise agreement.

2. *If a manufacturer requires a substantial alteration of an existing facility of the dealer or requires the dealer to construct a new facility, that requirement constitutes a modification of the franchise of the dealer for the*

purposes of this section, NRS 482.36311 to 482.36425, inclusive, and sections 3 and 4 of this act.

Sec. 3. A manufacturer shall not modify the franchise of a dealer or take any adverse action against a dealer that sells a vehicle which is later exported outside the United States, unless the dealer had actual knowledge of or reasonably should have known of the exportation of the vehicle.

Sec. 4. (Deleted by amendment.)

Sec. 5. 1. A person shall not engage in the activity of an agent for a broker, or act in the capacity of an agent in this State without first having received a license or temporary permit from the Department. Before issuing a license or temporary permit to engage in the activity of an agent, the Department shall require the applicant to submit to the Department:

(a) An application, signed and verified by the applicant, stating:

(1) That the applicant is to engage in the activity of an agent;

(2) The name, residence address and social security number of the applicant; and

(3) The name and address of the employer of the applicant.

(b) Proof of the employment of the applicant by a broker at the time the application is filed.

(c) A statement as to whether any previous application of the applicant has been denied or any previous license of the applicant has been revoked.

(d) Payment of a nonrefundable license fee of \$75. The license expires on December 31 of each calendar year and may be renewed annually upon the payment of a fee of \$40.

(e) For initial licensure, a complete set of his fingerprints and written permission authorizing the Department to forward those fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report.

(f) Any other information the Department determines necessary.

2. The Department may issue a 60-day temporary permit to an applicant who has submitted a complete application and paid the required fee.

3. A license to act as an agent of a broker issued pursuant to this section does not authorize a person to engage in the business of selling mobile homes.

4. The Department may deny an application for a license as an agent or suspend or revoke a license issued pursuant to this section upon any of the following grounds:

(a) Failure of the applicant to establish by proof satisfactory to the Department that he is employed by a broker.

(b) Conviction of a felony.

(c) Conviction of a gross misdemeanor.

(d) Conviction of a misdemeanor for a violation of any of the provisions of this chapter.

(e) Falsification of the application.

(f) Evidence of unfitness as described in NRS 482.3255.

(g) Failure of the applicant to provide any information determined necessary by the Department to process the application.

(h) Any reason determined by the Director to be in the best interests of the public.

5. An agent shall not engage in any activity, or act in any other capacity as an agent other than for the account of, or for and on behalf of, a single employer, at a specified place of business of that employer, who must be a broker.

6. If an application for a license as an agent is denied, the applicant may reapply for a license not less than 6 months after the denial.

7. An agent's license must be posted in a conspicuous place on the premises of the broker by whom the agent is employed.

8. If an agent ceases to be employed by a broker, his license to act as an agent is automatically suspended and his right to act as an agent immediately ceases, and he shall not engage in the activity of an agent until he has:

(a) Paid the Department a transfer fee of \$20 and submitted a certificate of employment indicating that he has been reemployed by a broker; and

(b) Presented a current temporary permit or new license to the broker by whom he is employed.

9. If an agent changes his residential address, he shall submit a written notice of the change to the Department within 10 days after the change occurs.

10. If a person who holds a temporary permit to act as an agent ceases to be employed by a broker, his permit to act as an agent is automatically suspended, his right to act as an agent immediately ceases and his application for licensure must be denied until he has:

(a) Paid the Department a transfer fee of \$20 and submitted a certificate of employment indicating that he has been reemployed by a broker; and

(b) Presented a current temporary permit or new license to the broker by whom he is employed.

11. A broker who employs an agent shall notify the Department of the termination of employment of the agent not later than 10 days after the date of termination by forwarding the license of the agent to the Department.

12. Any person who fails to comply with the provisions of this section is guilty of a misdemeanor except as otherwise provided in NRS 482.555.

13. As used in this section, "agent" means a person who is employed by a broker and who, for a fee or any other consideration, assists the broker in offering to provide to another person the service of arranging, negotiating or assisting in the purchase of a new or used vehicle which has not been registered or for which an ownership interest has not been taken by the broker.

Sec. 6. NRS 482.319 is hereby amended to read as follows:

482.319 1. Except as otherwise provided in subsection 5, a natural person who applies for the issuance or renewal of a license issued pursuant to

the provisions of NRS 482.318 to 482.363105, inclusive, *and section 5 of this act* shall submit to the Department the statement prescribed by the Division of Welfare and Supportive Services of the Department of Health and Human Services pursuant to NRS 425.520. The statement must be completed and signed by the applicant.

2. The Department shall include the statement required pursuant to subsection 1 in:

(a) The application or any other forms that must be submitted for the issuance or renewal of the license; or

(b) A separate form prescribed by the Department.

3. A license may not be issued or renewed by the Department pursuant to the provisions of NRS 482.318 to 482.363105, inclusive, *and section 5 of this act* if the applicant is a natural person who:

(a) Fails to submit the statement required pursuant to subsection 1; or

(b) Indicates on the statement submitted pursuant to subsection 1 that he is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order.

4. If an applicant indicates on the statement submitted pursuant to subsection 1 that he is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order, the Department shall advise the applicant to contact the district attorney or other public agency enforcing the order to determine the actions that the applicant may take to satisfy the arrearage.

5. If a licensee renews an existing license electronically, the licensee shall keep the original of the statement required pursuant to subsection 1 at his place of business for not less than 3 years after submitting the electronic renewal. The statement must be available during business hours for inspection by any authorized agent of the Director or the State of Nevada.

Sec. 7. NRS 482.3195 is hereby amended to read as follows:

482.3195 1. If the Department receives a copy of a court order issued pursuant to NRS 425.540 that provides for the suspension of all professional, occupational and recreational licenses, certificates and permits issued to a person who is the holder of a license issued pursuant to NRS 482.318 to 482.363105, inclusive, *and section 5 of this act*, the Department shall deem the license issued to that person to be suspended at the end of the 30th day after the date on which the court order was issued unless the Department receives a letter issued to the holder of the license by the district attorney or other public agency pursuant to NRS 425.550 stating that the holder of the license has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

2. The Department shall reinstate a license issued pursuant to NRS 482.318 to 482.363105, inclusive, *and section 5 of this act* that has been

suspended by a district court pursuant to NRS 425.540 if the Department receives a letter issued by the district attorney or other public agency pursuant to NRS 425.550 to the person whose license was suspended stating that the person whose license was suspended has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

Sec. 7.5. NRS 482.36311 is hereby amended to read as follows:

482.36311 As used in NRS 482.36311 to 482.36425, inclusive, *and sections 2, 3 and 4 of this act*, unless the context otherwise requires, the words and terms defined in NRS 482.36318 to 482.36348, inclusive, have the meanings ascribed to them in those sections.

Sec. 8. NRS 482.36354 is hereby amended to read as follows:

482.36354 1. A manufacturer or distributor shall not modify the franchise of a dealer or replace the franchise with another franchise if the modification or replacement would have a substantially adverse effect upon the dealer's investment or his obligations to provide sales and service, unless:

(a) The manufacturer or distributor has given written notice of its intention to the Director and the dealer affected by the intended modification or replacement; and

(b) Either of the following conditions occurs:

(1) The dealer does not file a protest with the Director within 30 days after receiving the notice; or

(2) After a protest has been filed with the Director and the Director has conducted a hearing, the Director issues an order authorizing the manufacturer or distributor to modify or replace the franchise.

2. The notice required by subsection 1 must be given to the dealer and to the Director at least 60 days before the date on which the intended action is to take place.

3. If a manufacturer or distributor changes the area of primary responsibility of a dealer, the change constitutes a modification of the franchise of the dealer for the purposes of NRS 482.36311 to 482.36425, inclusive ~~and~~, *and sections 2, 3 and 4 of this act*. As used in this subsection, "area of primary responsibility" means the geographic area in which a dealer, pursuant to a franchise agreement, is responsible for selling, servicing and otherwise representing the products of a manufacturer or distributor.

4. *Notwithstanding the provisions of this section, if a manufacturer is purchased by another manufacturer or entity, a dealer must be offered a franchise agreement that is substantially similar to the franchise agreement offered to other dealers of the same line-make vehicles.*

5. *As used in this section, "line-make vehicles" means those vehicles which are offered for sale, lease or distribution under the same name, trademark, service mark or brand of the manufacturer of the vehicles.*

Sec. 8.2. NRS 482.36366 is hereby amended to read as follows:

482.36366 1. Each witness, other than an officer or employee of the State or of a political subdivision of the State or an expert witness, who appears by order of the Director in a hearing pursuant to NRS 482.36311 to

482.36425, inclusive, *and sections 2, 3 and 4 of this act* is entitled to receive for his attendance the same fees allowed by law to witnesses in civil cases. Except as otherwise provided in subsection 2, the amount must be paid by the party at whose request the witness is ordered to appear.

2. The Director may assess other costs against the parties as he deems appropriate. After any hearing on a protest filed pursuant to NRS 482.36352, 482.36354 or 482.36357, if the Director determines that the manufacturer or distributor has failed to establish that there is good cause to terminate, refuse to continue, modify or replace a franchise, or to establish an additional dealership or relocate an existing dealership, the Director shall award to the dealer his attorney's fees and costs.

3. For the purposes of this section, "costs" includes:

(a) Except as otherwise provided in paragraph (b), any applicable cost set forth in NRS 18.005; and

(b) The actual amount of any fees paid by a dealer to an expert witness in connection with the hearing.

Sec. 8.4. NRS 482.3638 is hereby amended to read as follows:

482.3638 It is an unfair act or practice for any manufacturer, distributor or factory branch, directly or through any representative, to:

1. Require a dealer to agree to a release, assignment, novation, waiver or estoppel which purports to relieve any person from liability imposed by this chapter, or require any controversy between a dealer and a manufacturer, distributor or representative to be referred to any person or agency except as set forth in this chapter if that referral would be binding on the dealer, except that this section does not prevent the parties from mutually agreeing to arbitration pursuant to law.

2. Require a dealer to agree to the jurisdiction, venue or tribunal in which a controversy arising under the provisions of the franchise agreement may or may not be submitted for resolution, or prohibit a dealer from bringing an action in any forum allowed by Nevada law.

3. Require a dealer to agree to a term or condition of a franchise agreement which violates any provision of NRS 482.36311 to 482.36425, inclusive ~~+~~, *and sections 2, 3 and 4 of this act*.

4. Require a dealer to waive a trial by jury in actions involving the manufacturer, distributor or factory branch.

5. Increase prices of new vehicles which the dealer had ordered for private retail consumers before his receipt of the written official notification of a price increase. A sales contract signed by a retail consumer constitutes evidence of each order. Price changes applicable to new models or series of vehicles at the time of the introduction of the new models or series shall not be deemed a price increase. Price changes caused by:

(a) The addition to a vehicle of equipment formerly optional as standard or required equipment pursuant to state or federal law;

(b) Revaluation of the United States dollar in the case of foreign-made vehicles; or

(c) Transportation cost increases,
↪ are not subject to this subsection.

6. Deny the principal owner the opportunity to designate his spouse, a member of his family, a qualified manager, or a trust or other artificial person controlled by any of them as entitled to participate in the ownership of:

- (a) The franchised dealership;
- (b) A successor franchised dealership for 2 years or a longer reasonable time after the incapacity of the principal owner; or
- (c) A successor franchised dealership after the death of the principal in accordance with NRS 482.36396 to 482.36414, inclusive.

7. Modify unilaterally, replace, enter into, relocate, terminate or refuse to renew a franchise in violation of law.

8. Terminate or refuse to approve a transfer of a franchise for a dealership, or honor the right of succession set forth in a franchise agreement or refuse to approve the transfer of a controlling interest in a dealership because the dealer has, before October 1, 1997, established an additional franchise to sell or service another line or make of new vehicles in the same facility as the existing dealership.

9. Prevent a dealer from establishing, on or after October 1, 1997, an additional franchise to sell or service another line or make of new vehicles in the same facility as the existing dealership if the dealer:

- (a) Submits a written request for approval of the additional franchise to the manufacturer, distributor or factory branch of the existing dealership;
- (b) Complies with the reasonable requirements for approval set forth in the franchise of the existing dealership; and
- (c) Obtains the approval of the manufacturer, distributor or factory branch of the existing dealership.

↪ The manufacturer, distributor or factory branch shall notify the dealer in writing of its decision to approve or deny the request within 90 days after receipt of the request. The manufacturer, distributor or factory branch shall not unreasonably withhold its approval. If the request is denied, the material reasons for the denial must be stated. Failure to approve or deny the request, in writing, within 90 days has the effect of approval.

Sec. 8.6. NRS 482.36423 is hereby amended to read as follows:

482.36423 1. Whenever it appears that a person has violated, is violating or is threatening to violate any provision of NRS 482.36311 to 482.36425, inclusive, *and sections 2, 3 and 4 of this act*, any person aggrieved thereby may apply to the district court in the county where the defendant resides, or in the county where the violation or threat of violation occurs, for injunctive relief to restrain the person from continuing the violation or threat of violation.

2. In addition to any other judicial relief, any dealer or person who assumes the operation of a franchise pursuant to NRS 482.36396 to 482.36414, inclusive, who is injured in his business or property by reason of a violation of NRS 482.36311 to 482.36425, inclusive, *and sections 2, 3 and*

4 of this act may bring an action in the district court in which the dealership is located, and may recover three times the pecuniary loss sustained by him, and the cost of suit, including a reasonable attorney's fee. The amount of pecuniary loss sustained by a dealer, pursuant to subsection 7 of NRS 482.3638, is the fair market value of the franchised dealership at the time of notification of termination, refusal to continue or unilateral modification of a franchise.

3. Any artificial person created and existing under the laws of any other state, territory, foreign government or the government of the United States, or any person residing outside the State, who grants a franchise to any dealer in this State may be served with any legal process in any action for injunctive relief or civil damages in the following manner:

(a) By delivering a copy of the process to the Director; and

(b) By mailing to the last known address of the manufacturer or distributor, by certified mail, return receipt requested, a copy of the summons and a copy of the complaint, together with copies of any petition or order for injunctive relief.

4. The defendant has 30 days, exclusive of the day of service, within which to answer or plead.

5. The method of service provided in this section is cumulative and may be utilized with, after or independently of all other methods of service.

Sec. 8.8. NRS 482.36425 is hereby amended to read as follows:

482.36425 1. Any manufacturer or distributor who willfully violates any provision of NRS 482.36311 to 482.36425, inclusive, and sections 2, 3 and 4 of this act is subject to a civil penalty of not less than \$50 nor more than \$1,000 for each day of violation and for each act of violation. All civil penalties recovered must be paid to the State of Nevada.

2. Whenever it appears that a manufacturer or distributor has violated, is violating or is threatening to violate any provision of NRS 482.36311 to 482.36425, inclusive, and sections 2, 3 and 4 of this act, the Attorney General may institute a civil suit in any district court of this State for injunctive relief to restrain the violation or threat of violation or, if the violation or threat is willful, for the assessment and recovery of the civil penalty, or both.

Sec. 9. (Deleted by amendment.)

Sec. 10. (Deleted by amendment.)

Sec. 11. (Deleted by amendment.)

Sec. 12. (Deleted by amendment.)

Sec. 13. NRS 97.299 is hereby amended to read as follows:

97.299 1. The Commissioner of Financial Institutions shall prescribe, by regulation, forms for the application for credit and contracts to be used in the sale of vehicles if:

(a) The sale involves the taking of a security interest to secure all or a part of the purchase price of the vehicle;

(b) The application for credit is made to or through the seller of the vehicle;

(c) The seller is a dealer; and

(d) The sale is not a commercial transaction.

2. The forms prescribed pursuant to subsection 1 must meet the requirements of NRS 97.165, must be accepted and acted upon by any lender to whom the application for credit is made and, in addition to the information required in NRS 97.185 and required to be disclosed in such a transaction by federal law, must:

(a) Identify and itemize the items embodied in the cash sale price, including the amount charged for a contract to service the vehicle after it is purchased.

(b) In specifying the amount of the buyer's down payment, identify the amounts paid in money and allowed for property given in trade and the amount of any manufacturer's rebate applied to the down payment.

(c) Contain a description of any property given in trade as part of the down payment.

(d) Contain a description of the method for calculating the unearned portion of the finance charge upon prepayment in full of the unpaid total of payments as prescribed in NRS 97.225.

(e) *Contain a provision which provides that if the seller elects to rescind the contract as a result of being unable to assign the contract to a financial institution with whom the seller regularly does business, the seller must provide written notice to the buyer not ~~less~~ more than 20 days after the date of the contract.*

(f) Include the following notice in at least 10-point bold type:

NOTICE TO BUYER

Do not sign this agreement before you read it or if it contains any blank spaces. You are entitled to a completed copy of this agreement. If you pay the amount due before the scheduled date of maturity of the indebtedness and you are not in default in the terms of the contract for more than 2 months, you are entitled to a refund of the unearned portion of the finance charge. If you fail to perform your obligations under this agreement, the vehicle may be repossessed and you may be liable for the unpaid indebtedness evidenced by this agreement.

3. The Commissioner shall arrange for or otherwise cause the translation into Spanish of the forms prescribed pursuant to subsection 1.

4. If a change in state or federal law requires the Commissioner to amend the forms prescribed pursuant to subsection 1, the Commissioner need not comply with the provisions of chapter 233B of NRS when making those amendments.

5. As used in this section:

(a) "Commercial transaction" means any sale of a vehicle to a buyer who purchases the vehicle solely or primarily for commercial use or resale.

(b) "Dealer" has the meaning ascribed to it in NRS 482.020.

Sec. 14. Section 5 of this act is hereby amended to read as follows:

Sec. 5. 1. A person shall not engage in the activity of an agent for a broker, or act in the capacity of an agent in this State without first having received a license or temporary permit from the Department. Before issuing a license or temporary permit to engage in the activity of an agent, the Department shall require the applicant to submit to the Department:

(a) An application, signed and verified by the applicant, stating:

(1) That the applicant is to engage in the activity of an agent;

(2) The name ~~{}~~ and residence address ~~{and social security number}~~ of the applicant; and

(3) The name and address of the employer of the applicant.

(b) Proof of the employment of the applicant by a broker at the time the application is filed.

(c) A statement as to whether any previous application of the applicant has been denied or any previous license of the applicant has been revoked.

(d) Payment of a nonrefundable license fee of \$75. The license expires on December 31 of each calendar year and may be renewed annually upon the payment of a fee of \$40.

(e) For initial licensure, a complete set of his fingerprints and written permission authorizing the Department to forward those fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report.

(f) Any other information the Department determines necessary.

2. The Department may issue a 60-day temporary permit to an applicant who has submitted a complete application and paid the required fee.

3. A license to act as an agent of a broker issued pursuant to this section does not authorize a person to engage in the business of selling mobile homes.

4. The Department may deny an application for a license as an agent or suspend or revoke a license issued pursuant to this section upon any of the following grounds:

(a) Failure of the applicant to establish by proof satisfactory to the Department that he is employed by a broker.

(b) Conviction of a felony.

(c) Conviction of a gross misdemeanor.

(d) Conviction of a misdemeanor for a violation of any of the provisions of this chapter.

(e) Falsification of the application.

(f) Evidence of unfitness as described in NRS 482.3255.

(g) Failure of the applicant to provide any information determined necessary by the Department to process the application.

(h) Any reason determined by the Director to be in the best interests of the public.

5. An agent shall not engage in any activity, or act in any other capacity as an agent other than for the account of, or for and on behalf of, a single employer, at a specified place of business of that employer, who must be a broker.

6. If an application for a license as an agent is denied, the applicant may reapply for a license not less than 6 months after the denial.

7. An agent's license must be posted in a conspicuous place on the premises of the broker by whom the agent is employed.

8. If an agent ceases to be employed by a broker, his license to act as an agent is automatically suspended and his right to act as an agent immediately ceases, and he shall not engage in the activity of an agent until he has:

(a) Paid the Department a transfer fee of \$20 and submitted a certificate of employment indicating that he has been reemployed by a broker; and

(b) Presented a current temporary permit or new license to the broker by whom he is employed.

9. If an agent changes his residential address, he shall submit a written notice of the change to the Department within 10 days after the change occurs.

10. If a person who holds a temporary permit to act as an agent ceases to be employed by a broker, his permit to act as an agent is automatically suspended, his right to act as an agent immediately ceases and his application for licensure must be denied until he has:

(a) Paid the Department a transfer fee of \$20 and submitted a certificate of employment indicating that he has been reemployed by a broker; and

(b) Presented a current temporary permit or new license to the broker by whom he is employed.

11. A broker who employs an agent shall notify the Department of the termination of employment of the agent not later than 10 days after the date of termination by forwarding the license of the agent to the Department.

12. Any person who fails to comply with the provisions of this section is guilty of a misdemeanor except as otherwise provided in NRS 482.555.

13. As used in this section, "agent" means a person who is employed by a broker and who, for a fee or any other consideration, assists the broker in offering to provide to another person the service of arranging, negotiating or assisting in the purchase of a new or used vehicle which has not been registered or for which an ownership interest has not been taken by the broker.

Sec. 15. 1. This section and sections 1 to 4, inclusive, and 7.5 to 13, inclusive, of this act become effective upon passage and approval.

2. Sections 5, 6 and 7 of this act become effective on July 1, 2010.

3. Section 5 of this act expires by limitation on the date on which the provisions of 42 U.S.C. § 666 requiring each state to establish procedures under which the state has authority to withhold or suspend, or to restrict the use of professional, occupational and recreational licenses of persons who:

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

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

4. Section 14 of this act becomes effective on the date on which the provisions of 42 U.S.C. § 666 requiring each state to establish procedures under which the state has authority to withhold or suspend, or to restrict the use of professional, occupational and recreational licenses of persons who:

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

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

Senator Townsend moved the adoption of the amendment.

Remarks by Senator Townsend.

Senator Townsend requested that his remarks be entered in the Journal.

Thank you, Mr. President. The change occurs on page 9. Apparently, there was a misunderstanding. This is to help the consumer understand that if the seller of the vehicle cannot place the financing with any bank or financial institution that they usually do business with, they must notify the buyer in writing in no more than 20 days. Somehow, we missed it and it was "less than" instead of "more than," so that the customer is aware and can make other arrangements.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Senate Bill No. 249.

Bill read third time.

Roll call on Senate Bill No. 249:

YEAS—21.

NAYS—None.

Senate Bill No. 249 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Senate Bill No. 251.

Bill read third time.

Remarks by Senators Horsford and Nolan.

Senator Horsford requested that the following remarks be entered in the Journal.

SENATOR HORSFORD:

May we have an explanation on the bill?

SENATOR NOLAN:

This bill was requested toward the end of last Session as an effort on behalf of law enforcement to try to clear our roadways of accidents quicker. It was determined during the interim by a panel of law enforcement and other agencies, such as the Department of Transportation, who respond to major accidents, that one of the delays in clearing major accidents is trying to get a wrecker or tow truck through congested and backed-up traffic to the scene of an accident. This bill was brought forward by law enforcement and those agencies. It allows wreckers which are approaching the immediate scene of an accident to activate their strobe lights and their amber lights in an effort to request vehicles to yield the right-of-way so they may be able to move up the lane to clear the wreck.

A second amendment was brought which is unrelated but fit in the section of the statute and was relatively benign. Neither of these sections had any opposition. The second part of the amendment was so that patrol officers and private patrol agencies who are patrolling in small cars on private streets can use their amber lights to demonstrate they are a slow moving vehicle.

SENATOR HORSFORD:

Is there training related to the provisions allowing the tow-truck driver to use the amber lights when approaching accidents? Law enforcement personnel are properly trained in that regard. What type of training will tow-truck drivers receive, if any?

SENATOR NOLAN:

There is no specified training in the bill itself above and beyond what wrecker drivers are currently expected to receive. With regard to the amber lights, they have amber lights right now that they use on the scene of the accident. There are a number of penalties that can be imposed if they are using those lights inappropriately including having their amber-lights permit revoked. They can also be removed from the rotation they are put on to receive calls and to respond to accidents. They can be cited for the unauthorized use of emergency lights.

SENATOR HORSFORD:

In the case where the tow-truck driver is an independent contractor or an employee, who is held liable in the event that there is an accident while the tow-truck driver is attempting to get to the scene of an accident.

SENATOR NOLAN:

I am not an attorney, but if a tow-truck driver is approaching the scene of an accident in an inappropriate way, not using their lights appropriately, and an accident is caused because of negligent activity, I believe that person has some legal responsibility for that accident.

I am willing to put the bill on the Secretary's desk while we obtain a legal answer.

Senator Horsford moved that Senate Bill No. 251 be taken from the General File and placed on the Secretary's desk.

Remarks by Senator Horsford.

Motion carried.

Senate Bill No. 277.

Bill read third time.

Conflict of interest declared by Senator Care.

Roll call on Senate Bill No. 277:

YEAS—20.

NAYS—None.

NOT VOTING—Care.

Senate Bill No. 277 having received a constitutional majority,
Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Senate Bill No. 287.

Bill read third time.

Conflict of interest declared by Senator Care.

Roll call on Senate Bill No. 287:

YEAS—20.

NAYS—None.

NOT VOTING—Care.

Senate Bill No. 287 having received a constitutional majority,
Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 302.

Bill read third time.

Roll call on Senate Bill No. 302:

YEAS—21.

NAYS—None.

Senate Bill No. 302 having received a constitutional majority,
Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Senate Bill No. 307.

Bill read third time.

Roll call on Senate Bill No. 307:

YEAS—21.

NAYS—None.

Senate Bill No. 307 having received a constitutional majority,
Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Senate Bill No. 313.

Bill read third time.

Roll call on Senate Bill No. 313:

YEAS—21.

NAYS—None.

Senate Bill No. 313 having received a constitutional majority,
Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 317.

Bill read third time.

Roll call on Senate Bill No. 317:

YEAS—20.

NAYS—McGinness.

Senate Bill No. 317 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 333.

Bill read third time.

Remarks by Senators Nolan and Care.

Senator Nolan requested that the following remarks be entered in the Journal.

SENATOR NOLAN:

How would this bill impact reverse mortgages?

SENATOR CARE:

There is no reference to reverse mortgages contained in the bill. Senate Bill No. 333 revises procedures concerning a written notice from a borrower to a lender that terminates the operation of a real-property instrument as security for future advances on the principal. The notice must be sent to the lender at each address indicated in the instrument, or to another address as indicated by the lender in a "Change of Notice Address" document recorded with the county recorder and provided to the borrower. The borrower's notice and the lender's address document are effective only when received by the other party. The measure revises the information that must be provided by the lender at the time the instrument is recorded with the county recorder.

Roll call on Senate Bill No. 333:

YEAS—21.

NAYS—None.

Senate Bill No. 333 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Senate Bill No. 334.

Bill read third time.

Roll call on Senate Bill No. 334:

YEAS—21.

NAYS—None.

Senate Bill No. 334 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 336.

Bill read third time.

Roll call on Senate Bill No. 336:

YEAS—21.

NAYS—None.

Senate Bill No. 336 having received a constitutional majority,
Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Senate Bill No. 342.

Bill read third time.

Roll call on Senate Bill No. 342:

YEAS—21.

NAYS—None.

Senate Bill No. 342 having received a constitutional majority,
Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Senate Bill No. 344.

Bill read third time.

Roll call on Senate Bill No. 344:

YEAS—21.

NAYS—None.

Senate Bill No. 344 having received a constitutional majority,
Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Senate Bill No. 392.

Bill read third time.

Roll call on Senate Bill No. 392:

YEAS—21.

NAYS—None.

Senate Bill No. 392 having received a constitutional majority,
Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Senate Joint Resolution No. 1.

Resolution read third time.

Roll call on Senate Joint Resolution No. 1:

YEAS—21.

NAYS—None.

Senate Joint Resolution No. 1 having received a constitutional majority,
Mr. President declared it passed, as amended.

Resolution ordered transmitted to the Assembly.

Senate Joint Resolution No. 8.

Resolution read third time.

Roll call on Senate Joint Resolution No. 8:

YEAS—21.

NAYS—None.

Senate Joint Resolution No. 8 having received a constitutional majority, Mr. President declared it passed.

Resolution ordered transmitted to the Assembly.

Senate Joint Resolution No. 3 of the 74th Session.

Resolution read third time.

Roll call on Senate Joint Resolution No. 3 of the 74th Session:

YEAS—20.

NAYS—Care.

Senate Joint Resolution No. 3 of the 74th Session having received a constitutional majority, Mr. President declared it passed.

Resolution ordered transmitted to the Assembly.

Assembly Bill No. 39.

Bill read third time.

Roll call on Assembly Bill No. 39:

YEAS—19.

NAYS—Raggio, Townsend—2.

Assembly Bill No. 39 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 216.

Bill read third time.

Roll call on Assembly Bill No. 216:

YEAS—21.

NAYS—None.

Assembly Bill No. 216 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Joint Resolution No. 3 of the 74th Session.

Resolution read third time.

Roll call on Assembly Joint Resolution No. 3 of the 74th Session:

YEAS—20.

NAYS—Cegavske.

Assembly Joint Resolution No. 3 of the 74th Session having received a constitutional majority, Mr. President declared it passed.

Resolution ordered transmitted to the Assembly.

Senator Raggio moved that the Senate recess subject to the call of the Chair.

Motion carried.

Senate in recess at 1:33 p.m.

SENATE IN SESSION

At 1:34 p.m.
President Krolicki presiding.
Quorum present.

UNFINISHED BUSINESS
SIGNING OF BILLS AND RESOLUTIONS

There being no objections, the President and Secretary signed Senate Concurrent Resolution No. 23; Assembly Bill No. 469.

GUESTS EXTENDED PRIVILEGE OF SENATE FLOOR

On request of Senator Carlton, the privilege of the floor of the Senate Chamber for this day was extended to Grace Foley.

On request of Senator McGinness, the privilege of the floor of the Senate Chamber for this day was extended to Dee McGinness, Shannon Sei and Katie Sei.

On request of Senator Raggio, the privilege of the floor of the Senate Chamber for this day was extended to Christopher Beucherie.

On request of Senator Schneider, the privilege of the floor of the Senate Chamber for this day was extended to Paul Freeman.

On request of Senator Wiener, the privilege of the floor of the Senate Chamber for this day was extended to Natalie Sprigg.

Senator Horsford moved that the Senate adjourn until Tuesday, April 14, 2009, at 11 a.m.

Motion carried.

Senate adjourned at 1:37 p.m.

Approved:

BRIAN K. KROLICKI
President of the Senate

Attest: CLAIRE J. CLIFT
Secretary of the Senate