

THE SEVENTY-THIRD DAY

CARSON CITY (Wednesday), April 15, 2009

Senate called to order at 11:43 a.m.

President Krolicki presiding.

Roll called.

All present.

Prayer by the Chaplain, Monte Fast.

(By Marce Fast, youngest brother of Monte Fast)

Lord, I wanna just stop right now and say thank You for the things You have given to me already today. Thank You the air I breathe, the food that I eat, the water that I drink, Lord, for the shoes on my feet.

I wanna say thank You for these and for more, for the grass on the ground, the sun in the sky, the fish in the brook, Lord, the birds as they fly, the sound of children who are happy at play, the comfort You give a mother whose son is far away.

Lord, I wanna stop right now and say thank You for the many things You have given to me.

Thank You. I wanna say thank You. Just thank You. O thank You.

I wanna say thank You. Thank You.

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 Energy, Infrastructure and Transportation, to which was referred Senate Bill No. 73, 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 Energy, Infrastructure and Transportation, to which was referred Assembly Bill No. 180, has had the same under consideration, and begs leave to report the same back with the recommendation: Rerefer to the Committee on Government Affairs.

Also, your Committee on Energy, Infrastructure and Transportation, to which was referred Assembly Bill No. 414, has had the same under consideration, and begs leave to report the same back with the recommendation: Rerefer to the Committee on Natural Resources.

MICHAEL A. SCHNEIDER, *Chair*

Mr. President:

Your Committee on Health and Education, to which were referred Senate Bills Nos. 278, 303, 343, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

VALERIE WIENER, *Chair*

Mr. President:

Your Committee on Judiciary, to which was referred Assembly Bill No. 182, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

Also, your Committee on Judiciary, to which was referred Senate Bill No. 338, 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 Taxation, to which was referred Senate Bill No. 331, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and rerefer to the Committee on Finance.

BOB COFFIN, *Chair*

MESSAGES FROM THE ASSEMBLY

ASSEMBLY CHAMBER, Carson City, April 14, 2009

To the Honorable the Senate:

I have the honor to inform your honorable body that the Assembly on this day passed Assembly Bills Nos. 274, 378, 381, 410, 490, 509, 511; Assembly Joint Resolution No. 5.

Also, I have the honor to inform your honorable body that the Assembly on this day passed, as amended, Assembly Bills Nos. 41, 61, 129, 151, 152, 168, 257, 389, 425, 443, 487; Assembly Joint Resolution No. 6.

DIANE M. KEETCH

Assistant Chief Clerk of the Assembly

MOTIONS, RESOLUTIONS AND NOTICES

Assembly Joint Resolution No. 5.

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

Motion carried.

Assembly Joint Resolution No. 6.

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

Motion carried.

Senator Care moved that Senate Bills Nos. 292, 360, 372 be taken from the General File and placed on the General File for the next legislative day.

Motion carried.

Senator Care moved that Senate Bill No. 305 be taken from the Second Reading File and placed on the Second Reading File for the next legislative day.

Motion carried.

Senator Care moved that Senate Bills Nos. 86, 312 be taken from the General File and placed on the Secretary's desk.

Remarks by Senator Care.

Motion carried.

Senator Carlton moved that Senate Bill No. 396 be taken from the Second Reading File and placed on the Secretary's desk.

Motion carried.

Senator Schneider moved that Senate Bills Nos. 242, 243 be taken from the Second Reading File and placed on the Secretary's desk.

Motion carried.

Senator Schneider moved that Assembly Bill No. 180 be rereferred to the Committee on Government Affairs.

Remarks by Senator Schneider.

Motion carried.

Senator Schneider moved that Assembly Bill No. 414 be rereferred to the Committee on Natural Resources.

Remarks by Senator Schneider.

Motion carried.

INTRODUCTION, FIRST READING AND REFERENCE

By the Committee on Finance:

Senate Bill No. 410—AN ACT relating to employment; repealing certain provisions related to employment offices and agencies; 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. 411—AN ACT relating to wildlife; providing for the permanent revocation of a license, permit or privilege to hunt, fish or trap in certain circumstances; requiring a person to maintain a principal and permanent residence in this State to be eligible for a resident license, tag or permit to hunt, fish or trap; providing for the forfeiture of a bonus point or other increased opportunity to be awarded a tag for making a false statement or furnishing false information in certain circumstances; requiring a person seeking to obtain a license, tag or permit on behalf of another for a fee or other compensation to have a power of attorney to do so; 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. 412—AN ACT relating to the Governor; removing the Agency for Nuclear Projects from the list of entities within the Office of the Governor for which the Governor may employ staff; 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. 41.

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

Motion carried.

Assembly Bill No. 61.

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

Motion carried.

Assembly Bill No. 129.

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

Motion carried.

Assembly Bill No. 151.

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

Motion carried.

Assembly Bill No. 152.

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

Motion carried.

Assembly Bill No. 168.

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

Motion carried.

Assembly Bill No. 257.

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

Motion carried.

Assembly Bill No. 274.

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

Motion carried.

Assembly Bill No. 378.

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

Motion carried.

Assembly Bill No. 381.

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

Motion carried.

Assembly Bill No. 389.

Senator Care moved that Senate Standing Rule No. 40 be suspended and that the bill be referred to the Committee on Judiciary.

Motion carried.

Assembly Bill No. 410.

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

Motion carried.

Assembly Bill No. 425.

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

Motion carried.

Assembly Bill No. 443.

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

Motion carried.

Assembly Bill No. 487.

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

Motion carried.

Assembly Bill No. 490.

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

Motion carried.

Assembly Bill No. 509.

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

Motion carried.

Assembly Bill No. 511.

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

Motion carried.

MOTIONS, RESOLUTIONS AND NOTICES

The Sergeant at Arms announced that Assemblywoman Kirkpatrick and Assemblyman Hardy were at the bar of the Senate. Assemblywoman Kirkpatrick invited the Senate to meet in Joint Session with the Assembly to hear Representative Dina Titus.

The President announced that if there were no objections, the Senate would recess subject to the call of the Chair.

Senate in recess at 11:59 a.m.

IN JOINT SESSION

At 12:05 p.m.

President Krolicki presiding.

The Secretary of the Senate called the Senate roll.

All present.

The Chief Clerk of the Assembly called the Assembly roll.

All present.

The President appointed a Committee on Escort consisting of Senator Carlton and Assemblyman Claborn to wait upon the Honorable Representative Dina Titus and escort her to the Assembly Chamber.

Representative Titus delivered her message as follows.

MESSAGE TO THE LEGISLATURE OF NEVADA
SEVENTY-FIFTY SESSION 2009

Madam Speaker, Majority Leader, Lieutenant Governor, Senator Raggio, Ms. Gansert, friends, colleagues, all of you, I am delighted to be back in Nevada. Thank you so much for welcoming me here. It is also very nice to see my colleagues from across the way and the Executive Branch. Thank you, too, for coming.

You know, I spent a lot of sessions here, right in this building, working with many of you on lots of different issues. It feels good to be back. It was really something, yesterday, to get inducted into the Hall of Fame along with Senator Joe Neal. It is nice to see him back, too. It was great. It was such an honor. I heard Senator Horsford very graciously acknowledge me as his mentor, and then Senator Raggio said, "Yes, and she was my tormentor." I figure that I must have been doing my job. I like that. And, I loved every single minute of it, so thank you all for that good time.

During my time here, I also sat through a lot of these addresses from members of Congress who came back to tell us what was going on in Washington, D.C. I very much appreciate your courtesy and your attention and your allowing me to do this. I do not want to take advantage of it, and I know how you feel so I will be short. I hope that gets me off on the right track. This is a great tradition, though, and I am glad to be back to tell you what's going on in Washington, D.C. and some of the things I have been working on.

It is troubling times that we are in, and I know I do not have to tell you that. The challenges are great, but the optimism is high. I believe that people really want us to take action, as government, and to get things done. They do not want us to just say, and "Isn't it awful?" but rather to participate in trying to make a difference and take us in a direction of change. That is why this 111th Congress got off to a really good start. We hit the ground running just as you did here in the Legislature. I think we have done a lot of things to help address this economic situation that is crippling the State and the Country.

Just, in the first 100 days, we passed a SCHIP (State Children's Health Insurance Program) bill, the Lilly Ledbetter workplace nondiscrimination bill, the Serve America Act, the Omnibus Spending Bill from last year and the American Recovery and Reinvestment Act, also known as the stimulus package. We did not get into this hole overnight, and it is going to take a while for us to get out of it. But, with some time and hard work and that kind of energy at the onset, I believe we can reverse this economic slide and start to turn things in a new direction so we can rebuild confidence, security and growth.

As the President said yesterday, even though there are some small signs of the recovery with us maybe starting to turn a little or at least having hit bottom and maybe moving in the other direction, the stark reality is that we are going to continue to face difficult times. It is going to take some patience and hard work before we see the recovery in Nevada begin to take effect.

Now, I know you have already heard from Senator Reid and Representative Berkley about a lot of the details that are in the stimulus package, but there are a couple of things that I want to share with you and highlight because I think they are important and they are impacting the State.

As you struggle to balance the budget in this Legislature, without devastating those essential programs that people need and the services they rely on, I want you to remember that \$1.5 billion is slated for the State as result of that stimulus bill. And, so I beseech you not to leave any of that money on the table because if you do, that money will just go to other states. Nevadans drastically need it. This is not a liberal or conservative issue. This is not a partisan issue. This is a Nevada issue, and those dollars need to come to the State for those needed programs and so I ask you to take advantage of it. In addition to those dollars that are coming, other parts of the stimulus package, that I believe will help the State, include the fact that on April 1, 2009, nearly a million hardworking Nevadans began to see more money in their pockets from their paychecks as a result of the Making Work Pay tax credit that took effect. Workers will receive up to \$400 per individual and \$800 per couple. Also, next month recipients of social security and SSI (Supplemental Security Income), as well as veterans, will receive a \$250 check in the mail. Stimulus dollars will also help with the State's growing Medicaid burden and will allow for the extension of unemployment benefits which are needed at a time when unemployment in the State is at a 25-year high.

During these tough economic times, I believe that these kind of programs have put more money into people's pockets here in Nevada and can have a great impact on families who are struggling just to make ends meet and small businesses that are struggling to keep their doors open.

In addition to the stimulus package, Nevada will soon see the impact of \$270 million that is coming to the State for what we have heard a thousand times—shovel-ready transportation and infrastructure projects. There is another \$72 million to promote weatherization and energy-efficiency programs. This money will create jobs, and they are jobs that cannot be outsourced. It will put Nevadans back to work. The weatherization money will also save Nevadans money of their own by making their energy bills lower. This is tied to the green-jobs emphasis. Green jobs must be a significant part of our efforts to move Nevada towards a new economy, a new direction that diversifies the economy that we have and helps to create additional jobs. I know this has been a focus of this legislative session, and I applaud the Senate Majority Leader for his bill that recognizes the importance that green jobs can have on Nevada and the need for training in this area.

One of the most serious crises and challenges that I am working on in Washington, D.C. has to do with housing. Again, I do not need to tell you this, but the housing crisis in Nevada is one of the worst in the Country. I am encouraged by the first steps that have been taken by the Obama Administration to help homeowners in trouble. The President has created two new programs that I would encourage Nevadans who are struggling to make their payments to look into. We are having a big housing forum this Saturday to get this information out. I know the State is doing likewise. Nonprofits are doing the same thing. This loan modification and loan refinancing program can dramatically help many Nevadans.

If you combine this with the state program that I know the Speaker is working on, to require mediation between homeowners and mortgage lenders, I think together we can start to make a difference with this foreclosure problem. You know, the programs will not be effective if people do not know about them. A lot of Americans do not understand what is available, what they qualify for and how to go about receiving assistance. I am currently working on legislation that will notify homeowners, require the mortgage companies to notify the homeowners about the different programs that are available and which ones they might qualify for. When this passes, not only will it clearly explain the steps for receiving this assistance, but it will also help protect people from the scam artists that we know are preying on those who are the most desperate for help.

The foreclosure crisis in Nevada, though, is one of the most drastic in the Country. It is going to take drastic action to fix. Some of these programs that help the problem generally will not help Nevadans because about 48 percent of the people are underwater on their mortgages, and many of them are at more than 105 percent. There was a study done recently that looked at the top 20 zip codes in the country where the foreclosure problems are the worst. Eleven of the

top 20, nationally, are in Congressional District 3—the suburbs where growth occurred so drastically. This is a critical problem for me. I will continue to work with Washington, D.C. so that they know one size does not fit all. States like Nevada have special needs and will need special attention.

Another area of importance to the State is transportation. Our economy depends on bringing goods and people from outside, from other parts of the Country and other parts of the world, here to Nevada. We want those tourists to come. We do not especially care if they do not leave, but we have to get them here, so transportation will be very important. As many of you know, I was able to get a seat on the Transportation and Infrastructure Committee. It was the one that was the most requested because this is the session when we will be taking some very drastic action in that committee. We are going to begin next week, when Congress goes back into session, constructing and crafting the new surface transportation authorization bill. This will replace the SAFETEA (Safe, Accountable, Flexible, Efficient Transportation Equity Act) bill which expires in September. This is something that everyone wants to be involved in because this will involve the allocation of so many dollars for highway projects to the State. We have a real opportunity in Nevada to make our transportation system safer, less congested and more energy efficient. At the same time that we do this, we can have a major impact on economic development because, again, these are the projects that will create jobs. I would urge you, as a Legislature, to play a very active role in where these dollars go and what projects should have priority. Do not leave this to a handful of bureaucrats but, rather, be involved in that process.

As the committee moves forward in crafting this legislation, I would ask you please do not be shy about calling my office and telling me what Nevada needs because this authorization does not come along very often. We have to take advantage of it. I promise that I will be an advocate for the whole State as we move forward with this important bill.

Another committee that I am honored to serve on is the House Education and Labor Committee. That seemed a natural with my background. I have several goals as a member of that committee. I hope, basically, that we can provide opportunities for growth over a lifetime—K-12, college and, then, job training. The first challenge—and I know, again, that you are working on this as well—is reforming No Child Left Behind. We all know the problems. No Child Left Behind has kind of become an empty promise, and we have left too many children behind, especially in fast growing states like Nevada. We have heard it from teachers, administrators, parents and even the students themselves tell us that it is little more than a slogan, as opposed to the fulfillment of a real promise. I think the goals are worthy. We need accountability. Everyone deserves a quality education, but I do not think we are doing it the right way, and I look forward to working with all of you as we reform that act.

I have spent the last 30 years—I get reminded of it, with 30 years sounding like a long time—teaching at UNLV and working with students. This is a great concern of mine, especially in this economy. I see too many students burdened down with debt. As they lose their jobs or their hours are cut back, it is even harder to pay for college. The cost of college is also increasing. In Congress, I was pleased to support the measure that will help with the cost of college by giving a \$2,500 tax credit for college expenses and also increasing Pell Grants. I am asking you, please do not cut higher education to the point that students will not have anywhere to go or will not be able to learn or experience much when they get there. And, let me be very clear on this point because there has been some confusion about it. My support for a waiver that would help Nevada during these tough economic times—in case you cannot meet the federal requirements for getting the education stabilization funds—by no means is an indication that I think we should not fund and support education. Because, I would never want you to shortchange education, so do not think my support of the waiver is an indication of that. It is not because I believe education is the key to our future.

We have to be interested in job training and this economy in Nevada. Many of people in the jobs that were prospering are now finding themselves on the streets. People who were in tourism or who were in construction now need to look for new skills so that they can find new jobs in the new economy, and that is another emphasis that we need to focus on.

My third committee is Homeland Security. I am excited to sit on this committee because there is never a discussion anywhere on television or elsewhere when they talk about targets that Nevada is not mentioned in that conversation. For that reason, I think I bring a unique voice to

the discussion. Las Vegas is unlike any other city on the planet. In just one block of the district, you have the Eiffel Tower, the Pyramid and the Statue of Liberty. All the world is condensed right there on one street. We have thousands of guests from around the world in just a few square miles. I am proud to tell my colleagues in Washington, D.C. about what wonderful amenities our hotels and convention centers offer. We want them to come, not just to Las Vegas, but throughout the State. Everyone has heard about the good times we have here and the wonderful shows and the food and the 24-hour entertainment. In just the last year, as we learned from the attack in India, a tourist center can also be a target for our enemies.

Since January, this committee has held hearings about preventing another Mumbai-style attack and securing out Nation's skies. The new issue is keeping cyberspace safe. In addition, we are conducting some field studies along the border to look at the intensity of violence and the problems there with Mexico.

Nevada offers a lot to the Homeland Security Committee. I hope to bring them out for a field hearing so the members can see just what is going on in the State, and we can share with them what we do here. Of course, at the Nevada Test Site, for example, they have already trained 60,000 first responders from around the world on how to respond to an incident involving a weapon of mass destruction or some other chemical kind of incident. The individuals trained at the test site would be pivotal in the event of an emergency situation and could respond to a potential crisis anywhere in the world. As a matter of fact, our test site is the only place in the world where they have the opportunity to train in such a realistic environment. I look forward to working to enhance that aspect of that special facility that we have in this State.

Also, when the committee comes out, I want to go "back of the house" in some casinos because our casinos also provide a vantage point into the future of security technology. These establishments use cutting-edge technology, state-of-the-art equipment for surveillance and they have some the best trained personnel anywhere. They are very well equipped to keep thousands of guests safe, day or night, in many different kinds of circumstances. Our hotels and conference centers are also great models for preparedness. I believe that the government could learn from our private sector about some of the ways to help keep our Nation safe.

It is those three committees that I am working on. I got a waiver for the third, but I believe all three will be closely related to things that you are doing in the Legislature and things that can work to the benefit of Nevada.

As a member of this Legislature for 20 years, I understand the challenges and constraints you are facing. These are extraordinary times. I know that the tasks ahead are going to require bold and creative action, both here in Carson City and in Washington, D.C. Let us not forget that, although, we are thousands of miles apart on most days, we are partners in this effort to create a strong Nevada on every day.

I am very proud to be representing Nevada in Congress at this historic and exciting moment. I assure you that I am working very hard for the people in this State. It is not a 9 a.m. to 5 p.m. job. I have learned that it is exactly a quarter of a mile from my office to the place where I vote on the floor. That is a lot further than it was when Senator Raggio bumped me up to the second floor here in the Legislative Building. I am there because I want to work hard and make a difference. I also want to assure you that although, technically, I represent the third district, I will always be an advocate for the entire State. I hope you will remember that and call on me, regardless of which county you might be from, because I know that only by working together can we have a strong State and federal partnership for the good of the people in Nevada.

I want to thank you for all the hard work that you are doing here on behalf of the people. I want to thank you, also, for welcoming me back so warmly and making me feel like I am a little missed, at least. I hope now that you will come back to see me in Washington, D.C. and let me return the hospitality. The latch string is always out. Thank you.

Senator Mathews moved that the Senate and Assembly in Joint Session extend a vote of thanks to Representative Titus for her timely, able and constructive message.

Motion carried.

The Committee on Escort escorted Representative Titus to the bar of the Assembly.

Senator Townsend moved that the Joint Session be dissolved.
Motion carried.

Joint Session dissolved at 12:40 p.m.

SENATE IN SESSION

At 1:21 p.m.
President Krolicki presiding.
Quorum present.

WAIVERS AND EXEMPTIONS NOTICE OF EXEMPTION

April 15, 2009

The Fiscal Analysis Division, pursuant to Joint Standing Rule 14.6, has determined the eligibility for exemption of: Senate Bills Nos. 60, 78, 177, 306.

GARY GHIGGERI
Fiscal Analysis Division

SECOND READING AND AMENDMENT

Senate Bill No. 57.
Bill read second time.

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

Amendment No. 110.

"SUMMARY—Makes various changes relating to veterinary medicine. (BDR 54-419)"

"AN ACT relating to veterinary medicine; *authorizing the Nevada State Board of Veterinary Medical Examiners to grant a license without examination to veterinarians licensed in another state*; revising the list of activities that may be performed without a veterinary license; ~~authorizing the Nevada State Board of Veterinary Medical Examiners to approve foreign equivalency programs; authorizing the Board to grant a license without examination to veterinarians licensed in another state;~~ requiring the renewal of licenses and certificates of registration biennially rather than annually; authorizing the Board to adopt regulations establishing grounds for disciplinary action against certain facilities and veterinarians; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Section 1 of this bill authorizes the Nevada State Board of Veterinary Medical Examiners to grant a license to a veterinarian licensed in another state under certain circumstances.

Section ~~11~~ 2 of this bill limits the gratuitous acts that friends or neighbors may perform to only livestock, rather than all domesticated animals, and requires that certain vaccines be administered by a licensed veterinarian or someone under a veterinarian's direction. Section ~~11~~ 2 also allows

nonveterinarians and veterinarians from other states to consult with a veterinarian licensed in this State without requiring that person to comply with the laws governing veterinary practice in this State. (NRS 638.015)

~~{ Section 2 of this bill allows the Nevada State Board of Veterinary Medical Examiners to determine which equivalency programs may be used to satisfy a requirement for licensure as a veterinarian. (NRS 638.100)~~

~~Section 3 of this bill allows for veterinary licenses to be granted on the basis of reciprocity with other jurisdictions under certain circumstances. (NRS 638.105)}~~

Section ~~{4}~~ 5 of this bill revises the renewal period for all licenses and certificates of registration issued by the Board so that they must be renewed biennially rather than annually. Section ~~{4}~~ 5 also establishes statutory limits for the renewal fees for such licenses and certificates of registration, which currently have no limit in existing statutes. (NRS 638.127)

Section ~~{5}~~ 6 of this bill allows the Board to adopt regulations prescribing grounds for disciplinary action against facilities in which veterinary medicine is practiced and against the veterinarian in charge of such facilities. (NRS 638.132)

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

Section 1. Chapter 638 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Notwithstanding any other provision of this chapter to the contrary, the Board shall issue a license to practice veterinary medicine to a person who:

(a) Has a license to practice veterinary medicine issued pursuant to the laws of another state or territory of the United States, or the District of Columbia;

(b) Has actively practiced veterinary medicine pursuant to the laws of another state or territory of the United States, or the District of Columbia for a minimum of 5 years;

(c) Has not had his license to practice veterinary medicine revoked or suspended in this State, another state or territory of the United States, or the District of Columbia;

(d) Has not been refused a license to practice veterinary medicine in this State, another state or territory of the United States, or the District of Columbia;

(e) Is not involved in and does not have pending a disciplinary action concerning his license to practice veterinary medicine in this State, another state or territory of the United States, or the District of Columbia;

(f) Pays the application and renewal fees set forth in NRS 638.100 and 638.127 in the same manner as a person licensed pursuant to NRS 638.100;

(g) Submits the statement required by NRS 638.103; and

(h) Submits 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.

2. The provisions of this section do not limit a person from obtaining a license to practice veterinary medicine pursuant to any other provision of law.

~~{Section 1.}~~ Sec. 2. NRS 638.015 is hereby amended to read as follows:

638.015 1. Nothing in this chapter applies:

~~{1.}~~ (a) To the gratuitous castrating, dehorning or vaccinating of ~~{domesticated animals}~~ livestock nor to the gratuitous treatment of diseased animals by friends or neighbors of the owner thereof, except that all vaccinations for zoonotic diseases *utilizing vaccines that are conditionally licensed pursuant to ~~{the authority granted by NRS 571.120}~~ 9 C.F.R. 102.6* must be administered by a licensed veterinarian or a person under the direct supervision of a licensed veterinarian.

~~{2.}~~ (b) To debar any veterinarian in the employ of the United States Government or the State of Nevada from performing official duties necessary for the conduct of the business of the United States Government or the State of Nevada, or a political subdivision thereof, upon which he is assigned.

~~{3.}~~ (c) To any person who is a diplomate from an approved specialty board of the American Veterinary Medical Association who is called into the State for consultation by a person licensed to practice under this chapter for a period not to exceed 30 days in any 12-month period if he practices under the auspices of a licensed veterinarian.

~~{4.}~~ (d) To the giving of advice with respect to , or the performance of acts which the Board by rule has prescribed as , accepted livestock management practices.

~~{5.}~~ (e) To the owner of an animal or full-time regular employee of the owner who is caring for and treating an animal which belongs to the owner unless the ownership of the animal is transferred for the purposes of circumventing this chapter, except that all vaccinations for zoonotic diseases *utilizing vaccines that are conditionally licensed pursuant to ~~{the authority granted by NRS 571.120}~~ 9 C.F.R. 102.6* must be administered by a licensed veterinarian or a person under the direct supervision of a licensed veterinarian.

~~{6.}~~ (f) To any person or agency that performs humane services for wildlife animals without charge.

~~{7.}~~ (g) To any person, other than a veterinarian, who renders aid, assistance or relief to an animal in an emergency without charge if he does not represent himself as holding a license to practice veterinary medicine or as holding a degree in veterinary medicine or other related field.

~~{8.}~~ (h) To any person, other than a veterinarian, who renders emergency paramedical services to an animal without charge during the transportation of the animal to a veterinary facility.

~~19.~~ (i) To any person whose service is limited to consulting with a veterinarian licensed in this State and who:

~~(a)~~ (1) Is a veterinarian who is licensed in another state or country; or
~~(b)~~ (2) Has expertise, in the opinion of the veterinarian, that would benefit an animal.

2. For the purposes of this section:

(a) "Alternative livestock" means the following species, including subspecies, of the family Cervidae, if they are born and reared in captivity and raised on private property to produce meat or other by-products of animals or as breeding stock to produce alternative livestock:

(1) Fallow deer (*Dama dama*).

(2) Reindeer (*Rangifer tarandus*).

(b) "Livestock" means:

(1) All cattle or animals of the bovine species.

(2) All horses, mules, burros and asses or animals of the equine species.

(3) All swine or animals of the porcine species.

(4) All goats or animals of the caprine species.

(5) All sheep or animals of the ovine species.

(6) All poultry or domesticated fowl or birds.

(7) All alternative livestock.

~~Sec. 2.] Sec. 3. [NRS 638.100 is hereby amended to read as follows:~~

~~638.100 1. Any person who desires to secure a license to practice veterinary medicine, surgery, obstetrics or dentistry in the State of Nevada must make written application to the Executive Director of the Board.~~

~~2. The application must include all information required to complete the application and any other information required by the Board and must be accompanied by satisfactory proof that the applicant:~~

~~(a) Is of good moral character;~~

~~(b) Except as otherwise provided in subsection 3, has received a diploma conferring the degree of doctor of veterinary medicine or its equivalent from a school of veterinary medicine that is accredited by the Council on Education of the American Veterinary Medical Association or, if the applicant is a graduate of a school of veterinary medicine that is not accredited by the Council on Education of the American Veterinary Medical Association, that he has received an educational certificate issued [by the Educational Commission for Foreign Veterinary Graduates of the American Veterinary Medical Association or, if the Educational Commission for Foreign Veterinary Graduates of the American Veterinary Medical Association ceases to exist,] by an organization approved by the Board [that] which certifies that the holder of the certificate has demonstrated knowledge and skill of veterinary medicine that is equivalent to the knowledge and skill of veterinary medicine of a graduate of a college of veterinary medicine that is accredited by the Council on Education of the American Veterinary Medical Association;~~

~~(c) Has passed each examination required by the Board pursuant to NRS 638.110; and~~

~~(d) Is a citizen of the United States or is lawfully entitled to remain and work in the United States.~~

~~3. A veterinary student in his final year at a school accredited by the American Veterinary Medical Association may submit an application to the Board and take the state examination administered by the Board, but the Board may not issue him a license until he has complied with the requirements of subsection 2.~~

~~4. The application must be signed by the applicant, notarized and accompanied by a fee set by the Board, not to exceed \$500.~~

~~5. The Board may refuse to issue a license if the Board determines that an applicant has committed an act which would be a ground for disciplinary action if the applicant were a licensee. (Deleted by amendment.)~~

~~{Sec. 3.} Sec. 4. NRS 638.105 is hereby amended to read as follows:~~

~~638.105 [1. The Board may in its discretion license an applicant solely on the basis of oral interviews and practical demonstrations upon sufficient proof that the applicant has, within the previous 5 years, successfully passed any examination approved by:~~

~~(a) The Board; and~~

~~(b) A national testing service for veterinary medicine that has been approved by the Board.~~

~~2. The Board may upon ~~fr~~~~

~~1. Grant a license without any examination to any person certified, registered or licensed by a board of veterinary medicine of another state if:~~

~~(a) The Board determines that the requirements in that state are at least equivalent to the requirements of this chapter; and~~

~~(b) The applicant has been continuously and actively engaged in the practice of veterinary medicine for at least 7,000 hours during the 5 years immediately preceding his application for licensure.~~

~~2. Utilize its discretion in determining whether to grant a license pursuant to the provisions of this section and whether to impose conditions upon any such license granted to an applicant who:~~

~~(a) Has been disciplined in another state or jurisdiction in connection with his license to practice veterinary medicine; or~~

~~(b) Has committed any act in another state or jurisdiction that would be a violation of this chapter if committed in this State.~~

~~3. Upon payment of the fee prescribed ~~{under}~~ pursuant to NRS 638.100 ~~{,}~~ or 638.122, as applicable, license without examination any person who is a diplomate from an approved specialty board of the American Veterinary Medical Association ~~[- The veterinary practice of any person who is licensed pursuant to this subsection is limited to the specialty in which the person is certified.] or any veterinary technician who is a credentialed specialist recognized by the ~~{American}~~ National Association of Veterinary ~~{Medical Association.} Technicians in America.~~ If an applicant for a license~~~~

under this section is denied a license, any fee tendered by him may be returned to him at the discretion of the Board.

~~[Sec. 4.]~~ Sec. 5. NRS 638.127 is hereby amended to read as follows:

638.127 1. *To renew a license or certificate of registration issued pursuant to this chapter, each person must, ~~[On]~~ on or before ~~[November 15]~~ February 1 of each even-numbered year ~~[, the Executive Director shall mail to each person licensed under the provisions of this chapter an application form for the renewal of his license.]~~ :*

- (a) Submit an application for renewal to the Board;*
- (b) Pay the fee for renewal and make full payment of all fines and money owed to the Board;*
- (c) Submit evidence to the Board of his completion of any requirement for continuing education; and*
- (d) Submit all other information required by the Board to complete the renewal.*

2. ~~[Each applicant for renewal must complete the form and return it to the Executive Director, accompanied by all information required to complete the renewal, the renewal fee and full payment of all fines which he owes to the Board, on or before January 1 of each year. Each application for renewal must be signed by the applicant. The renewal fee for licensees and persons on inactive status must be in an amount determined by the Board.]~~ *The Board may charge and collect fees for renewals not to exceed the following amounts:*

<i>For the biennial renewal of an active license to practice veterinary medicine.....</i>	<i>\$750</i>
<i>For the biennial renewal of an inactive license to practice veterinary medicine.....</i>	<i>400</i>
<i>For the biennial renewal of a license to practice as a veterinary technician</i>	<i>300</i>
<i>For the biennial renewal of a license to practice as a euthanasia technician</i>	<i>300</i>
<i>For the biennial renewal of a certificate of registration to practice animal physical therapy.....</i>	<i>200</i>
<i>For the biennial renewal of a certificate of registration to practice animal chiropractic.....</i>	<i>200</i>
<i>For the biennial renewal of a license issued to a facility owned by a licensed veterinarian.....</i>	<i>200</i>
<i>For the biennial renewal of a license issued to a facility owned by an unlicensed veterinarian.....</i>	<i>750</i>

3. Upon receipt of the application and all required information and payment of the renewal fee and all fines *and money* owed, the Board shall issue to that person a certificate of renewal.

4. Any person who fails to renew his license on or before ~~[March]~~ April 1 of ~~[each]~~ the renewal year forfeits his license.

5. When a person has forfeited his license in the manner provided in subsection 4, the Board may reinstate the license and issue a certificate of renewal upon receipt of all information required to complete the renewal and payment of:

- (a) The renewal fee;
- (b) All fines *or money* owed ~~{+}~~ *to the Board*; and
- (c) A delinquency penalty of \$50 for each month or fraction thereof the license was not renewed after ~~{January}~~ *February 1*.

6. If a licensee does not practice for more than 12 consecutive months, the Board may require him to take an examination to determine his competency before renewing his license.

~~{7. If a licensee does not renew his license and he is licensed to practice in another state or territory of the United States, the Board may not issue him a license to practice in the State by reciprocity. Such a licensee must reinstate his license in the manner prescribed by the Board.}~~

~~{Sec. 5.}~~ *Sec. 6.* NRS 638.132 is hereby amended to read as follows:

638.132 The Board shall adopt regulations which prescribe the requirements for the licensure of a facility in which veterinary medicine is practiced, including, without limitation, the fee for the issuance and renewal of a license ~~{+}~~ *and the grounds for disciplinary action to be taken against the facility or the veterinarian in charge of the facility.*

~~{Sec. 6.}~~ *Sec. 7.* Notwithstanding the provisions of section ~~{4}~~ *5* of this act, a license or certificate of registration issued pursuant to chapter 638 of NRS or the regulations adopted pursuant thereto which:

- 1. Was issued or renewed before July 1, 2009; and
 - 2. Is active and in good standing as of December 31, 2009,
- ↪ expires on January 31, 2010, unless suspended, revoked or otherwise rendered inactive pursuant to chapter 638 of NRS or the regulations adopted pursuant thereto.

~~{Sec. 7.}~~ *Sec. 8.* 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. Amendment No. 110 to Senate Bill No. 57 authorizes the Board of Veterinary Medical Examiners to grant a license to veterinarians licensed in another jurisdiction under certain circumstances. The amendment modifies definitions related to livestock and conditionally licensed vaccines. It also removes reference to the granting of licensure through reciprocity and removes a provision that would have allowed the Board to determine which equivalency programs could be used to satisfy educational requirements.

There were many concerns regarding this bill, and I believe the amendment addresses most of the concerns and the ambiguity on what the Board could actually do. I can represent to the Body that all parties are equally dissatisfied with this bill.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 60.

Bill read second time.

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

Amendment No. 131.

"SUMMARY—Revises provisions governing buildings ~~[, motor vehicles]~~ and other property that has been used in crimes involving methamphetamine or certain other substances. (BDR 40-542)"

"AN ACT relating to public health; requiring the district board of health in certain counties and the State Board of Health in all other counties to ~~[monitor]~~ evaluate the removal and remediation of methamphetamine and certain other substances; ~~[requiring the disclosure of certain information upon the sale of a motor vehicle used in the manufacture, sale or use of a substance containing methamphetamine]~~ requiring the adoption of certain regulations; ~~[providing a penalty]~~ and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law provides that a building or place which was used for the purpose of unlawfully manufacturing a controlled substance, immediate precursor or controlled substance analog which has not been deemed safe for habitation by a governmental entity or from which all materials or substances involving the controlled substance, immediate precursor or controlled substance analog have not been removed or remediated by an entity certified or licensed to do so is a public nuisance. (NRS 40.140, 202.450) Existing law authorizes cities and counties of this State to adopt ordinances pursuant to which the district attorney may file an action seeking: (1) the abatement of a nuisance; (2) the closure of the property where the nuisance is located or occurring; and (3) penalties against the owner of the property. (NRS 244.3603, 268.4124) Sections 2 and 4-6 of this bill provide that the district board of health in a county whose population is 400,000 or more (currently Clark County) or the State Board of Health in all other counties is the governmental entity responsible for determining that the building or place is safe for habitation. Section 5 authorizes the board of county commissioners, in consultation with the district board of health or State Board of Health, as applicable, to adopt ordinances to protect the public health, safety and welfare for the incorporated areas of the county.

Existing law provides that in any sale, lease or rental of real property, the fact that the property is or has been the site of a crime that involves any quantity of methamphetamine must be disclosed to the buyer, lessee or tenant unless: (1) all materials and substances involving methamphetamine have been removed from or remediated on the property by an entity certified or licensed to do so; or (2) the property has been deemed safe for habitation by a governmental entity. (NRS 40.770) Existing law requires similar disclosures to a transferee of a manufactured home, mobile home or commercial coach that is or has been the site of a crime that involves any

quantity of methamphetamine. (NRS 489.776) Sections 3 and 9 of this bill provide that the district board of health in a county whose population is 400,000 or more or the State Board of Health in all other counties is the governmental entity responsible for determining that the property is safe for habitation.

~~f Section 7 of this bill extends similar disclosure requirements to transfers of motor vehicles. Subject to certain exceptions, a transferor of a motor vehicle who has actual knowledge that the motor vehicle has been the site of a crime involving the manufacture, sale or use of any material, compound, mixture or preparation which contains any quantity of methamphetamine is required to disclose that information in writing to the transferee of the motor vehicle. Section 7 also authorizes the Department of Motor Vehicles to adopt regulations concerning such disclosures. A violation of section 7 is a misdemeanor. (NRS 482.555)~~

Section 1 of this bill requires a district board of health and the State Board of Health to ~~monitor~~ evaluate the removal or remediation of substances involving a controlled substance, immediate precursor or controlled substance analog and any material, compound, mixture or preparation that contains any quantity of methamphetamine. Section 1 further requires ~~the district board of health and the State Board of Health~~ the State Environmental Commission to adopt regulations: (1) concerning the monitoring of the removal or remediation of such substances; and (2) establishing standards pursuant to which a property, building or place may be deemed safe for habitation; ~~and (3) certifying that materials or substances involving methamphetamine have been removed from or remediated on a motor vehicle which has been the site of a crime that involves the manufacture, sale or use of methamphetamine.~~

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

Section 1. Chapter 439 of NRS is hereby amended by adding thereto a new section to read as follows:

1. *The board of health or its agent shall, for the purposes of NRS 40.140, 40.770, 202.450, 244.3603, 268.4124 ~~and~~ and 489.776 ~~and section 7 of this act, monitor~~, evaluate the removal or remediation by any entity certified or licensed to do so of:*

(a) *Substances involving a controlled substance, immediate precursor or controlled substance analog; and*

(b) *Any material, compound, mixture or preparation that contains any quantity of methamphetamine.*

2. *The ~~board of health~~ State Environmental Commission shall adopt regulations:*

(a) *To carry out the provisions of subsection 1;*

(b) *Establishing standards pursuant to which a building or place which was used for the purpose of unlawfully manufacturing a controlled substance, immediate precursor or controlled substance analog may be*

(a) That an agricultural activity conducted on farmland, consistent with good agricultural practice and established before surrounding nonagricultural activities is reasonable. Such activity does not constitute a nuisance unless the activity has a substantial adverse effect on the public health or safety.

(b) That an agricultural activity which does not violate a federal, state or local law, ordinance or regulation constitutes good agricultural practice.

3. A shooting range does not constitute a nuisance with respect to any noise attributable to the shooting range if the shooting range is in compliance with the provisions of all applicable statutes, ordinances and regulations concerning noise:

(a) As those provisions existed on October 1, 1997, for a shooting range in operation on or before October 1, 1997; or

(b) As those provisions exist on the date that the shooting range begins operation, for a shooting range that begins operation after October 1, 1997.

↪ A shooting range is not subject to any state or local law related to the control of noise that is adopted or amended after the date set forth in paragraph (a) or (b), as applicable, and does not constitute a nuisance for failure to comply with any such law.

4. As used in this section:

(a) *"Board of health"* has the meaning ascribed to it in section 1 of this act.

(b) *"Controlled substance analog"* has the meaning ascribed to it in NRS 453.043.

~~{(b)}~~ (c) *"Immediate precursor"* has the meaning ascribed to it in NRS 453.086.

~~{(c)}~~ (d) *"Shooting range"* means an area designed and used for archery or sport shooting, including, but not limited to, sport shooting that involves the use of rifles, shotguns, pistols, silhouettes, skeet, trap, black powder or other similar items.

Sec. 3. NRS 40.770 is hereby amended to read as follows:

40.770 1. Except as otherwise provided in subsection 6, in any sale, lease or rental of real property, the fact that the property is or has been:

(a) The site of a homicide, suicide or death by any other cause, except a death that results from a condition of the property;

(b) The site of any crime punishable as a felony other than a crime that involves the manufacturing of any material, compound, mixture or preparation which contains any quantity of methamphetamine; or

(c) Occupied by a person exposed to the human immunodeficiency virus or suffering from acquired immune deficiency syndrome or any other disease that is not known to be transmitted through occupancy of the property,

↪ is not material to the transaction.

2. In any sale, lease or rental of real property, the fact that a sex offender, as defined in NRS 179D.095, resides or is expected to reside in the community is not material to the transaction, and the seller, lessor or landlord or any agent of the seller, lessor or landlord does not have a duty to disclose

such a fact to a buyer, lessee or tenant or any agent of a buyer, lessee or tenant.

3. In any sale, lease or rental of real property, the fact that a facility for transitional living for released offenders that is licensed pursuant to chapter 449 of NRS is located near the property being sold, leased or rented is not material to the transaction.

4. A seller, lessor or landlord or any agent of the seller, lessor or landlord is not liable to the buyer, lessee or tenant in any action at law or in equity because of the failure to disclose any fact described in subsection 1, 2 or 3 that is not material to the transaction or of which the seller, lessor or landlord or agent of the seller, lessor or landlord had no actual knowledge.

5. Except as otherwise provided in an agreement between a buyer, lessee or tenant and his agent, an agent of the buyer, lessee or tenant is not liable to the buyer, lessee or tenant in any action at law or in equity because of the failure to disclose any fact described in subsection 1, 2 or 3 that is not material to the transaction or of which the agent of the buyer, lessee or tenant had no actual knowledge.

6. For purposes of this section, the fact that the property is or has been the site of a crime that involves the manufacturing of any material, compound, mixture or preparation which contains any quantity of methamphetamine is not material to the transaction if:

(a) All materials and substances involving methamphetamine have been removed from or remediated on the property by an entity certified or licensed to do so; or

(b) The property has been deemed safe for habitation by ~~the board of health~~ ~~of a governmental entity~~ *the board of health*.

7. As used in this section ~~the~~ "facility":

(a) "Board of health" has the meaning ascribed to it in section 1 of this act.

(b) "Facility for transitional living for released offenders" has the meaning ascribed to it in NRS 449.0055.

Sec. 4. NRS 202.450 is hereby amended to read as follows:

202.450 1. A public nuisance is a crime against the order and economy of the State.

2. Every place:

(a) Wherein any gambling, bookmaking or pool selling is conducted without a license as provided by law, or wherein any swindling game or device, or bucket shop, or any agency therefor is conducted, or any article, apparatus or device useful therefor is kept;

(b) Wherein any fighting between animals or birds is conducted;

(c) Wherein any dog races are conducted as a gaming activity;

(d) Wherein any intoxicating liquors are kept for unlawful use, sale or distribution;

(a) As those provisions existed on October 1, 1997, for a shooting range that begins operation on or before October 1, 1997; or

(b) As those provisions exist on the date that the shooting range begins operation, for a shooting range in operation after October 1, 1997.

↪ A shooting range is not subject to any state or local law related to the control of noise that is adopted or amended after the date set forth in paragraph (a) or (b), as applicable, and does not constitute a nuisance for failure to comply with any such law.

7. As used in this section:

(a) "*Board of health*" has the meaning ascribed to it in section 1 of this act.

(b) "Controlled substance analog" has the meaning ascribed to it in NRS 453.043.

~~{(b)}~~ (c) "Immediate precursor" has the meaning ascribed to it in NRS 453.086.

~~{(e)}~~ (d) "Shooting range" has the meaning ascribed to it in NRS 40.140.

Sec. 5. NRS 244.3603 is hereby amended to read as follows:

244.3603 1. Each board of county commissioners, in consultation with the board of health, may, by ordinance, to protect the public health, safety and welfare of the residents of the county, adopt procedures pursuant to which the district attorney or an attorney appointed by the board of county commissioners may file an action in a court of competent jurisdiction to:

(a) Seek the abatement of a chronic nuisance that is located or occurring within the incorporated or unincorporated area of the county;

(b) If applicable, seek the closure of the property where the chronic nuisance is located or occurring; and

(c) If applicable, seek penalties against the owner of the property within the incorporated or unincorporated area of the county and any other appropriate relief ~~{ }~~, including, without limitation, placing a lien on the property.

2. An ordinance adopted pursuant to subsection 1 must:

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

(1) Sent a notice, by certified mail, return receipt requested, by the sheriff or other person authorized to issue a citation of the existence on his property of nuisance activities and the date by which he must abate the condition to prevent the matter from being submitted to the district attorney for legal action; and

(2) Afforded an opportunity for a hearing before a court of competent jurisdiction.

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

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

3. If the court finds that a chronic nuisance exists and action is necessary to avoid serious threat to the public welfare or the safety or health of the occupants of the property, the court may order the county to secure and close the property until the nuisance is abated and may:

(a) Impose a civil penalty of not more than \$500 per day for each day that the condition was not abated after the date specified in the notice by which the owner was required to abate the condition;

(b) Order the owner to pay the county for the cost incurred by the county in abating the condition; and

(c) Order any other appropriate relief.

4. In addition to any other reasonable means authorized by the court for the recovery of money expended by the county to abate the chronic nuisance, the board may make the expense a special assessment against the property upon which the chronic nuisance is located or occurring. The special assessment may be collected pursuant to the provisions set forth in subsection 4 of NRS 244.360.

5. As used in this section:

(a) *"Board of health" has the meaning ascribed to it in section 1 of this act.*

(b) A "chronic nuisance" exists:

(1) When three or more nuisance activities exist or have occurred during any 90-day period on the property.

(2) When a person associated with the property has engaged in three or more nuisance activities during any 90-day period on the property or within 100 feet of the property.

(3) When the property has been the subject of a search warrant based on probable cause of continuous or repeated violations of chapter 459 of NRS.

(4) When a building or place is used for the purpose of unlawfully selling, serving, storing, keeping, manufacturing, using or giving away a controlled substance, immediate precursor or controlled substance analog.

(5) When a building or place was used for the purpose of unlawfully manufacturing a controlled substance, immediate precursor or controlled substance analog and:

(I) The building or place has not been deemed safe for habitation by ~~fa governmental entity;~~ *the board of health;* or

(II) All materials or substances involving the controlled substance, immediate precursor or controlled substance analog have not been removed from or remediated on the building or place by an entity certified or licensed to do so within 180 days after the building or place is no longer used for the purpose of unlawfully manufacturing a controlled substance, immediate precursor or controlled substance analog.

~~(b)~~ (c) "Controlled substance analog" has the meaning ascribed to it in NRS 453.043.

~~(c)~~ (d) "Immediate precursor" has the meaning ascribed to it in NRS 453.086.

~~[(d)]~~ (e) "Nuisance activity" means:

- (1) Criminal activity;
- (2) The presence of debris, litter, garbage, rubble, abandoned or junk vehicles or junk appliances;
- (3) Violations of building codes, housing codes or any other codes regulating the health or safety of occupants of real property;
- (4) Excessive noise and violations of curfew; or
- (5) Any other activity, behavior or conduct defined by the board to constitute a public nuisance.

~~[(e)]~~ (f) "Person associated with the property" means:

- (1) The owner of the property;
- (2) The manager or assistant manager of the property;
- (3) The tenant of the property; or
- (4) A person who, on the occasion of a nuisance activity, has:
 - (I) Entered, patronized or visited;
 - (II) Attempted to enter, patronize or visit; or
 - (III) Waited to enter, patronize or visit,

→ the property or a person present on the property.

Sec. 6. NRS 268.4124 is hereby amended to read as follows:

268.4124 1. ~~The~~ To the extent consistent with an ordinance adopted pursuant to NRS 244.3603, the governing body of a city may, by ordinance, to protect the public health, safety and welfare of the residents of the city, adopt procedures pursuant to which the city attorney may file an action in a court of competent jurisdiction to:

- (a) Seek the abatement of a chronic nuisance that is located or occurring within the city;
- (b) If applicable, seek the closure of the property where the chronic nuisance is located or occurring; and
- (c) If applicable, seek penalties against the owner of the property within the city and any other appropriate relief.

2. An ordinance adopted pursuant to subsection 1 must:

- (a) Contain procedures pursuant to which the owner of the property is:
 - (1) Sent notice, by certified mail, return receipt requested, by the city police or other person authorized to issue a citation, of the existence on his property of two or more nuisance activities and the date by which he must abate the condition to prevent the matter from being submitted to the city attorney for legal action; and
 - (2) Afforded an opportunity for a hearing before a court of competent jurisdiction.

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

(c) Provide the manner in which the city will recover money expended for labor and materials used to abate the condition on the property if the owner fails to abate the condition.

3. If the court finds that a chronic nuisance exists and emergency action is necessary to avoid immediate threat to the public health, welfare or safety, the court shall order the city to secure and close the property for a period not to exceed 1 year or until the nuisance is abated, whichever occurs first, and may:

(a) Impose a civil penalty of not more than \$500 per day for each day that the condition was not abated after the date specified in the notice by which the owner was required to abate the condition;

(b) Order the owner to pay the city for the cost incurred by the city in abating the condition;

(c) If applicable, order the owner to pay reasonable expenses for the relocation of any tenants who are affected by the chronic nuisance; and

(d) Order any other appropriate relief.

4. In addition to any other reasonable means authorized by the court for the recovery of money expended by the city to abate the chronic nuisance, the governing body may make the expense a special assessment against the property upon which the chronic nuisance is or was located or occurring. The special assessment may be collected at the same time and in the same manner as ordinary county taxes are collected, and is subject to the same penalties and the same procedure and sale in case of delinquency as provided for ordinary county taxes. All laws applicable to the levy, collection and enforcement of county taxes are applicable to such a special assessment.

5. As used in this section:

(a) "*Board of health*" has the meaning ascribed to it in section 1 of this act.

(b) A "chronic nuisance" exists:

(1) When three or more nuisance activities exist or have occurred during any 30-day period on the property.

(2) When a person associated with the property has engaged in three or more nuisance activities during any 30-day period on the property or within 100 feet of the property.

(3) When the property has been the subject of a search warrant based on probable cause of continuous or repeated violations of chapter 459 of NRS.

(4) When a building or place is used for the purpose of unlawfully selling, serving, storing, keeping, manufacturing, using or giving away a controlled substance, immediate precursor or controlled substance analog.

(5) When a building or place was used for the purpose of unlawfully manufacturing a controlled substance, immediate precursor or controlled substance analog and:

(I) The building or place has not been deemed safe for habitation by ~~the board of health;~~ ~~a governmental entity;~~ *the board of health;* or

(II) All materials or substances involving the controlled substance, immediate precursor or controlled substance analog have not been removed from or remediated on the building or place by an entity certified or licensed to do so within 180 days after the building or place is no longer used for the

purpose of unlawfully manufacturing a controlled substance, immediate precursor or controlled substance analog.

~~[(b)]~~ (c) "Controlled substance analog" has the meaning ascribed to it in NRS 453.043.

~~[(e)]~~ (d) "Immediate precursor" has the meaning ascribed to it in NRS 453.086.

~~[(d)]~~ (e) "Nuisance activity" means:

- (1) Criminal activity;
- (2) The presence of debris, litter, garbage, rubble, abandoned or junk vehicles or junk appliances;
- (3) Excessive noise and violations of curfew; or
- (4) Any other activity, behavior or conduct defined by the governing body to constitute a public nuisance.

~~[(e)]~~ (f) "Person associated with the property" means a person who, on the occasion of a nuisance activity, has:

- (1) Entered, patronized or visited;
- (2) Attempted to enter, patronize or visit; or
- (3) Waited to enter, patronize or visit,

↪ a property or a person present on the property.

Sec. 7. ~~Chapter 482 of NRS is hereby amended by adding thereto a new section to read as follows:~~

~~1. Except as otherwise provided in this section, if a motor vehicle has been the site of a crime that involves the manufacture, sale or use of any material, compound, mixture or preparation which contains any quantity of methamphetamine, a transferor of the motor vehicle who has actual knowledge of that information shall disclose the information in writing to the transferee of the motor vehicle.~~

~~2. The disclosure described in subsection 1 is not required if:~~

~~(a) All materials and substances involving methamphetamine have been removed from or remediated on the motor vehicle by an entity certified or licensed to do so; and~~

~~(b) The board of health certifies that any materials or substances involving methamphetamine have been removed from or remediated on the motor vehicle.~~

~~3. The disclosure described in subsection 1 is not required for any sale or other transfer or intended sale or other transfer of a motor vehicle by a transferor:~~

~~(a) To any co-owner of the motor vehicle, the spouse of the transferor or a person related within the third degree of consanguinity or affinity to the transferor; or~~

~~(b) If the transferor is a dealer and this is the first sale or transfer of a new motor vehicle.~~

~~4. The Department may adopt regulations to carry out the provisions of this section.~~

~~5. As used in this section, "board of health" has the meaning ascribed to it in section 1 of this act. (Deleted by amendment.)~~

~~Sec. 8. [NRS 482.543 is hereby amended to read as follows:~~

~~482.543 As used in NRS 482.543 to 482.554, inclusive, and section 7 of this act, unless the context otherwise requires, the words and terms defined in NRS 482.5432 to 482.5445, inclusive, have the meanings ascribed to them in those sections.] (Deleted by amendment.)~~

Sec. 9. NRS 489.776 is hereby amended to read as follows:

489.776 1. Except as otherwise provided in this section and unless required to make a disclosure pursuant to NRS 40.770, if a manufactured home, mobile home or commercial coach is or has been the site of a crime that involves the manufacturing of any material, compound, mixture or preparation which contains any quantity of methamphetamine, a transferor or his agent who has actual knowledge of such information shall disclose the information to a transferee or his agent.

2. The disclosure described in subsection 1 is not required if:

(a) All materials and substances involving methamphetamine have been removed from or remediated on the manufactured home, mobile home or commercial coach by an entity certified or licensed to do so; or

(b) The manufactured home, mobile home or commercial coach has been deemed safe for habitation by ~~[a governmental entity.]~~ *the board of health.*

3. The disclosure described in subsection 1 is not required for any sale or other transfer or intended sale or other transfer of a manufactured home, mobile home or commercial coach by a transferor:

(a) To any co-owner of the manufactured home, mobile home or commercial coach, the spouse of the transferor or a person related within the third degree of consanguinity *or affinity* to the transferor; or

(b) If the transferor is a dealer and this is the first sale or transfer of a new manufactured home, mobile home or commercial coach.

4. The Division may adopt regulations to carry out the provisions of this section.

5. *As used in this section, "board of health" has the meaning ascribed to it in section 1 of this act.*

Sec. 10. This act becomes effective upon passage and approval for the purpose of adopting regulations and performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act, and on July 1, 2009, for all other purposes.

Senator Woodhouse moved the adoption of the amendment.

Remarks by Senator Woodhouse.

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

Thank you, Mr. President. Amendment No. 131 replaces the original provisions of the bill and adds the following provisions to Senate Bill No. 60.

The amendment authorizes the board of county commissioners in consultation with the District Board of Health or State Board of Health, as applicable, to adopt ordinances to protect the public health, safety and welfare for the incorporated areas of the county.

In addition, the amendment clarifies that a District Board of Health and the State Board of Health is required to evaluate the removal or remediation of certain controlled substances or precursor substances, including materials that contain any quantity of methamphetamine.

Finally, the amendment specifies that the State Environmental Commission is required to adopt regulations related to monitoring, removal or remediation of the aforementioned substances and to establish standards to be used in determining that a property is safe for habitation.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 78.

Bill read second time.

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

Amendment No. 458.

"SUMMARY—Authorizes the Division of Mental Health and Developmental Services of the Department of Health and Human Services to regulate the provision of certain services to persons with mental retardation and persons with related conditions. (BDR 39-338)"

"AN ACT relating to mental retardation; authorizing the Division of Mental Health and Developmental Services of the Department of Health and Human Services to regulate the provision of jobs and day training services to persons with mental retardation and persons with related conditions; prohibiting the provision of such services without a certificate issued by the Division; ~~authorizing the Division to prescribe fees for the issuance or renewal of a certificate;~~ deleting provisions governing community centers for training persons with mental retardation and persons with related conditions; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law provides for the regulation of qualified community-based training centers for the care and training of persons with mental and functional retardation. (NRS 435.130-435.320) Section ~~22~~ 23 of this bill repeals various provisions governing community training centers, and sections 2- ~~10, 13 and 14~~ 11, 14 and 15 of this bill instead authorize the Division of Mental Health and Development Services of the Department of Health and Human Services to certify and regulate persons who provide jobs and day training services to persons with mental retardation and persons with related conditions. Section ~~4~~ 5 requires a person to obtain a certificate from the Division to provide jobs and day training services to such persons. ~~Section 5 authorizes the Division to prescribe a fee for the issuance or renewal of a certificate.~~ Section ~~6~~ 7 authorizes the Division to investigate a person who applies for a certificate, and section ~~7~~ 8 authorizes the Division to bring an action to enjoin any person who provides jobs and day training services without a certificate or after the certificate of the person has been suspended. Section ~~13~~ 14 requires the Division to adopt regulations governing the provision of jobs and day training services.

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

Section 1. Chapter 435 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to ~~10,~~ 11, inclusive, of this act.

Sec. 2. "Certificate" means a certificate which authorizes a natural person or entity to provide jobs and day training services and which is issued pursuant to NRS 435.130 to 435.310, inclusive, and sections 2 to ~~10,~~ 11, inclusive, of this act, and the regulations adopted pursuant thereto.

Sec. 3. "Jobs and day training services" means individualized services for day habilitation, prevocational employment and supported employment:

1. Which are provided:

(a) For compensation;

(b) In a division facility or in the community; and

(c) To a person with mental retardation or person with related conditions who is served by the Division; and

2. Which are designed to assist the person in:

(a) Learning or maintaining skills;

(b) Succeeding in paid or unpaid employment;

(c) Increasing self-sufficiency. ~~It~~, including, without limitation, training and habilitation services; and

(d) Contributing to his community.

Sec. 4. "Nonprofit organization" means a partnership, firm, corporation or association that is recognized as exempt pursuant to the provisions of 26 U.S.C. 501(c)(3).

~~Sec. 4.~~ Sec. 5. 1. A ~~partnership, firm, corporation, association,~~ nonprofit organization, state or local government or agency thereof shall not provide jobs and day training services in this State without first obtaining a certificate from the Division.

2. A natural person other than a person who is employed by an entity listed in subsection 1 shall not provide jobs and day training services in this State without first obtaining a certificate from the Division.

~~Sec. 5.~~ Sec. 6. ~~1. The Division may, by regulation, prescribe a fee for:~~

(a) The issuance of a certificate; and

(b) The renewal of a certificate.

~~2. A fee prescribed pursuant to subsection 1 must be calculated to produce the estimated revenue necessary to cover the costs to the Division of issuing and renewing certificates. (Deleted by amendment.)~~

~~Sec. 6.~~ Sec. 7. The Division may:

1. Upon receipt of an application for a certificate, conduct an investigation into the qualifications of the personnel, methods of operation, policies and purposes of any natural person, ~~partnership, firm, corporation, association,~~ nonprofit organization, state or local government or agency thereof proposing to provide jobs and day training services;

2. Upon receipt of a complaint against a natural person, ~~partnership, firm, corporation, association,~~ nonprofit organization, state or local government or agency thereof providing jobs and day training services, except for a complaint concerning the cost of services, conduct an investigation into the qualifications of the personnel, methods of operation, policies, procedures and records of the provider of jobs and day training services; and

3. Employ such professional, technical and clerical assistance as it deems necessary to carry out the provisions of NRS 435.130 to 435.310, inclusive, and sections 2 to ~~10,~~ 11, inclusive, of this act.

~~Sec. 7.]~~ Sec. 8. 1. The Division may bring an action in the name of the State of Nevada to enjoin any natural person, ~~partnership, firm, corporation, association,~~ nonprofit organization, state or local government or agency thereof from providing jobs and day training services:

- (a) Without first obtaining a certificate from the Division; or
- (b) After the certificate has been revoked or suspended by the Division.

2. It is sufficient in such an action to allege that the defendant did, on a certain date and in a certain place, provide jobs and day training services without a certificate.

~~Sec. 8.]~~ Sec. 9. 1. A natural person who applies for the issuance or renewal of a certificate must submit to the Division the statement prescribed by the Division of Welfare and Supportive Services of the Department pursuant to NRS 425.520. The statement must be completed and signed by the applicant.

2. The Division 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 certificate; or
- (b) A separate form prescribed by the Division.

3. A certificate may not be issued or renewed by the Division 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 Division 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.

~~{Sec. 9.}~~ *Sec. 10. The application of a natural person who applies for the issuance of a certificate must include the social security number of the applicant.*

~~{Sec. 10.}~~ *Sec. 11. 1. If the Division 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 natural person who is the holder of a certificate, the Division shall deem the certificate issued to that person to be suspended at the end of the 30th day after the date the court order was issued unless the Division receives a letter issued to the holder of the certificate by the district attorney or other public agency pursuant to NRS 425.550 stating that the holder of the certificate has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.*

2. The Division shall reinstate a certificate that has been suspended by a district court pursuant to NRS 425.540 if the Division receives a letter issued by the district attorney or other public agency pursuant to NRS 425.550 to the person whose certificate was suspended stating that the person whose certificate was suspended has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

~~{Sec. 11.}~~ *Sec. 12. NRS 435.130 is hereby amended to read as follows:*

435.130 The intent of the Legislature in the enactment of NRS 435.130 to ~~{435.320,}~~ 435.310, inclusive, and sections 2 to ~~{10,}~~ 11, inclusive, of this act is to aid persons with mental ~~{or functional}~~ retardation and persons with related conditions who are not served by existing programs ~~{to receive}~~ in receiving high-quality care and training in an effort to help them become useful citizens.

~~{Sec. 12.}~~ *Sec. 13. NRS 435.140 is hereby amended to read as follows:*

435.140 As used in NRS 435.130 to ~~{435.320,}~~ 435.310, inclusive, and sections 2 to ~~{10,}~~ 11, inclusive, of this act, unless the context otherwise requires, the words and terms defined in ~~{NRS 435.170, 435.180 and 435.190}~~ sections 2, ~~{and}~~ 3 and 4 of this act have the meanings ascribed to them in ~~{such}~~ those sections.

~~{Sec. 13.}~~ *Sec. 14. NRS 435.220 is hereby amended to read as follows:*

435.220 1. The Division ~~{may establish all rules, regulations and standards not inconsistent with the provisions of NRS 435.130 to 435.320, inclusive, which it deems necessary in order to carry out the purposes of such sections and to set qualification standards for centers to receive the aid provided for by such sections.}~~ shall adopt regulations governing jobs and day training services, including, without limitation, regulations that set forth:

(a) Standards for the provision of quality care and training by providers of jobs and day training services;

(b) The requirements for the issuance and renewal of a certificate; and

(c) *The rights of consumers of jobs and day training services, including, without limitation, the right of a consumer to file a complaint and the procedure for filing the complaint.*

2. *The Division may enter into such agreements with public and private agencies as it deems necessary for the provision of jobs and day training services.*

~~[Sec. 14.]~~ Sec. 15. NRS 435.310 is hereby amended to read as follows:

435.310 ~~[Centers with a certificate of qualification]~~ *A provider of jobs and day training services certified pursuant to NRS 435.130 to 435.310, inclusive, and sections 2 to ~~10,~~ 11, inclusive, of this act may enter into contracts with authorized county and school officials and public and private agencies to give care and training to ~~enrollees~~ *persons with mental retardation and persons with related conditions who would also qualify for care or training programs offered by the public schools or by county welfare programs.**

~~[Sec. 15.]~~ Sec. 16. NRS 332.117 is hereby amended to read as follows:

332.117 1. In accordance with the Program to Encourage and Facilitate Purchases by Agencies of Commodities and Services From Organizations established pursuant to NRS 334.025, a governing body of a local government or its authorized representative may award, without complying with the requirements for competitive bidding set forth in this chapter, a contract for services or for the purchase of supplies, materials, equipment or labor to ~~an~~ *a nonprofit* organization or agency whose primary purpose is the training and employment of persons with a mental or physical disability, including, without limitation, a ~~community-based training center for the care and training of persons with mental or functional retardation described in chapter 435 of NRS.~~ *provider of jobs and day training services certified pursuant to NRS 435.130 to 435.310, inclusive, and sections 2 to ~~10,~~ 11, inclusive, of this act.*

2. ~~[An]~~ *A nonprofit* organization or agency that:

(a) Wishes to submit a bid for such a contract must:

(1) Register with the Rehabilitation Division of the Department of Employment, Training and Rehabilitation as required pursuant to NRS 334.025; and

(2) Establish a fair-market price for those services, supplies, materials, equipment or labor by conducting a market survey and must include the survey with the bid submitted to the local government.

(b) Is awarded such a contract must report quarterly to the Rehabilitation Division as required pursuant to NRS 334.025.

3. *As used in this section, "nonprofit organization or agency" means an organization or agency that is recognized as exempt pursuant to the provisions of 26 U.S.C. 501(c)(3).*

~~[Sec. 16.]~~ *Sec. 17.* NRS 333.375 is hereby amended to read as follows:

333.375 1. The provisions of NRS 331.100 notwithstanding, and in accordance with the Program to Encourage and Facilitate Purchases by Agencies of Commodities and Services From Organizations established pursuant to NRS 334.025, the Purchasing Division may award without accepting competitive bids a contract for services or the purchase of commodities to *nonprofit* organizations or agencies whose primary purpose is the training and employment of persons with a mental or physical disability, including, without limitation, a ~~community based training center for the care and training of persons with mental or functional retardation described in chapter 435 of NRS.~~ *provider of jobs and day training services certified pursuant to NRS 435.130 to 435.310, inclusive, and sections 2 to 10, 11, inclusive, of this act.*

2. ~~[A.]~~ *A nonprofit organization or agency that:*

(a) Wishes to submit a bid for such a contract must:

(1) Register with the Rehabilitation Division of the Department of Employment, Training and Rehabilitation as required pursuant to NRS 334.025; and

(2) Establish a fair-market price for those services or commodities by conducting a market survey and must include the survey with the bid submitted to the Purchasing Division.

(b) Is awarded such a contract must report quarterly to the Rehabilitation Division as required pursuant to NRS 334.025.

3. As used in this section, "nonprofit organization or agency" means an organization or agency that is recognized as exempt pursuant to the provisions of 26 U.S.C. 501(c)(3).

~~[Sec. 17.]~~ *Sec. 18.* NRS 334.025 is hereby amended to read as follows:

334.025 1. The Rehabilitation Division of the Department of Employment, Training and Rehabilitation shall establish and administer a Program to Encourage and Facilitate Purchases by Agencies of Commodities and Services From Organizations.

2. The Program may include:

(a) A method for assisting an agency that wishes to purchase commodities or services from an organization to locate such commodities and services that meet the needs of the agency;

(b) A method for assisting an organization to locate an agency that wishes to purchase commodities or services from organizations;

(c) A method for encouraging agencies to purchase commodities and services from organizations;

(d) A method to review objections to an award of a contract to an organization, which method must be limited to a review of the process used for awarding the contract to ensure that the appropriate procedures were followed in awarding the contract;

(e) The establishment of a percentage, not to exceed 4 percent, of the full amount of payment to an organization which is awarded a contract for all commodities and services to be provided to the agency pursuant to the contract that is sufficient to pay the cost to the Rehabilitation Division of establishing and administering the Program; and

(f) A method for collecting information from an agency in a report to the Rehabilitation Division, which report may include, without limitation:

(1) The number of persons with mental or physical disabilities currently employed at the agency; and

(2) The number of contracts the agency has entered into pursuant to the Program which are currently in effect and a list of the organizations with which the agency has entered such contracts.

3. An organization that wishes to participate in the Program must register with the Rehabilitation Division on a form prescribed by the Administrator before contacting any agency concerning entering into a contract pursuant to the Program.

4. In administering the Program, the Rehabilitation Division shall, upon request of an agency or organization, assist the agency or organization in establishing a contract for the purchase of commodities or services.

5. A contract entered into pursuant to the Program must provide for a payment to the Rehabilitation Division in an amount equal to the full amount of payment to the organization for all commodities and services to be provided to the agency pursuant to the contract multiplied by the percentage established pursuant to paragraph (e) of subsection 2.

6. An organization that has entered into a contract with an agency pursuant to the Program shall report quarterly to the Rehabilitation Division, on a form prescribed by the Administrator, such information as the Rehabilitation Division deems necessary to administer the Program.

7. The Administrator may adopt regulations to carry out the provisions of this section.

8. As used in this section:

(a) "Administrator" means the Administrator of the Rehabilitation Division of the Department of Employment, Training and Rehabilitation.

(b) "Agency" means a local government as defined in NRS 332.015 and using agencies as defined in NRS 333.020.

(c) "Organization" means an organization *that is recognized as exempt pursuant to the provisions of 26 U.S.C. 501(c)(3)* whose primary purpose is the training and employment of persons with mental or physical disabilities, including, without limitation, ~~community-based training centers for the care and training of persons with physical or mental retardation described in chapter 435 of NRS.~~ *a provider of jobs and day training services certified pursuant to NRS 435.130 to 435.310, inclusive, and sections 2 to ~~10,~~ 11, inclusive, of this act.*

~~Sec. 18.~~ Sec. 19. NRS 373.117 is hereby amended to read as follows:

373.117 1. A regional transportation commission, a county whose population is less than 100,000 or an incorporated city within such a county may establish or operate a public transit system consisting of:

- (a) Regular routes and fixed schedules to serve the public;
- (b) Nonemergency medical transportation of persons to facilitate their ~~use of a center~~ *participation in jobs and day training services* as defined in ~~[NRS 435.170.]~~ *section 3 of this act* if the transportation is available upon request and without regard to regular routes or fixed schedules;
- (c) Nonmedical transportation of persons with disabilities without regard to regular routes or fixed schedules; or
- (d) In a county whose population is less than 100,000 or an incorporated city within such a county, nonmedical transportation of persons if the transportation is available by reservation 1 day in advance of the transportation and without regard to regular routes or fixed schedules.

2. A regional transportation commission may lease vehicles to or from or enter into other contracts with a private operator for the provision of such a system.

3. In a county whose population is less than 400,000, such a system may also provide service which includes:

- (a) Minor deviations from the regular routes and fixed schedules required by paragraph (a) of subsection 1 on a recurring basis to serve the public transportation needs of passengers. The deviations must not exceed one-half mile from the regular routes.
- (b) The transporting of persons other than those specified in paragraph (b), (c) or (d) of subsection 1 upon request without regard to regular routes or fixed schedules ~~if~~ if the service is provided by a common motor carrier which has a certificate of public convenience and necessity issued by the Nevada Transportation Authority pursuant to NRS 706.386 to 706.411, inclusive, and the service is subject to the rules and regulations adopted by the Nevada Transportation Authority for a fully regulated carrier.

4. Notwithstanding the provisions of chapter 332 of NRS or NRS 625.530, a regional transportation commission may utilize a turnkey procurement process to select a person to design, build, operate and maintain, or any combination thereof, a fixed guideway system, including, without limitation, any minimum operable segment thereof. The commission shall determine whether to utilize turnkey procurement for a fixed guideway project before the completion of the preliminary engineering phase of the project. In making that determination, the commission shall evaluate whether turnkey procurement is the most cost-effective method of constructing the project on schedule and in satisfaction of its transportation objectives.

5. Notwithstanding the provisions of chapter 332 of NRS, a regional transportation commission may utilize a competitive negotiation procurement process to procure rolling stock for a fixed guideway project. The award of a contract under such a process must be made to the person whose proposal is

determined to be the most advantageous to the commission, based on price and other factors specified in the procurement documents.

6. If a commission develops a fixed guideway project, the Department of Transportation is hereby designated to serve as the oversight agency to ensure compliance with the federal safety regulations for rail fixed guideway systems set forth in 49 C.F.R. Part 659.

7. As used in this section:

(a) "Fully regulated carrier" means a common carrier or contract carrier of passengers or household goods who is required to obtain from the Nevada Transportation Authority a certificate of public convenience and necessity or a contract carrier's permit and whose rates, routes and services are subject to regulation by the Nevada Transportation Authority.

(b) "Minimum operable segment" means the shortest portion of a fixed guideway system that is technically capable of providing viable public transportation between two end points.

(c) "Public transit system" means a system employing motor buses, rails or any other means of conveyance, by whatever type of power, operated for public use in the conveyance of persons.

(d) "Turnkey procurement" means a competitive procurement process by which a person is selected by a regional transportation commission, based on evaluation criteria established by the commission, to design, build, operate and maintain, or any combination thereof, a fixed guideway system, or a portion thereof, in accordance with performance criteria and technical specifications established by the commission.

~~{Sec. 19.}~~ *Sec. 20.* NRS 377A.130 is hereby amended to read as follows:

377A.130 A public transit system may, in addition to providing local transportation within a county, provide:

1. Services to assist commuters in communicating with others to share rides;

2. Transportation for elderly persons and persons with disabilities, including, without limitation, nonemergency medical transportation of persons to facilitate their ~~{use of a center}~~ *participation in jobs and day training services* as defined in ~~{NRS 435.170.}~~ *section 3 of this act;*

3. Parking for the convenience of passengers on the system;

4. Stations and other necessary facilities to ensure the comfort and safety of passengers; and

5. Transportation that is available pursuant to NRS 373.117.

~~{Sec. 20.}~~ *Sec. 21.* NRS 608.255 is hereby amended to read as follows:

608.255 For the purposes of this chapter and any other statutory or constitutional provision governing the minimum wage paid to an employee, the following relationships do not constitute employment relationships and are therefore not subject to those provisions:

1. The relationship between a rehabilitation facility or workshop established by the Department of Employment, Training and Rehabilitation pursuant to chapter 615 of NRS and an individual with a disability who is participating in a training or rehabilitative program of such a facility or workshop.

2. The relationship between a ~~community-based training center~~ provider of jobs and day training services ~~(that)~~ which is recognized as exempt pursuant to the provisions of 26 U.S.C. 501(c)(3) and which has been issued a certificate ~~of qualification~~ by the Division of Mental Health and Developmental Services of the Department of Health and Human Services pursuant to NRS 435.130 to ~~435.320,~~ 435.310, inclusive, and sections 2 to ~~10,~~ 11, inclusive, of this act and ~~an enrollee~~ a person with mental retardation or person with related conditions participating in a ~~training or rehabilitative~~ jobs and day training services program. ~~of such a center.~~

~~Sec. 21.~~ Sec. 22. NRS 706.745 is hereby amended to read as follows:

706.745 1. The provisions of NRS 706.386 and 706.421 do not apply to:

- (a) Ambulances;
- (b) Hearses; or
- (c) Common motor carriers or contract motor carriers that are providing transportation services pursuant to a contract with the Department of Health and Human Services entered into pursuant to NRS 422.2705.

2. A common motor carrier that enters into an agreement for the purchase of its service by an incorporated city, county or regional transportation commission is not required to obtain a certificate of public convenience and necessity to operate a system of public transit consisting of:

- (a) Regular routes and fixed schedules;
- (b) Nonemergency medical transportation of persons to facilitate their ~~use of a center~~ participation in jobs and day training services as defined in ~~NRS 435.170,~~ section 3 of this act if the transportation is available upon request and without regard to regular routes or fixed schedules;
- (c) Nonmedical transportation of persons with disabilities without regard to regular routes or fixed schedules; or
- (d) In a county whose population is less than 100,000 or an incorporated city within such a county, nonmedical transportation of persons if the transportation is available by reservation 1 day in advance of the transportation and without regard to regular routes or fixed schedules.

3. Under any agreement for a system of public transit that provides for the transportation of passengers that is described in subsection 2:

- (a) The public entity shall provide for any required safety inspections; or
- (b) If the public entity is unable to do so, the Authority shall provide for any required safety inspections.

4. In addition to the requirements of subsection 3, under an agreement for a system of public transit that provides for the transportation of passengers that is described in:

(a) Paragraph (a) of subsection 2, the public entity shall establish the routes and fares.

(b) Paragraph (c) or (d) of subsection 2, the common motor carrier:

(1) May provide transportation to any passenger who can board a vehicle with minimal assistance from the operator of the vehicle.

(2) Shall not offer medical assistance as part of its transportation service.

5. A nonprofit carrier of elderly persons or persons with disabilities is not required to obtain a certificate of public convenience and necessity to operate as a common motor carrier of such passengers only, but such a carrier is not exempt from inspection by the Authority to determine whether its vehicles and their operation are safe.

6. An incorporated city, county or regional transportation commission is not required to obtain a certificate of public convenience and necessity to operate a system of public transportation.

7. Before an incorporated city or a county enters into an agreement with a common motor carrier for a system of public transit that provides for the transportation of passengers that is described in paragraph (c) or (d) of subsection 2 in an area of the incorporated city or an area of the county, it must determine that:

(a) There are no other common motor carriers of passengers who are authorized to provide such services in that area; or

(b) Although there are other common motor carriers of passengers who are authorized to provide such services in the area, the common motor carriers of passengers do not wish to provide, or are not capable of providing, such services.

~~Sec. 22.~~ Sec. 23. NRS 435.170, 435.180, 435.190, 435.230, 435.240, 435.250, 435.260, 435.280, 435.290, 435.300 and 435.320 are hereby repealed.

~~Sec. 23.~~ Sec. 24. Notwithstanding the provisions of section ~~44~~ 5 of this act, a natural person, partnership, firm, corporation, association, state or local government or agency thereof is not required to possess a certificate issued by the Division of Mental Health and Developmental Services of the Department of Health and Human Services to provide jobs and day training services in this State before January 1, 2010, unless the Division establishes, by regulation, an earlier date for compliance with section ~~44~~ 5 of this act.

~~Sec. 24.~~ Sec. 25. The regulations of the Division of Mental Health and Developmental Services of the Department of Health and Human Services which are codified as NAC 435.200 to 435.350, inclusive, ~~are hereby declared void. In preparing the supplements to the Nevada Administrative Code on or after July 1, 2009, the Legislative Counsel shall~~

~~remove those regulations.] , remain in effect and may be enforced until the Division adopts regulations to repeal or replace those regulations.~~

~~[Sec. 25.]~~ Sec. 26. 1. This act becomes effective upon passage and approval for the purpose of adopting regulations and on July 1, 2009, for all other purposes.

2. Sections ~~[8.]~~ 9, ~~[10.]~~ 10 and ~~[11.]~~ 11 of this act expire 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 the 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.

LEADLINES OF REPEALED SECTIONS

435.170 "Center" defined.

435.180 "Enrollee" defined.

435.190 "Functional retardation" defined.

435.230 Requirements for centers; contents of application for and renewal of certificate of qualification.

435.240 Application for certificate of qualification: Review; notice of rejection; appeal; limitations.

435.250 Issuance and revocation of certificate of qualification; appeal of revocation.

435.260 Legislative appropriations; grants to qualifying centers.

435.280 Acceptance of gifts, bequests, grants and other sources of income.

435.290 Aid from Community Training Center Account; establishment of new centers.

435.300 Limitations on financial aid.

435.320 Unlawful acts; penalty.

Senator Woodhouse moved the adoption of the amendment.

Remarks by Senator Woodhouse.

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

Thank you, Mr. President. Amendment No. 458 adds the following provision to Senate Bill No. 78. The amendment clarifies that nonprofit organizations are authorized to provide jobs and day training services to persons with mental retardation and persons with related conditions. It also removes the provision which authorizes the Division of Mental Health and Developmental Services to prescribe fees for the issuance or renewal of a certificate.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 79.

Bill read second time.

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

Amendment No. 137.

"SUMMARY—Revises provisions governing various commissions, boards and committees relating to health. (BDR 38-327)"

"AN ACT relating to health; creating the Nevada Commission on Services for Persons with Disabilities and ~~providing~~ *prescribing* its duties; restructuring certain committees into subcommittees of the Commission; *revising provisions relating to the Commission on Mental Health and Developmental Services*; authorizing the State Board of Health to appoint the members of the Advisory Committee in the Office of Minority Health of the Department of Health and Human Services, the Advisory Board on Maternal and Child Health and the Committee on Emergency Medical Services; repealing provisions creating and governing the ~~Committee on Co-Occurring Disorders, the~~ Task Force on Prostate Cancer and the Task Force on Cervical Cancer; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Sections 3-7 of this bill create the Nevada Commission on Services for Persons with Disabilities within the Office of Disability Services in the Department of Health and Human Services. The duties of the Commission include determining and evaluating the needs of persons with disabilities in this State, promoting programs and services for such persons and recommending appropriate legislation concerning such persons. Section 9 of this bill restructures the Committee on Communication Services for Persons Who Are Deaf or Hard of Hearing and Persons With Speech Disabilities into a subcommittee of the Commission. (NRS 426.255) Similarly, section 12 of this bill restructures the Advisory Committee on Personal Assistance for Persons with Severe Functional Disabilities into a subcommittee of the Commission. (NRS 426.731)

Sections 15-21 of this bill amend provisions relating to the Commission on Mental Health and Developmental Services to include co-occurring disorders in the scope of powers and duties of the Commission and to require the Commission to create a subcommittee on the mental health of children. (NRS 433.314-433.327)

Under existing law, the members of the Advisory Committee in the Office of Minority Health of the Department of Health and Human Services, the Advisory Board on Maternal and Child Health and the Committee on Emergency Medical Services are appointed by the Governor. (NRS 232.482, 442.133, 450B.151) Sections 14, ~~16 and 17~~ *24 and 25* of this bill require the State Board of Health to appoint those members. Section ~~16~~ *24* also provides that the legislative members of the Advisory Board on Maternal and Child Health are nonvoting members. *Section 25 further amends the membership of the Committee on Emergency Medical Services to include an*

ex-officio member who is a representative of a committee or group which focuses on the provision of emergency medical services to children.

Section ~~118~~ 26 of this bill repeals provisions creating and governing the ~~[Committee on Co-Occurring Disorders, the]~~ Task Force on Prostate Cancer and the Task Force on Cervical Cancer. (NRS ~~439.526, 439.527, 439.528,~~ 457.300-457.390)

Section ~~119~~ 27 of this bill provides that a person who, on July 1, 2009, is a member of a committee or board that is restructured, or the appointing authority for which is revised, by the provisions of this act may continue to serve until the expiration of his term.

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

Section 1. Chapter 426 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 7, inclusive, of this act.

Sec. 2. *"Nevada Commission on Services for Persons with Disabilities" means the Nevada Commission on Services for Persons with Disabilities created by section 4 of this act.*

Sec. 3. *As used in sections 3 to 7, inclusive, of this act, unless the context otherwise requires, "Commission" means the Nevada Commission on Services for Persons with Disabilities created by section 4 of this act.*

Sec. 4. 1. *The Nevada Commission on Services for Persons with Disabilities, consisting of 11 voting members and 2 or more nonvoting members, is hereby created within the Office.*

2. *The Director of the Department shall appoint as voting members of the Commission 11 persons who have experience with or an interest in and knowledge of the problems of and services for persons with disabilities. The majority of the voting members of the Commission must be persons with disabilities or the parents or family members of persons with disabilities.*

3. *The Director of the Department and the Chief of the Office shall serve as nonvoting, ex officio members of the Commission and each may designate an alternate within his office to attend any meeting of the Commission in his place.*

4. *The Director of the Department may appoint as nonvoting members of the Commission such other representatives of State Government as the Director deems appropriate.*

5. *After the initial term of an appointed member, the term of an appointed member is 3 years. An appointed member may be reappointed for an additional term of 3 years. An appointed member may not serve more than two terms. A vacancy on the Commission must be filled in the same manner as the original appointment. An appointed member who serves for more than 1 year of a term to which another person was appointed may be appointed to serve only one additional full term as an appointed member.*

6. *The Director of the Department may remove an appointed member of the Commission for malfeasance in office or neglect of duty. Absence from*

two consecutive meetings of the Commission constitutes good and sufficient cause for removal of an appointed member by the Director.

Sec. 5. 1. The Commission shall, at its first meeting and annually thereafter, elect a Chairman from among its voting members.

2. The Commission shall meet at least quarterly and at the times and places specified by a call of the Director of the Department, the Chairman or a majority of the voting members of the Commission.

3. A majority of the voting members of the Commission constitutes a quorum for the transaction of all business.

4. The Commission shall establish rules for its own governance.

5. Except as otherwise provided in NRS 426.255, 426.731 and 426A.060, the Chairman may appoint subcommittees and advisory committees composed of the members of the Commission, former members of the Commission and members of the general public who have experience with or knowledge of matters relating to persons with disabilities, to consider specific problems or other matters that are related to and within the scope of the functions of the Commission. A subcommittee or advisory committee appointed pursuant to this subsection must not contain more than five members. To the extent practicable, the members of such a subcommittee or advisory committee must be representative of the various geographic areas and ethnic groups of this State.

Sec. 6. 1. Each voting member of the Commission is entitled to receive a salary of not more than \$80 per day, as fixed by the Commission, while engaged in the business of the Commission, if funding is available for this purpose.

2. While engaged in the business of the Commission, each appointed member of the Commission, each person appointed to serve on a subcommittee or advisory committee of the Commission, and each employee of the Commission is entitled to receive the per diem allowance and travel expenses provided for state officers and employees generally, if funding is available for this purpose.

3. The Commission may expend in accordance with law all money made available for its use.

Sec. 7. 1. The Commission shall:

(a) Determine and evaluate the needs of persons with disabilities in this State;

(b) Seek ways to avoid unnecessary duplication of services for persons with disabilities by public and private organizations in this State;

(c) Establish priorities for the work of the Office according to the most pressing needs of persons with disabilities as determined by the Commission; and

(d) Promote programs that provide community-based services necessary to enable a person with a disability, to the fullest extent possible, to remain in his home and be an integral part of his family and community.

2. The Commission may:

(a) Review and make recommendations regarding plans for services for persons with disabilities;

(b) Gather and disseminate information relating to persons with disabilities;

(c) Conduct hearings, conferences and special studies on the problems of persons with disabilities and on programs that serve persons with disabilities;

(d) Evaluate existing programs for persons with disabilities, recommend changes in those programs and propose new programs that would more effectively and economically serve the needs of persons with disabilities;

(e) Evaluate any proposed legislation that would affect persons with disabilities;

(f) Carry out the provisions of the Strategic Plan for Persons with Disabilities developed by the Department pursuant to paragraph (c) of subsection 1 of section 1 of chapter 541, Statutes of Nevada 2001.

(g) Recommend to the Legislature any appropriate legislation concerning persons with disabilities; and

~~##~~ (h) Coordinate and assist the efforts of public and private organizations that serve the needs of persons with disabilities, especially in the areas of education, employment, health, housing, welfare and recreation.

Sec. 8. NRS 426.205 is hereby amended to read as follows:

426.205 As used in NRS 426.205 to 426.345, inclusive, and sections 3 to 7, inclusive, of this act, unless the context otherwise requires, the words and terms defined in NRS 426.215, 426.218 and 426.225 have the meanings ascribed to them in those sections.

Sec. 9. NRS 426.255 is hereby amended to read as follows:

426.255 1. The ~~{Committee}~~ Subcommittee on Communication Services for Persons Who Are Deaf or Hard of Hearing and Persons With Speech Disabilities of the Nevada Commission on Services for Persons with Disabilities is hereby created . ~~{in the Office. The Committee}~~ The Subcommittee consists of 11 ~~{people}~~ persons appointed by the Director of the Department. The Director shall consider recommendations made by the Nevada Commission on Services for Persons with Disabilities and appoint to the ~~{Committee:}~~ Subcommittee:

(a) One member who is employed by the Department and who participates in the administration of the program of this State which provides services to persons with communications disabilities which affect their ability to communicate;

(b) One person who is a member of the Nevada Association of the Deaf;

(c) One member who is professionally qualified in the field of deafness;

(d) The Executive Director of the Nevada Telecommunications Association or, in the event of its dissolution, a member who represents the telecommunications industry;

(e) One member who is a consumer of telecommunications relay services;

(f) One member who is a consumer of Communication Access Realtime Translation or realtime captioning;

(g) One member who is a consumer of services provided by a person engaged in the practice of interpreting;

(h) One nonvoting member who is registered with the Office pursuant to NRS 656A.100 to engage in the practice of interpreting in a community setting and holds a certificate issued by the Registry of Interpreters for the Deaf, Inc., or its successor organization;

(i) One nonvoting member who is registered with the Office pursuant to NRS 656A.100 to engage in the practice of interpreting in an educational setting and has completed the Educational Interpreter Performance Assessment administered by the Boys Town National Research Hospital, or its successor organization, and received a rating of his level of proficiency in providing interpreting services at level 4 or 5;

(j) One nonvoting member who is registered with the Office pursuant to NRS 656A.400 to engage in the practice of realtime captioning; and

(k) One member who represents educators in this State and has knowledge concerning the provision of communication services to persons with communications disabilities in elementary, secondary and postsecondary schools and the laws concerning the provision of those services.

2. After the initial term, the term of each member is 3 years. A member may be reappointed.

3. If a vacancy occurs during the term of a member, the Director of the Department shall appoint a person similarly qualified to replace that member for the remainder of the unexpired term.

4. The ~~{Committee}~~ Subcommittee shall:

(a) At its first meeting and annually thereafter, elect a Chairman from among its voting members; and

(b) Meet at the call of the Director of the Department, *the Chairman of the Nevada Commission on Services for Persons with Disabilities*, the Chairman *of the Subcommittee* or a majority of its members as is necessary to carry out its responsibilities.

5. A majority of the voting members of the ~~{Committee}~~ Subcommittee constitutes a quorum for the transaction of business, and a majority of the voting members of a quorum present at any meeting is sufficient for any official action taken by the ~~{Committee}~~ Subcommittee.

6. Members of the ~~{Committee}~~ Subcommittee serve without compensation, except that each member is entitled, while engaged in the business of the ~~{Committee}~~ Subcommittee, to the per diem allowance and travel expenses provided for state officers and employees generally ~~{ }~~ *if funding is available for this purpose.*

7. A member of the ~~{Committee}~~ Subcommittee who is an officer or employee of this State or a political subdivision of this State must be relieved from his duties without loss of his regular compensation so that he may prepare for and attend meetings of the ~~{Committee}~~ Subcommittee and

perform any work necessary to carry out the duties of the ~~{Committee}~~ *Subcommittee* in the most timely manner practicable. A state agency or political subdivision of this State shall not require an officer or employee who is a member of the ~~{Committee}~~ *Subcommittee* to make up the time he is absent from work to carry out his duties as a member of the ~~{Committee}~~ *Subcommittee* or use annual vacation or compensatory time for the absence.

8. The ~~{Committee}~~ *Subcommittee* may:

(a) Make recommendations to the ~~{Director of the Department and the Office}~~ *Nevada Commission on Services for Persons with Disabilities* concerning the establishment and operation of programs for persons with communications disabilities which affect their ability to communicate;

(b) Recommend to the ~~{Director of the Department and the Office}~~ *Nevada Commission on Services for Persons with Disabilities* any proposed legislation concerning persons with communications disabilities which affect their ability to communicate; and

(c) Collect information concerning persons with communications disabilities which affect their ability to communicate.

9. The ~~{Committee}~~ *Subcommittee* shall make recommendations to the ~~{Office}~~ *Nevada Commission on Services for Persons with Disabilities* concerning the practice of interpreting and the practice of realtime captioning, including, without limitation, the adoption of regulations to carry out the provisions of chapter 656A of NRS.

10. As used in this section:

(a) "*Nevada Commission on Services for Persons with Disabilities*" means the *Nevada Commission on Services for Persons with Disabilities* created by section 4 of this act.

(b) "Practice of interpreting" has the meaning ascribed to it in NRS 656A.060.

~~{(b)}~~ (c) "Practice of realtime captioning" has the meaning ascribed to it in NRS 656A.062.

~~{(c)}~~ (d) "Telecommunications relay services" has the meaning ascribed to it in 47 C.F.R. 64.601.

Sec. 10. NRS 426.721 is hereby amended to read as follows:

426.721 As used in NRS 426.721 to 426.731, inclusive, and section 2 of this act, unless the context otherwise requires, the words and terms defined in NRS ~~{426.722}~~ 426.723 to 426.727, inclusive, and section 2 of this act have the meanings ascribed to them in those sections.

Sec. 11. NRS 426.729 is hereby amended to read as follows:

426.729 The Director of the Department of Health and Human Services, in consultation with the ~~{Advisory Committee,}~~ *Nevada Commission on Services for Persons with Disabilities* shall:

1. Determine the amount of state funding necessary each biennium to carry out NRS 426.728.

2. Ensure that the amount of funding determined to be necessary pursuant to subsection 1 is included in the budgetary request of the

appropriate department or agency for the biennium, and that the budgetary request includes funding for any increase in the number of cases handled by the state personal assistance programs.

3. Establish a program to govern the services provided to carry out NRS 426.728, within the limitations of any conditions upon the receipt of state or federal funding, including:

(a) Minimum standards for the provision of minimum essential personal assistance, including, to the extent authorized by state and federal law, the provision of services in accordance with NRS 629.091;

(b) Minimum qualifications and training requirements for providers of minimum essential personal assistance;

(c) Standards for the financial operation of providers of minimum essential personal assistance;

(d) The development of an individual service plan for the provision of minimum essential personal assistance to each recipient;

(e) Procedures to appeal the denial or modification of an individual service plan for the provision of minimum essential personal assistance and to resolve any disputes regarding the contents of such a plan;

(f) Continuous monitoring of the adequacy and effectiveness of the provision of minimum essential personal assistance to each recipient;

(g) Mandatory requirements and procedures for reporting the abuse, neglect or exploitation of a recipient;

(h) The receipt of meaningful input from recipients, including surveys of recipients, regarding the extent to which recipients are receiving the services described in their individual service plans and their satisfaction with those services; and

(i) Continuing procedures for soliciting public input regarding the development, implementation and review of the program.

4. Review and modify the program established pursuant to subsection 3 as appropriate to provide recipients with as much independence and control over the provision of minimum essential personal assistance as is feasible.

5. Submit to each regular session of the Legislature and make available to members of the public any recommendations for legislation to carry out NRS 426.728 and to carry out or improve the program established pursuant to subsection 3.

Sec. 12. NRS 426.731 is hereby amended to read as follows:

426.731 1. The ~~{Advisory Committee}~~ *Subcommittee* on Personal Assistance for Persons with Severe Functional Disabilities of the Nevada Commission on Services for Persons with Disabilities is hereby created. ~~{in the Department of Health and Human Services.}~~

2. The ~~{Governor}~~ Nevada Commission on Services for Persons with Disabilities shall:

(a) Solicit recommendations for the appointment of members to the ~~{Advisory Committee}~~ *Subcommittee* from organizations that are representative of a broad range of persons with disabilities and organizations

interested in the provision of personal services to persons with functional disabilities.

(b) Appoint to the ~~{Advisory Committee}~~ *Subcommittee* such members as ~~the~~ *the Nevada Commission on Services for Persons with Disabilities* deems appropriate to represent a broad range of persons with disabilities from diverse backgrounds, including, without limitation, one or more persons who are representative of:

(1) ~~{The Nevada Commission on Aging and seniors}~~ *Seniors* with disabilities.

(2) The statewide independent living council established in this State pursuant to 29 U.S.C. 796d.

(3) The state council on developmental disabilities established in this State pursuant to section 125 of the Developmental Disabilities Assistance and Bill of Rights Act of 2000.

(4) Centers for independent living established in this State.

(5) Providers of personal services to persons with disabilities, including providers who receive state funding for that purpose.

(6) Persons with disabilities who receive personal assistance services.

3. The majority of the members of the ~~{Advisory Committee}~~ *Subcommittee* must be persons with disabilities.

4. After the initial term, the term of each member is 2 years.

5. Members of the ~~{Advisory Committee}~~ *Subcommittee* serve without compensation. ~~{, except that each member is entitled, while engaged in the business of the Advisory Committee, to the per diem allowance and travel expenses provided for state employees generally.}~~

6. A majority of the members of the ~~{Advisory Committee}~~ *Subcommittee* constitutes a quorum for the transaction of business, and a majority of a quorum present at any meeting is sufficient for any official action taken by the ~~{Advisory Committee.}~~ *Subcommittee.*

7. The ~~{Advisory Committee}~~ *Subcommittee* shall:

(a) At its first meeting and annually thereafter, elect a Chairman from among its members.

(b) Meet at the call of the Director of the Department of Health and Human Services, *the Chairman of the Nevada Commission on Services for Persons with Disabilities*, the Chairman of the *Subcommittee* or a majority of its members quarterly or as is necessary ~~{, within the budget of the Advisory Committee, to provide the Director of the Department of Health and Human Services with appropriate assistance}~~ to carry out the provisions of NRS 426.728.

Sec. 13. NRS 426A.060 is hereby amended to read as follows:

426A.060 1. The ~~{Advisory Committee}~~ *Subcommittee* on Traumatic Brain Injuries ~~{}~~ *of the Nevada Commission on Services for Persons with Disabilities*, consisting of 11 members, is hereby created.

2. *The Nevada Commission on Services for Persons with Disabilities may make recommendations to the Director of the Department for the*

appointment of persons to the Subcommittee. The Director of the Department shall appoint to the ~~{Committee}~~ Subcommittee:

- (a) One member who is an employee of the Office.
- (b) One member who is an employee of the Division of Health Care Financing and Policy of the Department and participates in the administration of the state program providing Medicaid.
- (c) One member who is a licensed insurer in this State.
- (d) One member who represents the interests of educators in this State.
- (e) One member who is a person professionally qualified in the field of psychiatric mental health.
- (f) Two members who are employees of private providers of rehabilitative health care located in this State.
- (g) One member who represents persons who operate community-based programs for head injuries in this State.
- (h) One member who represents hospitals in this State.
- (i) Two members who represent the recipients of health care in this State.

3. After the initial appointments, each member of the ~~{Committee}~~ Subcommittee serves a term of 3 years.

4. The ~~{Committee}~~ Subcommittee shall elect one of its members to serve as Chairman.

5. Members of the ~~{Committee}~~ Subcommittee:

- (a) Serve without compensation; and
- (b) If provided for in the budget of the Department, while engaged in the business of the ~~{Committee}~~ Subcommittee, are entitled to receive the per diem allowance and travel expenses provided for state officers and employees generally.

6. The ~~{Committee}~~ Subcommittee may:

(a) Make recommendations to the ~~{Director of the Department and the Office}~~ Nevada Commission on Services for Persons with Disabilities relating to the establishment and operation of any program for persons with traumatic brain injuries.

(b) Make recommendations to the ~~{Director of the Department and the Office}~~ Nevada Commission on Services for Persons with Disabilities concerning proposed legislation relating to traumatic brain injuries.

(c) Collect information relating to traumatic brain injuries.

(d) Apply for grants.

(e) Accept and expend any money made available to the ~~{Committee}~~ Subcommittee by gift, grant, donation or bequest.

7. As used in this section:

(a) "Nevada Commission on Services for Persons with Disabilities" means the Nevada Commission on Services for Persons with Disabilities created by section 4 of this act.

(b) "Person professionally qualified in the field of psychiatric mental health" has the meaning ascribed to it in NRS 433.209.

~~{(b)}~~ (c) "Provider of health care" has the meaning ascribed to it in NRS 629.031.

Sec. 14. NRS 232.482 is hereby amended to read as follows:

232.482 1. There is hereby created in the Office an Advisory Committee consisting of nine members appointed by the ~~{Governor.}~~ *State Board of Health.*

2. When appointing a member to the Advisory Committee, consideration must be given to whether the members appointed to the Advisory Committee reflect the ethnic and geographical diversity of this State.

3. The term of each member of the Advisory Committee is 2 years. A member may be reappointed for an additional term of 2 years in the same manner as the original appointment. A vacancy occurring in the membership of the Advisory Committee must be filled in the same manner as the original appointment.

4. At its first meeting and annually thereafter, the Advisory Committee shall elect a Chairman from among its members.

Sec. 15. Chapter 433 of NRS is hereby amended by adding thereto the provisions set forth as sections 16 and 17 of this act.

Sec. 16. 1. The Commission shall appoint a subcommittee on the mental health of children to review the findings and recommendations of each mental health consortium submitted pursuant to NRS 433B.335 and to create a statewide plan for the provision of mental health services to children.

2. The members of the subcommittee appointed pursuant to this section serve at the pleasure of the Commission. The members serve without compensation, except that each member is entitled, while engaged in the business of the subcommittee, to the per diem allowance and travel expenses provided for state officers and employees generally if funding is available for this purpose.

Sec. 17. 1. The Commission may appoint a subcommittee or an advisory committee composed of members who have experience and knowledge of matters relating to persons with mental illness, mental retardation or co-occurring disorders and related conditions and who, to the extent practicable, represent the ethnic and geographic diversity of this State.

2. A subcommittee or advisory committee appointed pursuant to this section shall consider specific issues and advise the Commission on matters related to the duties of the Commission.

3. The members of a subcommittee or advisory committee appointed pursuant to this section serve at the pleasure of the Commission. The members serve without compensation, except that each member is entitled, while engaged in the business of the subcommittee or advisory committee, to the per diem allowance and travel expenses provided for state officers and employees generally if funding is available for this purpose.

Sec. 18. NRS 433.314 is hereby amended to read as follows:

433.314 The Commission shall:

1. Establish policies to ensure adequate development and administration of services for persons with mental illness, ~~for~~ mental retardation or co-occurring disorders and persons with related conditions, including services to prevent mental illness, ~~and~~ mental retardation and co-occurring disorders and related conditions, and services provided without admission to a facility or institution;

2. Set policies for the care and treatment of persons with mental illness, ~~for~~ mental retardation or co-occurring disorders and persons with related conditions provided by all state agencies;

3. Review the programs and finances of the Division; and

4. Report at the beginning of each year to the Governor and at the beginning of each odd-numbered year to the Legislature on the quality of the care and treatment provided for persons with mental illness, ~~for~~ mental retardation or co-occurring disorders and persons with related conditions in this State and on any progress made toward improving the quality of that care and treatment.

Sec. 19. NRS 433.316 is hereby amended to read as follows:

433.316 The Commission may:

1. Collect and disseminate information pertaining to mental health, ~~and~~ mental retardation and co-occurring disorders and related conditions.

2. Request legislation pertaining to mental health, ~~and~~ mental retardation and co-occurring disorders and related conditions.

3. Investigate complaints about the care of any person in a public facility for the treatment of persons with mental illness, ~~for~~ mental retardation or co-occurring disorders and persons with related conditions.

4. Accept, as authorized by the Legislature, gifts and grants of money and property.

5. Take appropriate steps to increase the availability of and to enhance the quality of the care and treatment of persons with mental illness, ~~for~~ mental retardation or co-occurring disorders and persons with related conditions provided through state agencies, hospitals and clinics.

6. Promote programs for the treatment of persons with mental illness, ~~for~~ mental retardation or co-occurring disorders and persons with related conditions and participate in and promote the development of facilities for training persons to provide services for persons with mental illness, ~~for~~ mental retardation or co-occurring disorders and persons with related conditions.

7. Create a plan to coordinate the services for the treatment of persons with mental illness, ~~for~~ mental retardation or co-occurring disorders and persons with related conditions provided in this State and to provide continuity in the care and treatment provided.

8. Establish and maintain an appropriate program which provides information to the general public concerning mental illness, ~~and~~ mental retardation and co-occurring disorders and related conditions and consider ways to involve the general public in the decisions concerning the policy on

mental illness ~~and~~ mental retardation and co-occurring disorders and related conditions.

9. Compile statistics on mental illness and study the cause, pathology and prevention of that illness.

10. Establish programs to prevent or postpone the commitment of residents of this State to facilities for the treatment of persons with mental illness ~~or~~ mental retardation or co-occurring disorders and persons with related conditions.

11. Evaluate the future needs of this State concerning the treatment of mental illness ~~and~~ mental retardation and co-occurring disorders and related conditions and develop ways to improve the treatment already provided.

12. Take any other action necessary to promote mental health in this State.

Sec. 20. NRS 433.324 is hereby amended to read as follows:

433.324 1. The Commission shall adopt regulations:

(a) For the care and treatment of persons with mental illness ~~or~~ mental retardation or co-occurring disorders and persons with related conditions by all state agencies and facilities, and their referral to private facilities;

(b) To ensure continuity in the care and treatment provided to persons with mental illness ~~or~~ mental retardation or co-occurring disorders and persons with related conditions in this State; and

(c) Necessary for the proper and efficient operation of the facilities of the Division.

2. The Commission may adopt regulations to promote programs relating to mental health ~~and~~ mental retardation and co-occurring disorders and related conditions.

Sec. 21. NRS 433.325 is hereby amended to read as follows:

433.325 The Commission or its designated agent may inspect any state facility providing services for persons with mental illness ~~or~~ mental retardation or co-occurring disorders and persons with related conditions to determine if the facility is in compliance with the provisions of this title and any regulations adopted pursuant to those provisions.

~~[Sec. 15.]~~ *Sec. 22. NRS 433B.335 is hereby amended to read as follows:*

433B.335 1. On or before July 1 of each year, each mental health consortium established pursuant to NRS 433B.333 shall prepare a recommended plan for the provision of mental health services to children with emotional disturbance in the jurisdiction of the consortium.

2. In preparing the recommended plan, each mental health consortium must be guided by the following principles:

(a) The system of mental health services set forth in the plan should be centered on children with emotional disturbance and their families, with the needs and strengths of those children and their families dictating the types and mix of services provided.

(b) The families of children with emotional disturbance, including, without limitation, foster parents, should be active participants in all aspects of planning, selecting and delivering mental health services at the local level.

(c) The system of mental health services should be community-based and flexible, with accountability and the focus of the services at the local level.

(d) The system of mental health services should provide timely access to a comprehensive array of cost-effective mental health services.

(e) Children and their families who are in need of mental health services should be identified as early as possible through screening, assessment processes, treatment and systems of support.

(f) Comprehensive mental health services should be made available in the least restrictive but clinically appropriate environment.

(g) The family of a child with an emotional disturbance should be eligible to receive mental health services from the system.

(h) Mental health services should be provided to children with emotional disturbance in a sensitive manner that is responsive to cultural and gender-based differences and the special needs of the children.

3. The plan prepared pursuant to this section must include:

(a) An assessment of the need for mental health services in the jurisdiction of the consortium;

(b) A description of the types of services to be offered to children with emotional disturbance based on the amount of money available to pay the costs of such mental health services within the jurisdiction of the consortium;

(c) Criteria for eligibility for those services;

(d) A description of the manner in which those services may be obtained by eligible children;

(e) The manner in which the costs for those services will be allocated;

(f) The mechanisms to manage the money provided for those services;

(g) Documentation of the number of children with emotional disturbance who are not currently being provided services, the costs to provide services to those children, the obstacles to providing services to those children and recommendations for removing those obstacles;

(h) Methods for obtaining additional money and services for children with emotional disturbance from private and public entities; and

(i) The manner in which family members of eligible children and other persons may be involved in the treatment of the children.

4. On or before July 15 of each year, each mental health consortium shall submit the recommended plan prepared pursuant to this section to the ~~{Department}~~ Commission. If the ~~{Department}~~ Commission disapproves the plan, the ~~{Department}~~ Commission shall submit the plan to the consortium for revision and resubmission to the ~~{Department}~~ Commission.

Sec. 23. NRS 439.528 is hereby amended to read as follows:

439.528 The Committee shall:

1. Study and review issues relating to persons with co-occurring disorders.

2. Develop a policy statement confirming the commitment of this State to treatment for persons with co-occurring disorders and the expectations of this State concerning such treatment.

3. Review and recommend strategies for improving the treatment provided to persons with co-occurring disorders, including, without limitation, reducing administrative barriers to such treatment and supporting the provision of coordinated and integrated services relating to mental health, substance abuse and criminal justice to persons with co-occurring disorders.

4. Develop recommendations concerning the licensing and certification of treatment programs for persons with co-occurring disorders, including, without limitation, the standards that should be required of such programs to increase their effectiveness.

5. Develop recommendations concerning the creation of incentives for the development of treatment programs for persons with co-occurring disorders.

6. Evaluate the utilization of existing resources in this State for the treatment of persons with co-occurring disorders and develop recommendations concerning innovative funding alternatives to promote and support mental health courts, the prevention of co-occurring disorders and the coordination of integrated services in the mental health, substance abuse and criminal justice systems.

7. Identify and recommend practices and procedures to improve the effectiveness and quality of care provided in both the public and private sector to persons with co-occurring disorders.

8. Examine and develop recommendations concerning training and technical assistance that are available through the Substance Abuse and Mental Health Services Administration of the United States Department of Health and Human Services and other entities to support the development and implementation of a comprehensive system of care for persons with co-occurring disorders.

9. Submit on or before January 31 of each odd-numbered year a report to the Commission on Mental Health and Developmental Services and the Director of the Legislative Counsel Bureau for distribution to the regular session of the Legislature. The report must include, without limitation, a summary of the work of the Committee and recommendations for any necessary legislation concerning issues relating to persons with co-occurring disorders.

~~{Sec. 16.}~~ Sec. 24. NRS 442.133 is hereby amended to read as follows:

442.133 1. The Advisory Board on Maternal and Child Health is hereby created.

2. The Advisory Board consists of:

(a) Nine members to be appointed by the ~~{Governor}~~ *State Board of Health* from a list of persons provided by the Administrator of the Health Division;

(b) One *nonvoting member who is a member of the Senate* appointed by the Legislative Commission; and

(c) One *nonvoting member who is a member of the Assembly* appointed by the Legislative Commission.

3. The members who are:

(a) Appointed by the ~~{Governor}~~ *State Board of Health* serve terms of 2 years.

(b) Legislators serve terms that begin on the third Monday in January of odd-numbered years and end the third Monday in January of the next odd-numbered year.

↪ Any member of the Advisory Board may be reappointed.

4. Except during a regular or special session of the Legislature, each Legislator who is a member of the Advisory Board is entitled to receive the compensation provided for a majority of the members of the Legislature during the first 60 days of the preceding regular session for each day or portion of a day during which he attends a meeting of the Advisory Board or is otherwise engaged in the work of the Advisory Board and the per diem allowance and travel expenses provided for state officers and employees generally. The salaries, per diem and travel expenses of the legislative members must be paid from the Legislative Fund. Each nonlegislative member of the Advisory Board serves without compensation but is entitled to receive the per diem allowance and travel expenses provided for state officers and employees generally. The per diem allowance and travel expenses must be paid from the Account for Maternal and Child Health Services.

~~{Sec. 17.}~~ *Sec. 25.* NRS 450B.151 is hereby amended to read as follows:

450B.151 1. The Committee on Emergency Medical Services, consisting of nine members appointed by the ~~{Governor}~~ *State Board of Health*, is hereby created.

2. Upon request of the ~~{Governor}~~ *State Board of Health*, employee associations that represent persons that provide emergency medical services, including, without limitation, physicians and nurses that provide emergency medical services, emergency medical technicians, ambulance attendants, firefighters, fire chiefs and employees of rural hospitals, shall submit to the ~~{Governor}~~ *State Board of Health* written nominations for appointments to the Committee.

3. After considering the nominations submitted pursuant to subsection 2, the ~~{Governor}~~ *State Board of Health* shall appoint to the Committee:

(a) One member who is a physician licensed pursuant to chapter 630 or 633 of NRS and who has experience providing emergency medical services;

(b) One member who is a registered nurse and who has experience providing emergency medical services;

(c) One member who is a volunteer firefighter;

(d) One member who is employed by a fire-fighting agency at which some of the firefighters are employed and some serve as volunteers;

(e) One member who is employed by an urban fire-fighting agency;

(f) One member who is employed by or serves as a volunteer with a medical facility that is located in a rural area and that provides emergency medical services;

(g) One member who is employed by an organization that provides emergency medical services in an air ambulance and whose duties are closely related to such emergency medical services;

(h) One member who is employed by a privately owned entity that provides emergency medical services; and

(i) One member who is employed by an operator of a service which is:

(1) Provided for the benefit of the employees of an industry who become sick or are injured at the industrial site; and

(2) Staffed by employees who are licensed attendants and perform emergency medical services primarily for the industry.

4. In addition to the members set forth in subsection 3, the following persons are ex officio members of the Committee:

(a) An employee of the Health Division, appointed by the Administrator of the Health Division, whose duties relate to administration and enforcement of the provisions of this chapter;

(b) The county health officer appointed pursuant to NRS 439.290 in each county whose population is 100,000 or more, or his designee; ~~and~~

(c) A physician who is a member of a committee which consists of directors of trauma centers in this State and who is nominated by that committee ~~;~~; and

(d) A representative of a committee or group which focuses on the provision of emergency medical services to children in this State and who is nominated by that committee or group.

5. The term of each member appointed by the ~~{Governor}~~ *State Board of Health* is 2 years. ~~, and such a~~ A member may not serve more than two consecutive terms ~~;~~ but may serve more than two terms if there is a break in service of not less than 2 years.

6. The ~~{Governor}~~ *State Board of Health* shall not appoint to the Committee two persons who are employed by or volunteer with the same organization, except the ~~{Governor}~~ *State Board of Health* may appoint a person who is employed by or volunteers with the same organization of which a member who serves ex officio is an employee.

7. Each member of the Committee shall appoint an alternate to serve in his place if he is temporarily unable to perform the duties required of him pursuant to NRS 450B.151 to 450B.154, inclusive.

8. A position on the Committee that becomes vacant before the end of the term of the member must be filled in the same manner ~~{prescribed by this section for the remainder of the term.}~~ as the original appointment.

~~[Sec. 18.]~~ *Sec. 26.* NRS 426.722, ~~[439.526, 439.527, 439.528,]~~ 457.300, 457.310, 457.320, 457.330, 457.340, 457.350, 457.360, 457.370, 457.380 and 457.390 are hereby repealed.

~~[Sec. 19.]~~ *Sec. 27.* 1. Notwithstanding the provisions of NRS 426.255, as amended by section 9 of this act, a member of the Committee on Communication Services for Persons Who Are Deaf or Hard of Hearing and Persons With Speech Disabilities who is serving on July 1, 2009, may continue to serve as a member of the Subcommittee on Communication Services for Persons Who Are Deaf or Hard of Hearing and Persons With Speech Disabilities created pursuant to that section until the expiration of his current term. If a position on the Subcommittee becomes vacant on or after July 1, 2009, the vacancy must be filled in the manner provided in NRS 426.255.

2. Notwithstanding the provisions of NRS 426.731, as amended by section 12 of this act, a member of the Advisory Committee on Personal Assistance for Persons with Severe Functional Disabilities who is serving on July 1, 2009, may continue to serve as a member of the Subcommittee on Personal Assistance for Persons with Severe Functional Disabilities created pursuant to that section until the expiration of his current term. If a position on the Subcommittee becomes vacant on or after July 1, 2009, the vacancy must be filled in the manner provided in NRS 426.731.

3. Notwithstanding the amendatory provisions of this act, a member of the:

(a) Advisory Committee in the Office of Minority Health of the Department of Health and Human Services created pursuant to NRS 232.482 as amended by section 14 of this act;

(b) Advisory Board on Maternal and Child Health created pursuant to NRS 442.133, as amended by section ~~16~~ 24 of this act; or

(c) Committee on Emergency Medical Services created pursuant to NRS 450B.151, as amended by section ~~17~~ 25 of this act,

↪ who is serving on July 1, 2009, may continue to serve until the expiration of his term. If the position of a member becomes vacant on or after July 1, 2009, the vacancy must be filled in the manner provided by law.

~~[Sec. 20.]~~ *Sec. 28.* The Legislative Counsel shall, in preparing:

1. The reprint and supplement to the Nevada Revised Statutes with respect to any section which is not amended by this act or adopted or amended by another act, appropriately change any references to an officer, agency or other entity whose name is changed or whose duties are transferred pursuant to the provisions of this act to refer to the appropriate officer, agency or other entity. If any internal reference is made to a section repealed by this act, the Legislative Counsel shall delete the reference and replace it by reference to the superseding section, if any.

2. Supplements to the Nevada Administrative Code, appropriately change any references to an officer, agency or other entity whose name is

changed or whose duties are transferred pursuant to the provisions of this act to refer to the appropriate officer, agency or other entity.

~~[Sec. 21.]~~ *Sec. 29.* This act becomes effective on July 1, 2009.

LEADLINES OF REPEALED SECTIONS

426.722 "Advisory Committee" defined.

~~f 439.526 "Co-occurring disorders" defined.~~

~~439.527 Creation; appointment and qualifications of members; election of Chairman and Vice Chairman; terms of members; vacancies; compensation of members; members holding public office or employed by governmental entity; meetings; quorum.~~

~~439.528 Duties.~~

457.300 "Task Force" defined.

457.310 Creation; membership; vacancies; annual report.

457.320 Chairman; meetings; quorum; terms and compensation of members.

457.330 General duties.

457.340 Administrative support by Director of Department of Health and Human Services.

457.350 "Task Force" defined.

457.360 Creation; membership; vacancies; annual report.

457.370 Chairman; meetings; quorum; terms and compensation of members.

457.380 General duties.

457.390 Administrative support by Director of Department of Health and Human Services.

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 amends provisions related to the Commission on Mental Health and Developmental Services to include co-occurring disorders in the scope of powers and duties of the Commission.

Requires the Commission to create a subcommittee on the mental health of children.

Restores the Committee on Co-Occurring Disorders and amends the membership of the Committee on Emergency Medical Services to include an ex-officio member who is a representative of a committee or group which focuses on the provision of emergency medical services to children.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 82.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 109.

"SUMMARY—Makes various changes relating to technological crime, ~~f~~ and the seizure of certain funds associated with prepaid or stored value cards. (BDR 14-266)"

"AN ACT relating to crimes; revising the provisions relating to the disclosure of certain electronic information by certain providers of certain technological services during investigations involving technological crimes; revising the provisions relating to the forfeiture of property and proceeds attributable to technological crimes; ~~making technical corrections to provisions relating to disclosure of financial transactions; authorizing suspension or revocation of a license to operate a financial institution in certain circumstances;~~ *establishing procedures for the freezing and seizing of certain funds associated with prepaid or stored value cards;* making various other changes relating to technological crimes; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Sections ~~1 and 7~~ 2 and 14 of this bill repeal the existing provisions of Nevada law pertaining to the disclosure of certain information by a provider of Internet service and replace those existing provisions with new provisions authorizing the disclosure of certain information under certain circumstances by a provider of electronic communication service or a remote computing service which conform with, and which are closely patterned after, the requirements of applicable federal law. (NRS 193.340, 18 U.S.C. 2703)

~~Section 3~~ Sections 3-10 of this bill *establish procedures to allow law enforcement to freeze and seize funds associated with prepaid or stored value cards.*

Section 6 of this bill allows a peace officer to freeze for 10 business days the funds associated with a prepaid or stored value card in certain circumstances and requires the peace officer to provide notice of the freeze to the financial institution identified as the issuer of the card.

Section 7 of this bill allows a peace officer to seize the funds associated with a prepaid or stored value card if the financial institution identified as the issuer of the card is not located in this country and the peace officer has probable cause to believe a freeze will not be honored by the financial institution.

Section 8 of this bill provides procedures for the issuance of warrants to seize funds associated with prepaid or stored value cards.

Section 9 of this bill provides a procedure for a person aggrieved by the seizure of the funds associated with a prepaid or stored value card pursuant to a warrant to file a motion for the return of the funds and the suppression of the evidence obtained pursuant to the warrant.

Section 10 of this bill allows the Attorney General or a state or local law enforcement agency to enter into a contract to carry out the provisions of this bill concerning the freezing and seizing of funds.

Section 11 of this bill revises the provisions relating to the forfeiture of property and proceeds attributable to any felony crime to include, specifically, reference to a "prepaid or stored value card" and funds associated with a prepaid or stored value card as property that is subject to forfeiture. (NRS 179.1162)

Section 12 of this bill revises the provisions relating to the forfeiture of property and proceeds attributable to technological crimes to include, specifically, reference to a "prepaid or stored value card" and funds associated with a prepaid or stored value card as property that is subject to forfeiture. (NRS 179.1215)

Section ~~11~~ 13 of this bill makes a technical correction to include a necessary reference to the provisions relating to forfeiture of property and proceeds attributable to technological crimes. (NRS 179.1211-179.1235)

~~f Section 5 of this bill makes a technical correction to a provision relating to disclosure of certain financial information to reflect that the provision applies to all financial institutions, not merely banks. (NRS 239A.150)~~

~~Section 6 of this bill authorizes the Commissioner of Financial Institutions to suspend or revoke a license to operate a financial institution for failure to comply with a request for certain financial information made by a district attorney, sheriff or police department pursuant to NRS 239A.150. (NRS 657.190)~~

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

Delete existing sections 1 through 8 of this bill and replace with the following new sections 1 through 15:

Section 1. Chapter 179 of NRS is hereby amended by adding thereto the provisions set forth as sections 1 to 10, inclusive, of this act.

Sec. 2. 1. In investigating criminal activity that involves or may involve a technological crime, a governmental entity may require the disclosure by a provider of electronic communication service of the contents of a wire or electronic communication that has been in electronic storage in an electronic communications system:

(a) For 180 days or less, only by a search warrant issued pursuant to NRS 179.015 to 179.115, inclusive.

(b) For more than 180 days, by any means available pursuant to subsection 2.

2. A governmental entity may require a provider of remote computing service to disclose the contents of any wire or electronic communication to which this subsection applies:

(a) Without prior notice to the subscriber or customer from the governmental entity by obtaining a search warrant pursuant to NRS 179.015 to 179.115, inclusive; or

(b) With prior notice to the subscriber or customer from the governmental entity:

(1) By serving a subpoena; or

(2) By obtaining a court order for such disclosure pursuant to subsection 7, except that delayed notice may be given pursuant to subsection 11.

3. Subsection 2 applies with respect to any wire or electronic communication that is held or maintained on that remote computing service:

(a) On behalf of, and received by means of electronic transmission from, or created by means of computer processing of communications received by means of electronic transmission from, a subscriber or customer of such remote computing service; and

(b) Solely for the purpose of providing storage or computer processing services to such subscriber or customer, if such remote computing service is not authorized to access the contents of any such communications for purposes of providing any services other than storage or computer processing.

4. A governmental entity may require a provider of electronic communication service or remote computing service to disclose a record or other information pertaining to a subscriber to or customer of such service, not including the contents of communications, only when the governmental entity:

(a) Obtains a search warrant pursuant to NRS 179.015 to 179.115, inclusive;

(b) Obtains a court order for such disclosure pursuant to subsection 7;

(c) Has the consent of the subscriber or customer to such disclosure; or

(d) Seeks information pursuant to subsection 5.

5. A provider of electronic communication service or remote computing service shall disclose to a governmental entity the:

(a) Name;

(b) Address;

(c) Local and long distance telephone connection records, or records of session times and durations;

(d) Length of service, including start date, and types of service utilized;

(e) Telephone or instrument number or other subscriber number or identity, including any temporarily assigned network address; and

(f) Means and source of payment for such service, including any credit card or bank account number.

↪ of a subscriber to or customer of such service when the governmental entity obtains a subpoena or uses any means available pursuant to subsection 4.

6. A governmental entity receiving records or information pursuant to subsection 4 or 5 is not required to provide notice to a subscriber or customer.

7. A court order for disclosure pursuant to subsection 2, 4 or 5 may be issued by any court of competent jurisdiction only if the governmental entity offers specific and articulable facts showing that there are reasonable grounds to believe that the contents of a wire or electronic communication, or the records or other information sought, are relevant and material to an ongoing criminal investigation that involves or may involve a technological crime. A court issuing an order pursuant to this subsection, on a motion made promptly by the provider of wire or electronic communication service or remote computing service, may quash or modify such order if the

information or records requested are unusually voluminous in nature or compliance with such order otherwise would cause an undue burden on the provider of wire or electronic communication service or remote computing service.

8. If a person who has been issued a subpoena pursuant to this section:

(a) Charges a fee for providing the information, the fee must not exceed the actual costs for providing the information.

(b) Refuses to produce any information that the subpoena requires, the person who issued the subpoena may apply to the district court for the judicial district in which the investigation is being carried out for the enforcement of the subpoena in the manner provided by law for the enforcement of a subpoena in a civil action.

9. A provider of wire or electronic communication service or remote computing service, upon the request of a governmental entity, shall take all necessary steps to preserve records and other evidence in its possession pending the issuance of a court order or other process. Such records and other evidence must be retained for a period of 90 days, which may be extended for an additional 90-day period upon request by the governmental entity.

10. Notwithstanding the provisions of NRS 179.015 to 179.115, inclusive, the presence of a peace officer is not required for service or execution of a search warrant requiring disclosure by a provider of electronic communication service or remote computing service of the contents of communications or records or other information pertaining to a subscriber to or customer of such service.

11. The notice to a subscriber or customer required by this section may be delayed for a period not to exceed 90 days under any of the following circumstances:

(a) If the applicant for a search warrant or court order requests a delay of notification and the court finds that delay is necessary to protect the safety of any person or to prevent flight from prosecution, tampering with evidence, intimidation of witnesses or jeopardizing an investigation.

(b) If the investigator or prosecuting attorney proceeding by subpoena executes a written certification that there is reason to believe that notice to the subscriber or party may result in danger to the safety of any person, flight from prosecution, tampering with evidence, intimidation of witnesses or jeopardizing an investigation. A true copy of the certification must be retained with the subpoena.

➔ If further delay of notification is necessary, an extension not to exceed 90 days may be obtained by application to the court.

12. No cause of action may lie in any court against any provider of wire or electronic communication service or remote computing service, its officers, employees, agents or other specified persons for providing information, facilities or assistance in accordance with the terms of a court order, search warrant, subpoena or other process pursuant to this section.

13. As used in this section:

(a) The terms "contents," "electronic communication," "electronic communication service," "electronic communications system," "electronic storage," "oral communication" and "wire communication" have the meanings ascribed to them in 18 U.S.C. 2510.

(b) "Governmental entity" includes the following law enforcement officials, and any authorized representative thereof:

(1) The Attorney General;

(2) A district attorney;

(3) A sheriff in this State;

(4) Any organized police department of any municipality in this State;

(5) Any school police unit of any school district in this State; and

(6) Any department of this State engaged in the enforcement of any criminal law of this State.

(c) "Remote computing service" has the meaning ascribed to it in 18 U.S.C. 2711.

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

Sec. 4. "Prepaid or stored value card" means any instrument or device used to access funds or monetary value represented in digital electronic format, whether or not specially encrypted, and stored or capable of storage on electronic media in such a way as to be retrievable and transferable electronically.

Sec. 5. "Proceeds" has the meaning ascribed to it in NRS 179.1161.

Sec. 6. 1. If a peace officer:

(a) Has detained a person pursuant to NRS 171.123, has arrested a person pursuant to any statutory provision authorizing or requiring the arrest of a person or is investigating a crime for which a suspect:

(1) Has not been identified; or

(2) Has been identified but was not reasonably believed by the peace officer to possess or control a prepaid or stored value card before the peace officer lawfully obtained possession of a prepaid or stored value card;

(b) Has lawfully obtained possession of a prepaid or stored value card; and

(c) Has probable cause to believe that the prepaid or stored value card represents the proceeds of a crime or has been used, is being used or is intended for use in the commission of a crime,

↳ the peace officer may use an electronic device, a necessary electronic communications network or any other reasonable means to determine the name, personal information and the amount of funds associated with the prepaid or stored value card and freeze the funds associated with the prepaid or stored value card, or any portion thereof, for a period of not more than 10 business days.

2. Upon freezing any funds pursuant to this section, the peace officer shall give notice, or cause notice to be given, to any financial institution identified as the issuer of the prepaid or stored value card. Except as otherwise provided in this subsection, such notice must be in electronic form and must include, without limitation, the amount of funds frozen, the duration of the freeze and sufficient contact information to allow the holder of the funds to request the lifting of the freeze. If notice in electronic form cannot be reasonably effectuated, the peace officer shall make a reasonable effort under the circumstances to give the notice required by this subsection or cause such notice to be given.

Sec. 7. 1. If a peace officer has probable cause to believe the financial institution identified as the issuer of the prepaid or stored value card is located outside the United States and will not honor a freeze imposed pursuant to section 6 of this act, the peace officer may use an electronic device, a necessary communications network or any other reasonable means to seize the funds associated with the prepaid or stored value card, or any portion thereof.

2. Upon seizing any funds pursuant to this section, the peace officer shall give notice, or cause notice to be given, to the financial institution identified as the issuer of the prepaid or stored value card. Except as otherwise provided in this subsection, such notice must be in electronic form and must include, without limitation, the amount of funds seized, sufficient information to allow the financial institution to contact the peace officer or his law enforcement agency and a statement that the seizure is subject to the provisions of NRS 179.1156 to 179.121, inclusive, or 179.1211 to 179.1235, inclusive. If notice in electronic form cannot be reasonably effectuated, the peace officer shall make a reasonable effort under the circumstances to give the notice required by this subsection or cause such notice to be given.

3. A person aggrieved by the seizure of any funds pursuant to this section may move the court having jurisdiction where the peace officer who seized the funds is headquartered for the return of the seized funds and to suppress the use as evidence of the seized funds and any identifying information obtained in connection with the seizure on the ground that there was not probable cause for believing that the funds represent the proceeds of a crime or had been used, are being used or were intended for use in the commission of a crime.

4. If the court hearing a motion filed pursuant to subsection 3 finds that there was not probable cause for believing that the funds represent the proceeds of a crime or had been used, are being used or were intended for use in the commission of a crime, the court shall restore the funds, unless the funds are otherwise subject to lawful detention, and the funds and any identifying information obtained in connection with the seizure are not admissible evidence at any trial or hearing.

Sec. 8. 1. A magistrate of the State of Nevada may issue a warrant to seize the funds associated with a prepaid or stored value card, or any portion

thereof, if the magistrate finds that there is probable cause to believe that the funds to be seized:

(a) Were stolen or embezzled in violation of the laws of the State of Nevada, or of any other state or the United States;

(b) Were designed or intended for use, or are being or had been used, as the means of committing a criminal offense; or

(c) Constitute evidence which tends to show that a criminal offense has been committed or that a particular person committed a criminal offense.

2. Except as otherwise provided in subsection 3, the warrant described in this section may issue only on affidavit or affidavits sworn to before the magistrate and establishing the grounds for issuing the warrant.

3. In lieu of the affidavit required by subsection 2, the magistrate may take an oral statement given under oath, which must be recorded in the presence of the magistrate or in his immediate vicinity by a certified court reporter or by electronic means, transcribed, certified by the reporter if he recorded it and certified by the magistrate. The statement must be filed with the clerk of the court.

4. Upon a showing of good cause, the magistrate may order an affidavit or a recording of an oral statement given pursuant to this section to be sealed. Upon a showing of good cause, a court may cause the affidavit or recording to be unsealed.

5. A warrant issued pursuant to this section must be directed to a peace officer who is able to execute the warrant through the electronic seizure of the funds. The warrant must command the peace officer to seize the funds associated with the prepaid or stored value card, or any portion thereof, and:

(a) State the grounds or probable cause for its issuance and the names of the persons whose affidavits have been taken in support thereof; or

(b) Incorporate by reference the affidavit or oral statement upon which it is based.

6. A warrant issued pursuant to this section must designate the magistrate to whom it is to be returned.

7. A warrant issued pursuant to this section may be executed and returned only within 10 days of its date.

8. The peace officer executing a warrant issued pursuant to this section shall give notice, or cause notice to be given, to any financial institution identified as the issuer of the prepaid or stored value card. Except as otherwise provided in this subsection, such notice must be in electronic form and must include, without limitation, the alleged crime associated with the seizure, the amount of funds seized, the manner in which the financial institution may obtain a copy of the warrant and the phone number and address of the clerk of the court having jurisdiction where the warrant was issued. If notice in electronic form cannot be reasonably effectuated, the peace officer shall make a reasonable effort under the circumstances to give the notice required by this subsection or cause such notice to be given.

9. The return must be made promptly and be accompanied by any physical evidence of the seizure.

10. The magistrate who has issued a warrant pursuant to this section shall attach to the warrant a copy of the return, any physical evidence of the seizure and any other papers in connection therewith and shall file them with the clerk of the court having jurisdiction where the warrant was issued.

11. Any funds seized to this section must be maintained in an escrow account, or other similar account, in a national bank that is chartered and regulated by the Office of the Comptroller of the Currency of the United States Department of the Treasury. The funds must be maintained pursuant to procedures that ensure appropriate accounting and auditing.

Sec. 9. 1. A person aggrieved by the seizure of funds pursuant to section 8 of this act may move the court having jurisdiction where the warrant was issued for the return of the seized funds and to suppress the use as evidence of the seized funds and any identifying information obtained in connection with the seizure on the grounds that:

(a) The funds were illegally seized without a warrant;

(b) The warrant is insufficient on its face;

(c) There was not probable cause for believing the existence of the grounds on which the warrant was issued; or

(d) The warrant was illegally executed.

↪ The judge shall receive evidence on any issue of fact necessary to the decision of the motion.

2. If a motion filed pursuant to this section is granted, the funds must be restored, unless otherwise subject to lawful detention, and the funds and any identifying information obtained in connection with the seizure is not admissible evidence at any hearing or trial.

3. Any motion to suppress evidence may also be made in the court where the trial is to take place. The motion must be made before trial or hearing, unless opportunity to file the motion did not exist or the defendant was not aware of the grounds for the motion, but the court in its discretion may entertain the motion at the trial or hearing.

Sec. 10. 1. The Attorney General, his designee or any state or local law enforcement agency in this State may enter into a contract with any person to assist in carrying out the provisions of sections 3 to 10, inclusive, of this act.

2. Before entering into a contract pursuant to subsection 1, the Attorney General, his designee or a state or local law enforcement agency shall consider the following factors:

(a) The functional benefits to all law enforcement agencies in this State of maintaining either a single database or a series of interlinked databases relating to possible criminal use of prepaid or stored value cards.

(b) The overall costs of establishing and maintaining such a database or databases.

(c) Any other factors that the Attorney General, his designee or the state or local law enforcement agency believe to be relevant.

3. Any contract entered into pursuant to this section:

(a) May be a sole source contract, not subject to the rules and requirements of open competitive bidding, if the period of the contract does not exceed 5 years;

(b) Must ensure that the freeze or seizure of funds pursuant to sections 3 to 10, inclusive, of this act does not deprive the financial institution subject to the freeze or seizure of interchange income; and

(c) Must indemnify and hold harmless any person who enters into a contract pursuant to this section, and any officers, employees or agents of that person, for claims for actions taken:

(1) At the direction of a law enforcement agency in this State and within the scope of the contract and sections 3 to 10, inclusive, of this act; and

(2) Pursuant to any warrant issued pursuant to section 8 of this act.

Sec. 11. NRS 179.1162 is hereby amended to read as follows:

179.1162 "Property" includes any:

1. Real property or interest in real property.
2. Fixture or improvement to real property.
3. Personal property, whether tangible or intangible, or interest in personal property.
4. Conveyance, including any aircraft, vehicle or vessel.
5. Money, security or negotiable instrument.
6. Proceeds.

7. Prepaid or stored value card and funds associated with a prepaid or stored value card. As used in this subsection, "prepaid or stored value card" has the meaning ascribed to it in section 4 of this act.

Sec. 12. NRS 179.1215 is hereby amended to read as follows:

179.1215 "Property" includes, without limitation, any:

1. Real property or interest in real property.
2. Fixture or improvement to real property.
3. Personal property, whether tangible or intangible, or interest in personal property.
4. Conveyance, including, without limitation, any aircraft, vehicle or vessel.
5. Money, security or negotiable instrument.
6. Proceeds.

7. Prepaid or stored value card and funds associated with a prepaid or stored value card. As used in this subsection, "prepaid or stored value card" has the meaning ascribed to it in section 4 of this act.

Sec. 13. NRS 200.760 is hereby amended to read as follows:

200.760 All assets derived from or relating to any violation of NRS 200.366, 200.710 to 200.730, inclusive, or 201.230 are subject to forfeiture. A proceeding for their forfeiture may be brought pursuant to NRS 179.1156 to 179.119, inclusive, ~~or~~, or 179.1211 to 179.1235, inclusive.

Sec. 14. NRS 193.340 is hereby repealed.

Sec. 15. This act becomes effective on July 1, 2009.

TEXT OF REPEALED SECTION

193.340 Required disclosure of certain information by provider of Internet service; penalty; issuance and enforcement of administrative subpoena; fee for information.

1. A provider of Internet service who violates the provisions of 18 U.S.C. 2703 is guilty of a misdemeanor and shall be punished by a fine of not less than \$50 or more than \$500 for each violation.

2. In investigating criminal activity that involves or may involve the use of a computer, the Attorney General, a district attorney, the sheriff of any county in this State, the head of any organized police department of any municipality in this State, the head of any department of this State engaged in the enforcement of any criminal law of this State and any sheriff or chief of police of a municipality may, if there is reasonable cause to believe that an individual subscriber or customer of a provider of Internet service has committed an offense through the use of the services of the provider of Internet service, issue a subpoena to carry out the procedure set forth in 18 U.S.C. 2703 to compel the provider of Internet service to provide information concerning the individual subscriber or customer that the provider of Internet service is required to disclose pursuant to 18 U.S.C. 2703.

3. If a person who has been issued a subpoena pursuant to subsection 2 charges a fee for providing the information, the fee must not exceed the actual cost for providing the information.

4. If a person who has been issued a subpoena pursuant to subsection 2 refuses to produce any information that the subpoena requires, the person who issued the subpoena may apply to the district court for the judicial district in which the investigation is being carried out for the enforcement of the subpoena in the manner provided by law for the enforcement of a subpoena in a civil action.

5. As used in this section, "provider of Internet service" has the meaning ascribed to it in NRS 205.4758, but does not include a public library when it is engaged in providing access to the Internet.

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. The amendment addresses the criminal use of prepaid and stored-value cards, including the powers of peace officers and the courts to freeze and seize funds associated with a card that is believed to have been used in the commission of a crime.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 110.

Bill read second time.

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

Amendment No. 385.

"SUMMARY—Authorizes the State Quarantine Officer to adopt regulations specifying a schedule of administrative fines for certain violations relating to noxious weeds. (BDR 49-500)"

"AN ACT relating to noxious weeds; authorizing the State Quarantine Officer to adopt regulations specifying a schedule of administrative fines for certain violations relating to noxious weeds; authorizing the State Quarantine Officer to require a violator to take certain corrective actions; authorizing a weed control officer to impose administrative fines under certain circumstances; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law requires the State Quarantine Officer to provide for the control and eradication of noxious weeds in this State. (NRS 555.130-555.201) Section 1 of this bill authorizes the State Quarantine Officer to adopt regulations specifying a schedule of administrative fines for the failure to control and eradicate noxious weeds. Section 1 also authorizes the State Quarantine Officer to take certain actions or to order a violator to take certain actions if the noxious weeds are not controlled or eradicated. Further, section 1 requires the violator to pay for the cost of any action so ordered. Section 2 of this bill provides for the use of the money collected from administrative fines. Section 3 of this bill clarifies that the misdemeanor provisions set forth in NRS 555.201 are in addition to any administrative fine imposed by the State Quarantine Officer. Section 3 also authorizes the State Quarantine Officer to recover the costs of prosecuting a person for such a misdemeanor. Section 4 of this bill provides that if a landowner fails to carry out a plan of weed control in compliance with the regulations of the weed control district, the weed control officer may impose an administrative fine. (NRS 555.210) Section 5 of this bill clarifies that the misdemeanor provisions set forth in NRS 555.220 are in addition to any administrative fine imposed by the weed control officer. Section 5 also authorizes the weed control officer to recover the costs of prosecuting a person for such a misdemeanor. (NRS 555.220)

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

Section 1. Chapter 555 of NRS is hereby amended by adding thereto a new section to read as follows:

1. *The State Quarantine Officer may adopt regulations specifying a schedule of administrative fines which may be imposed, upon notice and a hearing, for each violation of a provision of this section and NRS 555.130 to 555.220, inclusive, or any regulation adopted pursuant thereto. The maximum administrative fine that may be imposed by the State Quarantine Officer for each violation must not exceed \$1,000.*

2. If an administrative fine is imposed against a person pursuant to subsection 1 and the noxious weeds for which the person received the administrative fine are not cut, eradicated or destroyed, the State Quarantine Officer may cause the noxious weeds to be cut, eradicated or destroyed in accordance with NRS 555.160 to 555.200, inclusive.

3. The State Quarantine Officer may:

(a) In addition to imposing an administrative fine pursuant to subsection 1 or taking any action pursuant to subsection 2, issue an order requiring a violator to take appropriate action to correct the violation. The violator shall pay the cost of any appropriate action so ordered.

(b) Request the district attorney of the appropriate county to investigate or file a criminal complaint against any person who the State Quarantine Officer suspects may have committed flagrant or repeated violations of any provision of this section and NRS 555.130 to 555.220, inclusive.

4. In addition to any cost paid pursuant to paragraph (a) of subsection 3, if an administrative fine is imposed pursuant to this section, the costs of the proceeding, including ~~of, without limitation,~~ investigative costs and attorney's fees, may be recovered by the State Quarantine Officer.

Sec. 2. NRS 555.140 is hereby amended to read as follows:

555.140 1. The State Quarantine Officer shall carry out and enforce the provisions of NRS 555.130 to 555.220, inclusive ~~of~~, and section 1 of this act.

2. To secure information ~~to~~ to carry out more effectively the provisions of NRS 555.130 to 555.220, inclusive, and section 1 of this act, the State Quarantine Officer may conduct reasonably limited trials of various methods of controlling or eradicating noxious or potentially noxious weeds under practical Nevada conditions.

3. The State Quarantine Officer may provide supervision and technical advice in connection with any project approved by him for the control or eradication of any noxious weed or weeds in this State.

4. ~~All funds~~ Except as otherwise provided in subsection 5, all money appropriated for, or received incident to, the control or eradication of any noxious weeds, including, without limitation, any money collected pursuant to subsection 6, must be available for carrying out the provisions of NRS 555.130 to 555.220, inclusive ~~of~~, and section 1 of this act.

5. Except as otherwise provided in subsection 6, all administrative fines collected by the State Quarantine Officer pursuant to section 1 of this act must be deposited with the State Treasurer for credit to the State General Fund.

6. The State Quarantine Officer may delegate to a hearing officer or panel the authority of the State Quarantine Officer to impose and collect administrative fines pursuant to section 1 of this act and use the money collected from such fines in accordance with subsection 4.

Sec. 3. NRS 555.201 is hereby amended to read as follows:

555.201 ~~[Any]~~ *In addition to any administrative fine imposed pursuant to section 1 of this act, any person violating any of the provisions of NRS 555.130 to 555.200, inclusive, and section 1 of this act or failing, refusing or neglecting to perform or observe any conditions or regulations prescribed by the State Quarantine Officer, in accordance with the provisions of NRS 555.130 to 555.200, inclusive, and section 1 of this act is guilty of a misdemeanor. The State Quarantine Officer may recover the costs of the proceeding, including investigative costs and attorney's fees, against a person convicted of a misdemeanor pursuant to this section.*

Sec. 4. NRS 555.210 is hereby amended to read as follows:

555.210 1. *If any landowner fails to carry out a plan of weed control for his land in compliance with the regulations of the district, the weed control officer may :*

(a) For a first violation, impose an administrative fine of not more than \$1,000, as determined by the regulations of the district.

(b) For a second or subsequent violation, enter upon the land affected, perform any work necessary to carry out the plan, and charge such work against the landowner. Any such charge, until paid, is a lien against the land affected coequal with a lien for unpaid general taxes, and may be enforced in the same manner.

2. Except as otherwise provided in subsection 3, all administrative fines collected by the weed control officer pursuant to this section must be deposited with the treasurer of the county in which the administrative fine is imposed for credit to the general fund of the county.

3. The weed control officer may delegate to a hearing officer or panel the authority of the weed control officer to impose and collect administrative fines pursuant to subsection 1 and use the money collected from such fines to carry out the provisions of NRS 555.202 to 555.220, inclusive, within the weed control district.

Sec. 5. NRS 555.220 is hereby amended to read as follows:

555.220 ~~[Any]~~ *In addition to any administrative fine imposed pursuant to NRS 555.210, any person violating any of the provisions of NRS 555.202 to 555.210, inclusive, or failing, refusing or neglecting to perform or observe any conditions or regulations prescribed by the State Quarantine Officer, in accordance with the provisions of NRS 555.202 to 555.210, inclusive, is guilty of a misdemeanor. A weed control officer may, on behalf of the weed control district for which he is the weed control officer and in which the violation occurred, recover the costs of the proceeding, including investigative costs and attorney's fees, against a person convicted of a misdemeanor pursuant to this section.*

Senator Rhoads moved the adoption of the amendment.

Remarks by Senator Rhoads.

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

Thank you, Mr. President. This amendment adds language to the bill to extend the authority given to the State Quarantine Officer concerning imposing administrative fines for certain

violations related to noxious weeds to the weed control officer of the weed control districts. The amendment also allows the State Quarantine Officer or a weed control officer to recover costs of prosecuting a person for certain violations related to noxious weeds.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 177.

Bill read second time.

The following amendment was proposed by the Committee on Taxation:

Amendment No. 411.

"SUMMARY—Requires the Department of Taxation to create on the Internet a searchable database of certain tax rates in this State. (BDR 32-929)"

"AN ACT relating to taxation; requiring the Department of Taxation to create and make publicly available on an Internet website a searchable database of the rates of ~~fall~~ certain taxes levied by this State or a local government; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

This bill requires the Department of Taxation to create and make publicly available on an Internet website established and maintained by the Department a searchable database of the rates of ~~fall~~ certain taxes levied by this State or a local government. The website must provide a user with the rate of each such state and local tax which may be applicable to the user and the combined rate of all such taxes. For the purposes of this bill, "local government" means every political subdivision or other entity which has the right to levy or receive money from ad valorem taxes or other taxes, including, without limitation, counties, cities, towns, school districts and certain other districts.

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

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

1. *The Department shall create and make publicly available on an Internet website established and maintained by the Department a searchable database of the rates of all taxes levied by ~~this~~ :*

(a) This State pursuant to this title which are administered by the Department; or ~~a~~

(b) A local government.

2. ~~*The*~~ *To the extent of available money and resources, the database must be accessible by entering a zip code or street address . ~~for by clicking on a map of this State that allows a user to access the tax rates that may be applicable within the jurisdiction of a local government selected by the user.~~*

3. *The database must provide a user with:*

(a) The rate of each such state and local tax which may be applicable to a taxpayer who resides ~~within the jurisdiction of the local government~~

~~selected by the user on the map or~~ within the zip code or at the street address entered by the user on the website; and

(b) The combined rate of all those taxes.

4. ~~The~~ To the extent of available money and resources, the website ~~must~~ should be designed to provide ~~for~~:

(a) A user with access to tax-rate calculators that allow the user to calculate the amount of taxes that he may be liable to pay, including, without limitation, property taxes, sales and use taxes and business taxes, based on the tax rates provided to the user pursuant to subsection 3. ~~4~~; and

(b) A map search function which allows a user, by clicking on a map of this State, to access the tax rates that may be applicable within the jurisdiction of a local government selected by the user and the combined rate of all those taxes.

5. As used in this section, "local government" means every political subdivision or other entity which has the right to levy or receive money from ad valorem taxes or other taxes, including, without limitation, counties, cities, towns, school districts and other districts organized pursuant to chapters 244, 309, 318, 379, 450, 473, 474, 539, 541, 543 and 555 of NRS.

Sec. 2. This act becomes effective on January 1, 2010.

Senator Coffin moved the adoption of the amendment.

Remarks by Senator Coffin.

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

Thank you, Mr. President. This amendment to the bill will reduce the scope of the bill. We did not realize the extent of the expense incurred by enacting the bill. My hope is that the floor will allow me to amend the bill and then move it to the Committee on Finance to continue to work on the fiscal impact.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senator Coffin moved that Senate Bill No. 177 be rereferred to the Committee on Finance upon return from reprint.

Motion carried.

Senate Bill No. 185.

Bill read second time.

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

Amendment No. 258.

"SUMMARY—Requires school districts to use certain environmentally sensitive cleaning and maintenance products. (BDR 34-742)"

"AN ACT relating to education; requiring the ~~State Board~~ Department of Education to adopt regulations setting forth the standards for environmentally sensitive cleaning and maintenance products for use in the cleaning of all floor surfaces in the public schools; requiring school districts to ensure that only environmentally sensitive cleaning and maintenance products are used in the cleaning of all floor surfaces in the public schools; prescribing the

process for a waiver under certain circumstances; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Section 2 of this bill expresses the intent of the Legislature with regard to the manner in which school districts may reduce the potential exposure of pupils and school personnel to potentially hazardous chemicals and substances.

Section 3 of this bill requires the ~~{State Board}~~ Department of Education to adopt regulations setting forth the standards for environmentally sensitive cleaning and maintenance products for use in the cleaning of all floor surfaces in the public schools in this State. Section 3 also requires school districts to ensure that only environmentally sensitive cleaning and maintenance products for use in the cleaning of all floor surfaces are used in the public schools in accordance with the regulations adopted by the ~~{State Board}~~ Department. Section 3 further provides that a school district may submit a written request to the Department ~~{of Education}~~ for a waiver from these requirements under certain circumstances ~~{,}~~ and authorizes the board of trustees of a school district to use environmentally sensitive cleaning and maintenance products for use in the cleaning of any other surfaces.

Section 5 of this bill requires school districts to ensure that the public schools within the school district comply with the requirements of section 3 of this bill on or before July 1, 2010.

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

Section 1. Chapter 386 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.

Sec. 2. *The Legislature declares that:*

1. *Children are particularly vulnerable to and may be severely affected by exposure to chemicals, hazardous wastes and other environmental hazards that may be used for cleaning and maintenance in the public schools; and*

2. *It is the intent of the Legislature to reduce the possible exposure of pupils and school personnel to potentially hazardous chemicals and substances which are used in the cleaning and maintenance of the public schools in this State.*

Sec. 3. 1. *The ~~{State Board}~~ Department of Education shall, in consultation with each school district, the State Department of Conservation and Natural Resources, the Department of Health and Human Services and other interested parties, including, without limitation, representatives of the cleaning and maintenance product industry, nongovernmental agencies and organizations, and parents and legal guardians of pupils enrolled in the school district, adopt regulations setting forth the standards for environmentally sensitive cleaning and maintenance products for use in the cleaning of all floor surfaces in the public schools.*

2. The Department shall provide a sample list of approved environmentally sensitive cleaning and maintenance products for use in the cleaning of all floor surfaces to each school district based upon the standards prescribed pursuant to subsection 1.

3. The Department shall, at least every 2 years, review and may amend the sample list developed pursuant to subsection 2 as necessary.

~~3.1~~ 4. Except as otherwise provided in ~~subsection~~ subsections ~~4.1~~ 6 and 7, each school district shall ensure that the public schools within the school district use only environmentally sensitive cleaning and maintenance products in the cleaning of all floor surfaces in the public schools within the school district in accordance with the regulations adopted pursuant to subsection 1.

5. The board of trustees of a school district may consult with persons who are knowledgeable and have experience in environmentally sensitive cleaning and maintenance products to determine if the board of trustees should:

(a) Submit a written request to the Department pursuant to subsection 6 or 7.

(b) Use any other environmentally sensitive cleaning and maintenance products in the public schools within the school district pursuant to subsection 9.

~~4.1~~ 6. If the board of trustees of a school district determines that the costs associated with the purchase or use of environmentally sensitive cleaning and maintenance products for use in the cleaning of floor surfaces are unreasonable and would place an undue burden on the efficient operation of the school district or a particular school within the school district, the board of trustees may submit a written request to the Department for a waiver from purchasing and using environmentally sensitive cleaning and maintenance products for use in the cleaning of floor surfaces for the school district as a whole or for a particular school or schools within the school district.

7. If the board of trustees of a school district determines that an environmentally sensitive cleaning and maintenance product for use in the cleaning of floor surfaces which is not included in the sample list developed pursuant to subsection 2 is more economically feasible or is a more effective environmentally sensitive cleaning and maintenance product, the board of trustees may submit a written request to the Department for a waiver to purchase and use such an environmentally sensitive cleaning and maintenance product that complies with the standards prescribed pursuant to subsection 1.

~~5.1~~ 8. If a waiver is granted by the Department pursuant to ~~subsection~~ subsection ~~4.1~~ 6 or 7, the waiver is effective for 1 year after the date of its approval and a renewal may be requested on an annual basis in the manner set forth in ~~subsection 4.1~~ subsection 6 or 7, as applicable.

9. In addition to the environmentally sensitive cleaning and maintenance products for use in the cleaning of floor surfaces in the public schools within the school district required pursuant to subsection 1, the board of trustees of a school district may use environmentally sensitive cleaning products for use in the cleaning of any other surfaces.

10. The regulations adopted by the Department must not prohibit the use of any disinfectant, sanitizer, antimicrobial product or other cleaning product when necessary to protect the health and welfare of the pupils enrolled in a school within the school district and the educational personnel of the school district.

~~6.~~ 11. As used in this section, "environmentally sensitive cleaning and maintenance products" means cleaning and maintenance products that reduce the chemicals, hazardous wastes and other environmental hazards to which pupils and school personnel may be exposed.

Sec. 4. On or before January 1, 2010, the ~~State Board~~ Department of Education shall adopt the regulations required by section 3 of this act.

Sec. 5. On or before July 1, 2010, each school district shall:

1. Ensure that only environmentally sensitive cleaning and maintenance products for use in the cleaning of all floor surfaces are used in the public schools within the school district in accordance with the regulations adopted pursuant to section 3 of this act; or

2. Request a waiver from the Department of Education pursuant to section 3 of this act.

Sec. 6. 1. On or before January 1, 2011, the board of trustees of each school district shall prepare and submit to the Department of Education a written report regarding the implementation of the use of environmentally sensitive cleaning and maintenance products for use in the cleaning of all floor surfaces in the public schools within the school district. The report must include, without limitation:

(a) A description of the cleaning and maintenance products that were replaced, if any;

(b) A description of the environmentally sensitive cleaning and maintenance products that are used in the public schools within the school district;

(c) A description of any requests for a waiver that the school district submitted to the Department and the status of the request; and

(d) An evaluation of the effectiveness of the use of environmentally sensitive cleaning and maintenance products on the health and safety of the pupils and school personnel in the school district.

2. On or before February 1, 2011, the Department of Education shall submit a written report to the Director of the Legislative Counsel Bureau for transmission to the 76th Session of the Nevada Legislature regarding the implementation of the use of environmentally sensitive cleaning and maintenance products in the cleaning of all floor surfaces in the public

schools within the school districts in this State. The report must include, without limitation:

(a) A compilation of the reports submitted by each school district pursuant to subsection 1; and

(b) A description of the requests for a waiver submitted by school districts to the Department pursuant to section 3 of this act, including, without limitation:

(1) The number of waivers that were granted by the Department and the justification for each waiver; and

(2) The number of waivers that were denied by the Department and the reasons for each denial.

Sec. 7. This act becomes effective on July 1, 2009.

Senator Copening moved the adoption of the amendment.

Remarks by Senator Copening.

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

Thank you, Mr. President. Amendment No. 258 requires the Department of Education to adopt regulations for the program rather than the State Board of Education.

It also requires school districts to ensure that only environmentally sensitive cleaning and maintenance products are used in the public schools for the cleaning of all floor surfaces rather than all surfaces.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 206.

Bill read second time.

The following amendment was proposed by the Committee on Energy, Infrastructure and Transportation:

Amendment No. 199.

"SUMMARY—Establishes provisions governing the construction and operation of certain toll roads. (BDR 35-1091)"

"AN ACT relating to highways; establishing provisions governing the construction and operation of certain toll roads in this State; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

This bill sets forth certain guidelines governing the construction and operation of privately operated toll roads upon public highways in this State. This bill requires that any privately operated toll road constructed or operated upon any public highway in this State be constructed and operated: (1) consistent with the public interest; (2) in a manner designed to return a fair value to the people of this State; and (3) utilizing state-of-the-art construction, maintenance and safety standards; and (4) subject to the control and supervision of the Department of Transportation. This bill also requires that any contract for the construction or operation of a privately operated toll road upon any public highway in this State be negotiated through a clear and open public process, controlled by the rules of open competitive bidding and ~~be~~ subject to final approval by the ~~Legislature~~.

Board of Directors of the Department of Transportation. This bill prohibits the conversion of any currently existing public highway in this State to a privately operated toll road, except under certain circumstances, and specifies that any toll, fee or other charge imposed for the use of a privately operated toll road upon any public highway in this State must, except for costs of administration, be used exclusively for the construction, maintenance and repair of the public highways of this State. (Nev. Const. Art. 9, 5)

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

Section 1. Chapter 408 of NRS is hereby amended by adding thereto ~~the new section to read as follows:~~ the provisions set forth as sections 2 to 6, inclusive, of this act.

Sec. 2. 1. Any privately operated toll road constructed or operated upon any public highway in this State must be constructed and operated:

(a) Consistent with the public interest;

(b) In a manner designed to return a fair value to the people of this State;

and

(c) ~~Utilizing state-of-the-art construction, maintenance and safety standards; and~~

~~(d) Subject to the control and supervision of the Department.~~

2. Before any contract is entered into for the construction or operation of any privately operated toll road upon any public highway in this State, the Department shall prepare a written analysis of the costs and benefits of the project that satisfies the requirements of NRS 408.3195.

3. Any contract for the construction or operation of a privately operated toll road upon any public highway in this State must ~~be~~ :

(a) Be negotiated through a clear and open public process, controlled by rules of open competitive bidding and ~~be~~ subject to final approval by the ~~Legislature.~~

~~3. No Board; and~~

(b) Include a provision stating that the requirement for the payment of prevailing wages as set forth in NRS 338.013 to 338.090, inclusive, applies to the construction and operation of the toll road, regardless of whether the toll road, for financing or other purposes, is publicly or privately owned and, solely for the purposes of those provisions, the toll road shall be deemed to be a public work and the Department shall be deemed to be a party to the contract.

4. Except as otherwise provided in section 3 of this act, no public highway in this State ~~that is in existence on October 1, 2009,~~ may be sold or transferred for use as a privately operated toll road or otherwise converted to a publicly operated toll road.

~~4. 5.~~ Any toll, fee or other charge imposed for the use of a privately operated toll road upon any public highway in this State must, except for costs of administration, be used exclusively for the construction, maintenance and repair of the public highways of this State.

Sec. 3. 1. No privately operated toll road may be constructed or operated upon a public highway in this State unless there exists an alternate road that can accommodate the same classes of vehicles as the toll road.

2. The Board may authorize that a portion of a public highway in this State be converted to a publicly operated toll road if the public highway will consist of at least the same number of lanes which will not be subject to the toll, fee or other charge imposed for the use of the toll road as the public highway consisted of before the existence of the toll road.

Sec. 4. If the Board approves the construction or operation of a privately operated toll road upon any public highway in this State, a Tolling Revenue Commission must be created, which must consist of the following members who serve ex officio:

1. The Governor, the Lieutenant Governor, the State Controller and the Attorney General.

2. The Director of the Department of Transportation.

3. The director of the regional transportation commission from each county in which the toll road will be constructed or operated.

4. One member of the Board from each highway district in which the toll road will be constructed or operated who was appointed to the Board pursuant to subsection 2 of NRS 408.106.

5. One member of the board of the convention and visitors authority from each county in which the toll road will be constructed or operated.

6. One member of the board of county commissioners from each county in which the toll road will be constructed or operated. A member of the board who is appointed to the Commission pursuant to this subsection must have been elected at large by the qualified electors of the county.

7. The Chairmen of the Assembly and Senate Standing Committees on Transportation.

Sec. 5. 1. If the Board approves the construction or operation of a privately operated toll road upon any public highway in this State, the Tolling Revenue Commission created pursuant to section 4 of this act shall determine the amount of the toll, fee or other charge that may be imposed for the use of the toll road.

2. Any toll, fee or other charge imposed for the use of a privately operated toll road upon any public highway in this State must:

(a) Be deposited in the State Highway Fund in a separate account for the county from which the money was received;

(b) Except for costs of administration, be used exclusively for the construction, maintenance and repair of the public highways of this State; and

(c) Subject to the limitations set forth in paragraph (b), be distributed in the manner set forth by the Tolling Revenue Commission.

Sec. 6. On or before January 1 and July 1 of each year, the Director of the Department shall prepare and submit to the Director of the Legislative Counsel Bureau for submission to the Legislature, or to the Legislative

Commission when the Legislature is not in regular session, a report concerning each privately operated toll road constructed or operated upon any public highway in this State.

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 is not a pro toll road; it is another level of oversight needing to be attended to.

This amendment requires the Department of Transportation to prepare a written cost-benefit analysis that satisfies the requirements of NRS 408.3195 before any contract is entered into for construction or operation of a privately operated toll road upon any public highway. Any such contract must be controlled by rules of open competitive bidding and subject to final approval by the Board of Directors of the Department of Transportation. Any such contract must also include a provision requiring prevailing wages, regardless of whether the toll road is publicly or privately owned.

The amendment prohibits a privately operated toll road unless there is an alternative road that can accommodate the same classes of vehicles as the toll road. The Board may also authorize conversion of a portion of a public highway to a public toll road under certain conditions, which I will explain.

The amendment requires the creation of a Tolling Revenue Commission if a private toll road is constructed or operated on a public highway and specifies the composition of that Commission. The Commission must set tolls for such roads and revenue from such roads must be deposited in the State Highway Fund in a separate account. The amendment requires an annual report to the Legislature concerning each private toll road on a public highway.

The portion I wanted to explain is, if now that the overpass is built and Boulder City does not want trucks going through their town anymore, then, they would be responsible, or someone, to build another road that the truckers could use to get around that community. We are not doing anything here but putting more oversight on the toll roads.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 263.

Bill read second time.

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

Amendment No. 321.

"SUMMARY—Amends the Charters of the Cities of Carlin and Wells to revise provisions governing municipal elections. (BDR S-1003)"

"AN ACT relating to city elections; amending the Charters of the Cities of Carlin and Wells to specify the dates for filing a declaration of candidacy to become a candidate in the general city election; amending the Charters of the Cities of Carlin and Wells to specify the appropriate appearance of names on an election ballot; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

The existing Charters of the Cities of Carlin and Wells provide that a Mayor and the Councilmen of the respective cities are elected at a general city election which occurs on the same day as the statewide general election. Sections 1 and 3 of this bill amend the Charters of the Cities of Carlin and Wells to specify that a person seeking to appear on the ballot at the general

city election in one of those cities must file a declaration of candidacy with the City Clerk not ~~less than 90 days nor more than 100 days before the day of the general city election.~~ earlier than the first Monday in May of the year in which the election is to be held or later than 5 p.m. on the second Friday after the first Monday in May. (NRS 293.177)

Sections 2 and 4 of this bill also amend the Charters of the Cities of Carlin and Wells to specify the appropriate appearance of names on an election ballot, including details on how the names of candidates with similar surnames are to appear.

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

Section 1. The Charter of the City of Carlin, being chapter 344, Statutes of Nevada 1971, at page 603, is hereby amended by adding thereto a new section to be designated as section 5.015, immediately following section 5.010, to read as follows:

Sec. 5.015 Filing of declarations of candidacy.

1. *A candidate to be voted for at the general election must file a declaration of candidacy with the City Clerk ~~not less than 90 days nor more than 100 days before the day of the general election.~~ during the period set forth in subsection 1 of NRS 293.177. The City Clerk shall charge and collect from the candidate and the candidate must pay to the City Clerk, at the time of filing the declaration of candidacy, a filing fee in an amount fixed by the City Council by ordinance or resolution.*

2. *If, due to the death or ineligibility of or withdrawal by a candidate, a vacancy occurs in a nomination after the close of filing and any applicable period for withdrawal of candidacy, the candidate's name must remain on the ballot for the general election and, if elected, a vacancy exists.*

Sec. 2. The Charter of the City of Carlin, being chapter 344, Statutes of Nevada 1971, at page 603, is hereby amended by adding thereto a new section to be designated as section 5.040, immediately following section 5.030, to read as follows:

Sec. 5.040 Names on ballots.

1. *The full names of all candidates, except those who have withdrawn, died or become ineligible before the close of filing and any applicable period for withdrawal of candidacy, must be printed on the official ballots without party designation or symbol.*

2. *If two or more candidates have the same surname or surnames so similar as to be likely to cause confusion and:*

(a) *None of them is an incumbent, their middle names or middle initials, if any, must be included in their names as printed on the ballot; or*

(b) *One of them is an incumbent, the name of the incumbent must be listed first and must be printed in bold type.*

Sec. 3. The Charter of the City of Wells, being chapter 275, Statutes of Nevada 1971, at page 457, is hereby amended by adding thereto a new section to be designated as section 5.015, immediately following section 5.010, to read as follows:

Sec. 5.015 Filing of declarations of candidacy.

1. *A candidate to be voted for at the general election must file a declaration of candidacy with the City Clerk ~~[not less than 90 days nor more than 100 days before the day of the general election.]~~ during the period set forth in subsection 1 of NRS 293.177. The City Clerk shall charge and collect from the candidate and the candidate must pay to the City Clerk, at the time of filing the declaration of candidacy, a filing fee in an amount fixed by the City Council by ordinance or resolution.*

2. *If, due to the death or ineligibility of or withdrawal by a candidate, a vacancy occurs in a nomination after the close of filing and any applicable period for withdrawal of candidacy, the candidate's name must remain on the ballot for the general election and, if elected, a vacancy exists.*

Sec. 4. Section 5.040 of the Charter of the City of Wells, being chapter 275, Statutes of Nevada 1971, as amended by chapter 312, Statutes of Nevada 2003, at page 1731, is hereby amended to read as follows:

Sec. 5.040 Names on ballots.

1. *The full names of all candidates, except those who have withdrawn, died or become ineligible ~~[,]~~ before the close of filing and any applicable period for withdrawal of candidacy, must be printed on the official ballots without party designation or symbol.*

2. *If two or more candidates have the same surname or surnames so similar as to be likely to cause confusion and:*

(a) *None of them is an incumbent, their middle names or middle initials, if any, must be included in their names as printed on the ballot; or*

(b) *One of them is an incumbent, the name of the incumbent must be listed first and must be printed in bold type.*

Sec. 5. This act becomes effective upon passage and approval.

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 makes the candidate filing period for candidates of municipal offices in the Cities of Carlin and Wells consistent with the filing period set for all other statewide and countywide candidates. It puts us in order with every other city and county in this State.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 264.

Bill read second time.

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

Amendment No. 214.

"SUMMARY—~~Authorizes local governments to impose, increase, decrease and repeal certain taxes to carry out their functions.~~ *Directs the Legislative Commission to conduct an interim study concerning the powers delegated to local governments.* (BDR ~~{31-81}~~ S-81)"

"AN ACT relating to local governmental ~~{financial}~~ administration; ~~authorizing local governments to impose, increase, decrease and repeal certain taxes to carry out their functions;~~ *directing the Legislative Commission to conduct an interim study of the powers delegated to local governments;* and providing other matters properly relating thereto."

Legislative Counsel's Digest:

~~Existing law authorizes local governments to levy various taxes for specific purposes. Section 1 of this bill authorizes a local government to impose a property tax, a sales and use tax, a room tax, a fuel tax and a tax on transfers of real property, and to increase, decrease or repeal that tax, for the purpose of carrying out any of its functions.~~ *This bill directs the Legislative Commission to conduct an interim study concerning the powers delegated to local governments, including the feasibility of increasing the powers of local governments related to taxation.*

WHEREAS, In 1868, Judge John F. Dillon of the Iowa Supreme Court established in Merriam v. Moody's Executors, 25 Iowa 163 (1868), a common law rule of statutory interpretation known as Dillon's Rule, which limits the powers of local governments; and

WHEREAS, Under Dillon's Rule, a local government possesses and can exercise only those powers which are: (1) granted in express words; (2) necessarily or fairly implied in or incident to the powers expressly granted; or (3) essential to the accomplishment of the declared objects and purposes of the local government and which are not simply convenient, but indispensable; and

WHEREAS, The Nevada Supreme Court has cited Dillon's Rule in several opinions; and

WHEREAS, Allowing greater autonomy for local governments in this State may promote more efficient use of limited governmental resources; now, therefore,

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

Section 1. ~~Chapter 354 of NRS is hereby amended by adding thereto a new section to read as follows:~~

~~Except as otherwise provided in or limited by federal law or the Constitution of the State of Nevada and notwithstanding any statutory provision of this State to the contrary, the governing body of a local~~

~~government may, for the purpose of carrying out any function of the local government:~~

~~1. Impose:~~

~~(a) A tax ad valorem on all taxable property within the boundaries of the local government:~~

~~(b) A tax on the gross receipts of any retailer from the sale of all tangible personal property sold at retail or stored, used or otherwise consumed within the boundaries of the local government:~~

~~(c) A tax on the gross receipts from the rental of transient lodging within the boundaries of the local government upon all persons in the business of providing lodging:~~

~~(d) A tax on aviation fuel, as defined in NRS 365.015, fuel for jet or turbine powered aircraft, as defined in NRS 365.035, motor vehicle fuel, as defined in NRS 365.060, or special fuel, as defined in NRS 366.060, or on any two or more of those fuels, sold within the boundaries of the local government:~~

~~(e) A tax on each deed or other legal document by which any lands, tenements or other realty located within the boundaries of the local government is granted, assigned, transferred or otherwise conveyed to, or vested in, another person:~~

~~2. Increase, decrease or repeal any tax imposed pursuant to subsection 1.~~

~~3. At its discretion, submit a question regarding any action described in subsection 1 or 2 to the registered voters within the jurisdiction of the local government.] (Deleted by amendment.)~~

Sec. 2. ~~[NRS 354.470 is hereby amended to read as follows:~~

~~354.470 NRS 354.470 to 354.626, inclusive, and section 1 of this act may be cited as the Local Government Budget and Finance Act.] (Deleted by amendment.)~~

Sec. 3. ~~[NRS 354.474 is hereby amended to read as follows:~~

~~354.474 1. Except as otherwise provided in subsections 2 and 3, the provisions of NRS 354.470 to 354.626, inclusive, and section 1 of this act apply to all local governments. For the purpose of NRS 354.470 to 354.626, inclusive [:], and section 1 of this act:~~

~~(a) "Local government" means every political subdivision or other entity which has the right to levy or receive money from ad valorem or other taxes or any mandatory assessments, and includes, without limitation, counties, cities, towns, boards, school districts and other districts organized pursuant to chapters 244A, 309, 318 and 379 of NRS, NRS 450.550 to 450.750, inclusive, and chapters 474, 541, 543 and 555 of NRS, and any agency or department of a county or city which prepares a budget separate from that of the parent political subdivision:~~

~~(b) "Local government" does not include the Nevada Rural Housing Authority:~~

~~2.— An irrigation district organized pursuant to chapter 539 of NRS shall fix rates and levy assessments as provided in NRS 539.667 to 539.683, inclusive. The levy of such assessments and the posting and publication of claims and annual financial statements as required by chapter 539 of NRS shall be deemed compliance with the budgeting, filing and publication requirements of NRS 354.470 to 354.626, inclusive, and section 1 of this act, but any such irrigation district which levies an ad valorem tax shall comply with the filing and publication requirements of NRS 354.470 to 354.626, inclusive, and section 1 of this act in addition to the requirements of chapter 539 of NRS.~~

~~3.— An electric light and power district created pursuant to chapter 318 of NRS shall be deemed to have fulfilled the requirements of NRS 354.470 to 354.626, inclusive, and section 1 of this act for a year in which the district does not issue bonds or levy an assessment if the district files with the Department of Taxation a copy of all documents relating to its budget for that year which the district submitted to the Rural [Electrification Administration] Utilities Service of the United States Department of Agriculture.] (*Deleted by amendment.*)~~

Sec. 4. ~~[NRS 354.476 is hereby amended to read as follows:~~

~~354.476—As used in NRS 354.470 to 354.626, inclusive, and section 1 of this act, unless the context otherwise requires, the words and terms defined in NRS 354.479 to 354.578, inclusive, have the meanings ascribed to them in those sections.] (*Deleted by amendment.*)~~

Sec. 5. ~~[NRS 244.3359 is hereby amended to read as follows:~~

~~244.3359 1. A county whose population is 400,000 or more shall not impose a new tax on the rental of transient lodging or increase the rate of an existing tax on the rental of transient lodging after March 25, 1991, except pursuant to NRS 244.3351 and 244.3352 [.] and section 1 of this act.~~

~~2.—[A] Except as otherwise provided in section 1 of this act, a county whose population is 100,000 or more but less than 400,000 shall not impose a new tax on the rental of transient lodging or increase the rate of an existing tax on the rental of transient lodging after March 25, 1991.~~

~~3.—The Legislature hereby declares that the limitation imposed by subsection 2 will not be repealed or amended after July 1, 2009, except to allow the imposition of an increase in such a tax for the promotion of tourism or for the construction or operation of tourism facilities by a convention and visitors authority.] (*Deleted by amendment.*)~~

Sec. 6. ~~[NRS 268.0968 is hereby amended to read as follows:~~

~~268.0968 1. Except as otherwise provided in NRS 268.096 and 268.801 to 268.808, inclusive, and section 1 of this act, a city located in a county whose population is 400,000 or more shall not impose a new tax on the rental of transient lodging or increase the rate of an existing tax on the rental of transient lodging after March 25, 1991.~~

~~2.—Except as otherwise provided in NRS 268.7845 [.] and section 1 of this act, a city located in a county whose population is 100,000 or more but~~

~~less than 400,000 shall not impose a new tax on the rental of transient lodging or increase the rate of an existing tax on the rental of transient lodging after March 25, 1991.~~

~~3. The Legislature hereby declares that the limitation imposed by subsection 2 will not be repealed or amended after July 1, 2009, except to allow the imposition of an increase in such a tax for:~~

~~(a) The promotion of tourism;~~

~~(b) The construction or operation of tourism facilities by a convention and visitors authority; or~~

~~(c) The acquisition, establishment, construction or expansion of one or more railroad grade separation projects. (Deleted by amendment.)~~

Sec. 7. ~~[NRS 365.210 is hereby amended to read as follows:~~

~~365.210 1. No county, city or other political subdivision or municipal corporation may levy or collect any excise, privilege or occupation tax upon or measured by the receipt, storage, sale, distribution, transportation or use of motor vehicle fuel, fuel for jet or turbine powered aircraft or any other inflammable or combustible liquids except:~~

~~(a) The county motor vehicle fuel tax authorized by chapter 373 of NRS.~~

~~(b) A tax on fuel for jet or turbine powered aircraft authorized by NRS 365.203.~~

~~(c) A tax on aviation fuel authorized by NRS 365.203.~~

~~(d) Any motor vehicle fuel taxation in effect on January 1, 1935, in any city or town.~~

~~(e) A tax or fee imposed upon a business by a county or city that is authorized by law, except as otherwise provided in subsection 2 or pursuant to subsection 1 of NRS 364.210.~~

~~(f) A tax authorized by section 1 of this act.~~

~~2. After March 25, 1991, no county, city or other political subdivision or municipal corporation responsible for the operation of an airport may impose a new tax or fee upon the sale or distribution of fuel for jet or turbine powered aircraft except:~~

~~(a) A tax on fuel for jet or turbine powered aircraft authorized by NRS 365.203.~~

~~(b) Any fuel flowage fee imposed upon aircraft or organizations servicing aircraft in lieu of rent for use of the terminal, landing fees or other airport charges.~~

~~(c) A tax authorized by section 1 of this act. (Deleted by amendment.)~~

Sec. 8. 1. The Legislative Commission shall appoint an interim committee to conduct a study of the powers of local governments in this State. The study must include, without limitation, an examination of:

(a) The structure, formation, function and powers of local governments in this State;

(b) The potential fiscal impact in this State resulting from abolishing Dillon's Rule;

(c) The feasibility of increasing the powers of local governments in this State; and

(d) The experiences of states that have rejected Dillon's Rule.

2. The interim committee must be composed of six Legislators, one of whom must be appointed as Chairman of the committee, as follows:

(a) The Chairman of the Senate Standing Committee on Government Affairs;

(b) The Chairman of the Assembly Standing Committee on Government Affairs;

(c) One member appointed by the Majority Leader of the Senate;

(d) One member appointed by the Minority Leader of the Senate;

(e) One member appointed by the Speaker of the Assembly; and

(f) One member appointed by the Minority Leader of the Assembly.

3. To assist with the study, the Chairman of the interim committee may appoint a technical advisory committee consisting of representatives of local governments in this State, who serve without salary, but are entitled to receive the per diem allowance and travel expenses provided for state officers and employees generally.

4. Any recommended legislation proposed by the interim committee must be approved by a majority of members of the Senate and a majority of the members of the Assembly appointed to the Committee.

5. On or before February 1, 2011, the Legislative Commission shall submit a report of the results of the study conducted pursuant to this section and any recommendation for legislation to the Director of the Legislative Counsel Bureau for transmission to the 76th Session of the Nevada Legislature.

Sec. 9. 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.

Thank you, Mr. President. This deletes the language in the bill in its entirety and replaces it with language found in S.C.R. 10 of the 2007 Legislative Session, which directs the Legislative Commission to conduct an interim study concerning the powers delegated to local governments basically "home rule."

The Senate Committee on Government Affairs voted to amend and rerefer this measure to the Senate Committee on Legislative Operations and Elections.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 266.

Bill read second time.

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

Amendment No. 219.

"SUMMARY—Makes various changes concerning the practice of medicine. (BDR 54-707)"

"AN ACT relating to the practice of medicine; authorizing the Board of Medical Examiners and the State Board of Osteopathic Medicine to issue special event licenses and establish fees for those licenses; requiring those boards to adopt regulations concerning those licenses; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law authorizes the Board of Medical Examiners to issue certain types of special licenses. (NRS 630.258-630.265) Sections 1 and 3 of this bill authorize the Board of Medical Examiners to issue special event licenses to licensed physicians of another state who wish to conduct demonstrations of medical techniques and procedures in this State. (NRS 630.268)

Existing law authorizes the State Board of Osteopathic Medicine to issue certain types of special licenses. (NRS 633.391-633.415) Sections 4 and 6 of this bill authorize the State Board of Osteopathic Medicine to issue special event licenses to persons licensed to practice osteopathic medicine in another state who wish to conduct demonstrations of medical techniques and procedures in this State. (NRS 633.501)

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

Section 1. Chapter 630 of NRS is hereby amended by adding thereto a new section to read as follows:

1. *Except as otherwise provided in NRS 630.161, the Board may issue a special event license to a licensed physician of another state to conduct demonstrations of medical techniques and procedures at a special event in this State.*

2. *A licensed physician of another state who applies for a special event license pursuant to this section:*

(a) Must be in good standing in that state; and

(b) Is not required to take or pass a written examination concerning his qualifications to practice medicine but must satisfy the requirements for a special event license set forth in regulations adopted by the Board pursuant to subsection 5.

3. *A physician who holds a special event license issued pursuant to this section may perform medical techniques and procedures pursuant to the license for demonstration purposes only.*

4. *A special event license issued pursuant to the provisions of this section is valid for a short period, as determined by the Board, and is not renewable.*

5. *The Board shall adopt regulations to carry out the provisions of this section.*

6. *For the purposes of this section, "special event" means a scheduled activity or event at which a physician appears as a clinician for teaching or demonstrating certain methods of technical procedures if:*

(a) The persons attending the scheduled activity or event are:

(1) Members of a medical society or other medical organization;

(2) Persons who are attending a medical convention;

(3) Students or faculty members of a medical school; or

(4) Licensed physicians; and

(b) The scheduled activity or event is being held before any combination of the persons described in paragraph (a) and is being held at:

(1) A meeting or other gathering of a medical society or other medical organization;

(2) A medical convention;

(3) A medical school; or

(4) A licensed hospital.

Sec. 2. NRS 630.160 is hereby amended to read as follows:

630.160 1. Every person desiring to practice medicine must, before beginning to practice, procure from the Board a license authorizing him to practice.

2. Except as otherwise provided in NRS 630.1605, 630.161 and 630.258 to 630.265, inclusive, and *section 1 of this act*, a license may be issued to any person who:

(a) Is a citizen of the United States or is lawfully entitled to remain and work in the United States;

(b) Has received the degree of doctor of medicine from a medical school:

(1) Approved by the Liaison Committee on Medical Education of the American Medical Association and Association of American Medical Colleges; or

(2) Which provides a course of professional instruction equivalent to that provided in medical schools in the United States approved by the Liaison Committee on Medical Education;

(c) Is currently certified by a specialty board of the American Board of Medical Specialties and who agrees to maintain the certification for the duration of his licensure, or has passed:

(1) All parts of the examination given by the National Board of Medical Examiners;

(2) All parts of the Federation Licensing Examination;

(3) All parts of the United States Medical Licensing Examination;

(4) All parts of a licensing examination given by any state or territory of the United States, if the applicant is certified by a specialty board of the American Board of Medical Specialties;

(5) All parts of the examination to become a licentiate of the Medical Council of Canada; or

(6) Any combination of the examinations specified in subparagraphs (1), (2) and (3) that the Board determines to be sufficient;

(d) Is currently certified by a specialty board of the American Board of Medical Specialties in the specialty of emergency medicine, preventive medicine or family practice and who agrees to maintain certification in at least one of these specialties for the duration of his licensure, or:

(1) Has completed 36 months of progressive postgraduate:

(I) Education as a resident in the United States or Canada in a program approved by the Board, the Accreditation Council for Graduate Medical Education or the Coordinating Council of Medical Education of the Canadian Medical Association; or

(II) Fellowship training in the United States or Canada approved by the Board or the Accreditation Council for Graduate Medical Education; or

(2) Has completed at least 36 months of postgraduate education, not less than 24 months of which must have been completed as a resident after receiving a medical degree from a combined dental and medical degree program approved by the Board; and

(e) Passes a written or oral examination, or both, as to his qualifications to practice medicine and provides the Board with a description of the clinical program completed demonstrating that the applicant's clinical training met the requirements of paragraph (b).

Sec. 3. NRS 630.268 is hereby amended to read as follows:

630.268 1. The Board shall charge and collect not more than the following fees:

For application for and issuance of a license to practice as a physician, including a license by endorsement	\$600
For application for and issuance of a temporary, locum tenens, limited, restricted, special , for special purpose license or special event license	400
For renewal of a limited, restricted or special license	400
For application for and issuance of a license as a physician assistant.....	400
For biennial registration of a physician assistant	800
For biennial registration of a physician.....	800
For application for and issuance of a license as a practitioner of respiratory care	400
For biennial registration of a practitioner of respiratory care.....	600
For biennial registration for a physician who is on inactive status	400
For written verification of licensure.....	50
For a duplicate identification card.....	25
For a duplicate license.....	50
For computer printouts or labels	500
For verification of a listing of physicians, per hour	20
For furnishing a list of new physicians	100

2. In addition to the fees prescribed in subsection 1, the Board shall charge and collect necessary and reasonable fees for the expedited processing of a request or for any other incidental service the Board provides.

3. The cost of any special meeting called at the request of a licensee, an institution, an organization, a state agency or an applicant for licensure must be paid for by the person or entity requesting the special meeting. Such a special meeting must not be called until the person or entity requesting it has

paid a cash deposit with the Board sufficient to defray all expenses of the meeting.

Sec. 4. Chapter 633 of NRS is hereby amended by adding thereto a new section to read as follows:

1. *Except as otherwise provided in NRS 633.315, the Board may issue a special event license to a person licensed to practice osteopathic medicine in another state to conduct demonstrations of medical techniques and procedures at a special event in this State.*

2. *A person licensed to practice osteopathic medicine in another state who applies for a special event license pursuant to this section:*

(a) Must be in good standing in that state; and

(b) Is not required to take or pass a written examination concerning his qualifications to practice osteopathic medicine but must satisfy the requirements for a special event license set forth in regulations adopted by the Board pursuant to subsection 5.

3. *A person who holds a special event license issued pursuant to this section may perform medical techniques and procedures pursuant to the license for demonstration purposes only.*

4. *A special event license issued pursuant to the provisions of this section is valid for a short period, as determined by the Board, and is not renewable.*

5. *The Board shall adopt regulations to carry out the provisions of this section.*

6. *For the purposes of this section, "special event" means a scheduled activity or event at which an osteopathic physician appears as a clinician for teaching or demonstrating certain methods of technical procedures if:*

(a) The persons attending the scheduled activity or event are:

(1) Members of an osteopathic medical society or other osteopathic medical organization;

(2) Persons who are attending an osteopathic medical convention;

(3) Students or faculty members of a school of osteopathic medicine; or

(4) Osteopathic physicians; and

(b) The scheduled activity or event is being held before any combination of the persons described in paragraph (a) and is being held at:

(1) A meeting or other gathering of an osteopathic medical society or other osteopathic medical organization;

(2) An osteopathic medical convention;

(3) A school of osteopathic medicine; or

(4) A licensed hospital.

Sec. 5. NRS 633.401 is hereby amended to read as follows:

633.401 1. Except as otherwise provided in NRS 633.315, the Board may issue a special license to practice osteopathic medicine:

(a) To authorize a person who is licensed to practice osteopathic medicine in an adjoining state to come into Nevada to care for or assist in the treatment of his patients in association with an osteopathic physician in this State who has primary care of the patients.

(b) To a resident while he is enrolled in a postgraduate training program required pursuant to the provisions of paragraph (c) of subsection 4 of NRS 633.311.

(c) ~~For~~ *Other than a license issued pursuant to section 4 of this act, for a specified period and for specified purposes to a person who is licensed to practice osteopathic medicine in another jurisdiction.*

2. A special license issued under this section may be renewed by the Board upon application of the licensee.

3. Every person who applies for or renews a special license under this section shall pay respectively the special license fee or special license renewal fee specified in this chapter.

Sec. 6. NRS 633.501 is hereby amended to read as follows:

633.501 The Board shall charge and collect fees not to exceed the following amounts:

1. Application and initial license fee for an osteopathic physician..... \$800
2. Annual license renewal fee for an osteopathic physician 500
3. Temporary license fee..... 500
4. Special license fee..... 200
5. *Special event license fee* 200
6. Special license renewal fee 200
- ~~{6-}~~ 7. Reexamination fee..... 200
- ~~{7-}~~ 8. Late payment fee 300
- ~~{8-}~~ 9. Application and initial license fee for a physician assistant..... 400
- ~~{9-}~~ 10. Annual license renewal fee for a physician assistant 400
- ~~{10-}~~ 11. Inactive license fee 200

Sec. 7. 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. This amendment defines "special event" for the purpose of a special-event license that the Board of Medical Examiners or the Board of Osteopath Examiners can give.

Under this amendment, a special event means a scheduled activity or event at which a physician teaches or demonstrates certain methods or procedures under certain circumstances. The reason you see the language in the amendment defining the event is because we did not want to open up a special-event license to a Botox party.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 273.

Bill read second time and ordered to third reading.

Senate Bill No. 276.

Bill read second time.

The following amendment was proposed by the Committee on Taxation:
Amendment No. 215.

"SUMMARY—Makes various changes concerning land sales agreements ~~and~~ and compliance with the real property transfer tax. (BDR 32-724)"

"AN ACT relating to taxation; clarifying the requirements for imposition and collection of the real property transfer tax on certain land sale installment contracts; requiring that such instruments be recorded; imposing conditions on the approval and recording of certain documents relating to the division of land; establishing certain actions relating to land sale contracts; providing a penalty; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law imposes a tax on each deed by which lands, tenements or other realty are assigned, transferred or otherwise conveyed. (NRS 375.020) Under the existing law, payment of the transfer tax can be avoided if the instrument memorializing the transfer is not recorded pursuant to NRS 111.315.

Sections 2-9 of this bill require payment of the real property transfer tax on transfers of property evidenced by land sale installment contracts. Additionally, section 8 prohibits a county recorder from accepting for recordation certain documents relating to the division of land without proof of payment of the tax.

Sections ~~10 and 11~~ 10-13 of this bill require ~~local governments to consider compliance with the requirements for payment of the real property transfer tax and recording of land sale installment contracts added by this bill before approving a tentative map for the development~~ submission of an affidavit regarding payment of the tax and compliance with certain requirements for land sale installment contracts as a condition to local governmental approval of certain documents relating to the division of land.

Section ~~12~~ 14 of this bill ~~adds~~ makes the failure to make certain disclosures, record ~~the~~ a land sale installment contract or pay the tax on such a contract a deceptive trade practice.

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

Section 1. NRS 375.010 is hereby amended to read as follows:

375.010 1. The following terms, wherever used or referred to in this chapter, have the following meaning unless a different meaning clearly appears in the context:

(a) "Buyer" means a person or other legal entity acquiring title to any estate or present interest in real property in this State by deed, including, without limitation, a grantee or other transferee of real property.

(b) "Deed" means every instrument in writing, whatever its form and by whatever name it is known in law, by which title to any estate or present interest in real property, including a water right, permit, certificate or application, is conveyed or transferred to, and vested in, another person, except that the term does not include:

- (1) A lease for any term of years;
- (2) An easement;
- (3) A deed of trust or common-law mortgage instrument that encumbers real property;
- (4) A last will and testament;
- (5) A distribution of the separate property of a decedent pursuant to chapter 134 of NRS;
- (6) An affidavit of a surviving tenant;
- (7) A conveyance of a right-of-way; or
- (8) A conveyance of an interest in gas, oil or minerals.

(c) "Escrow" means the delivery of a deed by the seller into the hands of a third person, including an attorney, title company, real estate broker or other person engaged in the business of administering escrows for compensation, to be held by the third person until the happening of a contingency or performance of a condition, and then to be delivered by the third person to the buyer.

(d) "*Land sale installment contract*" means any agreement between a seller and a buyer of real property located in this State pursuant to which the buyer gives and the seller receives the consideration paid in multiple payments during a specified period and the seller retains title to the real property that is the subject of the agreement until the full contract price is paid, at which time title to the real property is transferred by an instrument in writing from the seller to the buyer. The term does not include a deed of trust or common-law mortgage instrument that encumbers real property or an option to purchase real property.

(e) "Seller" means a person or other legal entity transferring title to any estate or present interest in real property in this State by deed, including, without limitation, a grantor or other transferor of real property.

~~{(e)}~~ (f) "Value" means:

(1) In the case of any deed which is not a gift, or a *land sale installment contract*, the amount of the full purchase price paid or to be paid for the real property.

(2) In the case of a gift, or any deed with nominal consideration or without stated consideration, the estimated fair market value of the property.

2. As used in paragraph (e) of subsection 1, "estimated fair market value" means the estimated price the real property would bring on the open market in a sale between a willing buyer and a willing seller. Such price may be derived from the assessor's taxable value or the prior purchase price, if the prior purchase was within the 5 years immediately preceding the date of valuation, whichever is higher.

Sec. 2. NRS 375.020 is hereby amended to read as follows:

375.020 1. A tax, at the rate of:

- (a) In a county whose population is 400,000 or more, \$1.25; and
- (b) In a county whose population is less than 400,000, 65 cents,

↪ for each \$500 of value or fraction thereof, is hereby imposed on each deed by which any lands, tenements or other realty is granted, assigned, transferred or otherwise conveyed to, or vested in, another person, *or land sale installment contract*, if the consideration or value of the interest or property conveyed exceeds \$100.

2. The amount of tax must be computed on the basis of the value of the transferred real property as declared pursuant to NRS 375.060.

Sec. 3. NRS 375.023 is hereby amended to read as follows:

375.023 1. In addition to all other taxes imposed on transfers of real property, a tax, at the rate of \$1.30 on each \$500 of value or fraction thereof, is hereby imposed on each deed by which any lands, tenements or other realty is granted, assigned, transferred or otherwise conveyed to, or vested in, another person, *or land sale installment contract*, if the consideration or value of the interest or property conveyed exceeds \$100.

2. The amount of the tax must be computed on the basis of the value of the transferred property as declared pursuant to NRS 375.060.

3. The county recorder of each county shall collect the tax in the manner provided in NRS 375.030, except that the amount collected must be transmitted to the State Controller for deposit in the State General Fund within 30 days after the end of the calendar quarter during which the tax was collected.

4. The county recorder of each county may deduct and withhold from the taxes collected 1 percent of those taxes to reimburse the county for the cost of collecting the tax.

Sec. 4. NRS 375.026 is hereby amended to read as follows:

375.026 1. In addition to all other taxes imposed on transfers of real property, the board of county commissioners of a county whose population is less than 400,000 may impose a tax at the rate of up to 5 cents for each \$500 of value, or fraction thereof, on each deed by which any lands, tenements or other realty is granted, assigned, transferred or otherwise conveyed to, or vested in, another person, *or land sale installment contract*, if the consideration or value of the interest or property conveyed exceeds \$100.

2. The amount of the tax must be computed on the basis of the value of the ~~transferred~~ real property *that is the subject of the transfer or land sale installment contract* as declared pursuant to NRS 375.060.

3. The county recorder shall collect the tax in the manner provided in NRS 375.030, except that he shall transmit all the proceeds from the tax imposed pursuant to this section to the State Treasurer for use in the Plant Industry Program as required by NRS 561.355.

Sec. 5. NRS 375.030 is hereby amended to read as follows:

375.030 1. If any deed evidencing a transfer of title *or land sale installment contract* subject to the tax imposed by NRS 375.020 and 375.023 and, if applicable, NRS 375.026 is offered for recordation, the county recorder shall compute the amount of the tax due and shall collect that amount before acceptance of the deed for recordation.

2. The buyer and seller are jointly and severally liable for the payment of the taxes imposed by NRS 375.020, 375.023 and 375.026 and any penalties and interest imposed pursuant to subsection 3. The escrow holder is not liable for the payment of the taxes imposed by NRS 375.020, 375.023 and 375.026 or any penalties or interest imposed pursuant to subsection 3.

3. If, after recordation of the deed ~~or~~ *or land sale installment contract*, the county recorder disallows an exemption that was claimed at the time the deed was recorded or through audit or otherwise determines that an additional amount of tax is due, the county recorder shall promptly notify the person who requested the recording of the deed *or land sale installment contract* and the buyer and seller of the additional amount of tax due. If the additional amount of tax is not paid within 30 days after the date the buyer and seller are notified, the county recorder shall impose a penalty of 10 percent of the additional amount due in addition to interest at the rate of 1 percent per month, or portion thereof, of the additional amount due calculated from the date of the original recordation of the deed *or land sale installment contract* on which the additional amount is due through the date on which the additional amount due, penalty and interest are paid to the county recorder.

4. This section does not prohibit a buyer and seller from agreeing by contract or otherwise that one party or the other will be responsible for the payment of the tax due pursuant to this chapter, but such an agreement does not affect the ability of the county recorder to collect the tax and any penalties and interest from either the buyer or the seller.

Sec. 6. NRS 375.060 is hereby amended to read as follows:

375.060 1. Each deed evidencing a transfer of title of real property *or land sale installment contract* that is presented for recordation to the county recorder must be accompanied by a declaration of value made on a form prescribed by the Nevada Tax Commission.

2. A county recorder shall not charge or collect any fees for recording the declaration of value required pursuant to this section.

Sec. 7. NRS 375.090 is hereby amended to read as follows:

375.090 The taxes imposed by NRS 375.020, 375.023 and 375.026 do not apply to:

1. A mere change in identity, form or place of organization, such as a transfer between a business entity and its parent, its subsidiary or an affiliated business entity if the affiliated business entity has identical common ownership.

2. A transfer of title to the United States, any territory or state or any agency, department, instrumentality or political subdivision thereof.

3. A transfer of title recognizing the true status of ownership of the real property ~~or~~, including, without limitation, a transfer by an instrument in writing pursuant to the terms of a land sale installment contract previously recorded and upon which the taxes imposed by this chapter have been paid.

4. A transfer of title without consideration from one joint tenant or tenant in common to one or more remaining joint tenants or tenants in common.

5. A transfer, assignment or other conveyance of real property if the owner of the property is related to the person to whom it is conveyed within the first degree of lineal consanguinity or affinity.

6. A transfer of title between former spouses in compliance with a decree of divorce.

7. A transfer of title to or from a trust without consideration if a certificate of trust is presented at the time of transfer.

8. Transfers, assignments or conveyances of unpatented mines or mining claims.

9. A transfer, assignment or other conveyance of real property to a corporation or other business organization if the person conveying the property owns 100 percent of the corporation or organization to which the conveyance is made.

10. A conveyance of real property by deed which becomes effective upon the death of the grantor pursuant to NRS 111.109.

11. The making, delivery or filing of conveyances of real property to make effective any plan of reorganization or adjustment:

(a) Confirmed under the Bankruptcy Act, as amended, 11 U.S.C.101 et seq.;

(b) Approved in an equity receivership proceeding involving a railroad, as defined in the Bankruptcy Act; or

(c) Approved in an equity receivership proceeding involving a corporation, as defined in the Bankruptcy Act,

↳ if the making, delivery or filing of instruments of transfer or conveyance occurs within 5 years after the date of the confirmation, approval or change.

12. The making or delivery of conveyances of real property to make effective any order of the Securities and Exchange Commission if:

(a) The order of the Securities and Exchange Commission in obedience to which the transfer or conveyance is made recites that the transfer or conveyance is necessary or appropriate to effectuate the provisions of section 11 of the Public Utility Holding Company Act of 1935, 15 U.S.C. 79k;

(b) The order specifies and itemizes the property which is ordered to be transferred or conveyed; and

(c) The transfer or conveyance is made in obedience to the order.

13. A transfer to an educational foundation. As used in this subsection, "educational foundation" has the meaning ascribed to it in subsection 3 of NRS 388.750.

14. A transfer to a university foundation. As used in this subsection, "university foundation" has the meaning ascribed to it in subsection 3 of NRS 396.405.

~~¶ 15. A transfer by an instrument in writing pursuant to terms of a land sale installment contract previously recorded and upon which the taxes imposed by this chapter have been paid.~~

Sec. 8. NRS 375.100 is hereby amended to read as follows:

375.100 1. The county recorder shall refuse to record any deed, ~~or~~ conveyance *or land sale installment contract* upon which a tax is imposed by this chapter if the tax has not been paid and is not subject to liability for refusing to record a deed, ~~or~~ conveyance *or land sale installment contract* for which a tax imposed pursuant to this chapter has not been paid.

2. The county recorder shall not accept for recording any parcel map, map of division into large parcels, subdivision plat, map of reversion of any division of land to acreage or document adjusting a boundary line of any property unless the county recorder has proof of the payment of any applicable tax due pursuant to this chapter.

Sec. 9. NRS 375.110 is hereby amended to read as follows:

375.110 Any person who willfully falsely declares the value of transferred real property *or land sale installment contract* pursuant to NRS 375.060 is guilty of a misdemeanor and shall pay the amount of any additional tax required on account of the falsification.

Sec. 10. NRS 278.349 is hereby amended to read as follows:

278.349 1. Except as otherwise provided in subsection 2, the governing body, if it has not authorized the planning commission to take final action, shall, by an affirmative vote of a majority of all the members, approve, conditionally approve or disapprove a tentative map filed pursuant to NRS 278.330:

(a) In a county whose population is 400,000 or more, within 45 days; or

(b) In a county whose population is less than 400,000, within 60 days,

↪ after receipt of the planning commission's recommendations.

2. If there is no planning commission, the governing body shall approve, conditionally approve or disapprove a tentative map:

(a) In a county whose population is 400,000 or more, within 45 days; or

(b) In a county whose population is less than 400,000, within 60 days,

↪ after the map is filed with the clerk of the governing body.

3. The governing body, or planning commission if it is authorized to take final action on a tentative map, shall consider:

(a) Environmental and health laws and regulations concerning water and air pollution, the disposal of solid waste, facilities to supply water, community or public sewage disposal and, where applicable, individual systems for sewage disposal;

(b) The availability of water which meets applicable health standards and is sufficient in quantity for the reasonably foreseeable needs of the subdivision;

(c) The availability and accessibility of utilities;

(d) The availability and accessibility of public services such as schools, police protection, transportation, recreation and parks;

(e) Conformity with the zoning ordinances and master plan, except that if any existing zoning ordinance is inconsistent with the master plan, the zoning ordinance takes precedence;

(f) General conformity with the governing body's master plan of streets and highways;

(g) The effect of the proposed subdivision on existing public streets and the need for new streets or highways to serve the subdivision;

(h) Physical characteristics of the land such as floodplain, slope and soil;

(i) The recommendations and comments of those entities and persons reviewing the tentative map pursuant to NRS 278.330 to 278.3485, inclusive; ~~land~~

(j) The availability and accessibility of fire protection, including, but not limited to, the availability and accessibility of water and services for the prevention and containment of fires, including fires in wild lands ~~¶~~; and

(k) ~~Payment~~ The submission by the subdivider of an affidavit stating that the subdivider has made provision for payment of the tax imposed by chapter 375 of NRS ~~¶~~

~~(l) Compliance~~ and for compliance with the disclosure and recording requirements of subsection 5 of NRS 598.0923, if applicable.

4. The governing body or planning commission shall, by an affirmative vote of a majority of all the members, make a final disposition of the tentative map. The governing body or planning commission shall not approve the tentative map unless the subdivider has submitted an affidavit stating that the subdivider has made provision for the payment of the tax imposed by chapter 375 of NRS and for compliance with the disclosure and recording requirements of subsection 5 of NRS 598.0923, if applicable. Any disapproval or conditional approval must include a statement of the reason for that action.

Sec. 11. NRS 278.461 is hereby amended to read as follows:

278.461 1. Except as otherwise provided in this section, a person who proposes to divide any land for transfer or development into four lots or less shall:

(a) Prepare a parcel map and file the number of copies, as required by local ordinance, of the parcel map with the planning commission or its designated representative or, if there is no planning commission, with the clerk of the governing body; and

(b) Pay a filing fee in an amount determined by the governing body, ~~↪~~ unless those requirements are waived or the provisions of NRS 278.471 to 278.4725, inclusive, apply. The map must be accompanied by a written statement signed by the treasurer of the county in which the land to be divided is located indicating that all property taxes on the land for the fiscal year have been paid ~~¶~~, and by the affidavit of the person who proposes to divide the land stating that the person has made provision for the payment of the tax imposed by chapter 375 of NRS and for compliance with the

disclosure and recording requirements of subsection 5 of NRS 598.0923, if applicable.

2. In addition to any other requirement set forth in this section, a person who is required to prepare a parcel map pursuant to subsection 1 shall provide a copy of the parcel map to the Division of Water Resources of the State Department of Conservation and Natural Resources and obtain a certificate from the Division indicating that the parcel map is approved as to the quantity of water available for use if:

(a) Any parcel included in the parcel map:

(1) Is within or partially within a basin designated by the State Engineer pursuant to NRS 534.120 for which the State Engineer has issued an order requiring approval by him of the parcel map; and

(2) Will be served by a domestic well; and

(b) The dedication of a right to appropriate water to ensure a sufficient supply of water is not required by an applicable local ordinance.

3. If the parcel map is submitted to the clerk of the governing body, he shall submit the parcel map to the governing body at its next regular meeting.

4. A common-interest community consisting of four units or less shall be deemed to be a division of land within the meaning of this section, but need only comply with this section and NRS 278.371, 278.373 to 278.378, inclusive, 278.462, 278.464 and 278.466.

5. A parcel map is not required when the division is for the express purpose of:

(a) The creation or realignment of a public right-of-way by a public agency.

(b) The creation or realignment of an easement.

(c) An adjustment of the boundary line between two abutting parcels or the transfer of land between two owners of abutting parcels, which does not result in the creation of any additional parcels, if such an adjustment is approved pursuant to NRS 278.5692 and is made in compliance with the provisions of NRS 278.5693.

(d) The purchase, transfer or development of space within an apartment building or an industrial or commercial building.

(e) Carrying out an order of any court or dividing land as a result of an operation of law.

6. A parcel map is not required for any of the following transactions involving land:

(a) The creation of a lien, mortgage, deed of trust or any other security instrument.

(b) The creation of a security or unit of interest in any investment trust regulated under the laws of this State or any other interest in an investment entity.

(c) Conveying an interest in oil, gas, minerals or building materials, which is severed from the surface ownership of real property.

(d) Conveying an interest in land acquired by the Department of Transportation pursuant to chapter 408 of NRS.

(e) Filing a certificate of amendment pursuant to NRS 278.473.

7. When two or more separate lots, parcels, sites, units or plots of land are purchased, they remain separate for the purposes of this section and NRS 278.468, 278.590 and 278.630. When the lots, parcels, sites, units or plots are resold or conveyed they are exempt from the provisions of NRS 278.010 to 278.630, inclusive, until further divided.

8. Unless a method of dividing land is adopted for the purpose or would have the effect of evading this chapter, the provisions for the division of land by a parcel map do not apply to a transaction exempted by paragraph (c) of subsection 1 of NRS 278.320.

9. As used in this section, "domestic well" has the meaning ascribed to it in NRS 534.350.

Sec. 12. NRS 278.464 is hereby amended to read as follows:

278.464 1. Except as otherwise provided in subsection 2, if there is a planning commission, it shall:

(a) In a county whose population is 400,000 or more, within 45 days; or

(b) In a county whose population is less than 400,000, within 60 days,

↪ after accepting as a complete application a parcel map, recommend approval, conditional approval or disapproval of the map in a written report. The planning commission shall submit the parcel map and the written report to the governing body.

2. If the governing body has authorized the planning commission to take final action on a parcel map, the planning commission shall:

(a) In a county whose population is 400,000 or more, within 45 days; or

(b) In a county whose population is less than 400,000, within 60 days,

↪ after accepting as a complete application the parcel map, approve, conditionally approve or disapprove the map. The planning commission shall file its written decision with the governing body. Unless the time is extended by mutual agreement, if the planning commission is authorized to take final action and it fails to take action within the period specified in this subsection, the parcel map shall be deemed approved.

3. If there is no planning commission or if the governing body has not authorized the planning commission to take final action, the governing body or, by authorization of the governing body, the director of planning or other authorized person or agency shall:

(a) In a county whose population is 400,000 or more, within 45 days; or

(b) In a county whose population is less than 400,000, within 60 days,

↪ after acceptance of the parcel map as a complete application by the governing body pursuant to subsection 1 or pursuant to subsection 3 of NRS 278.461, review and approve, conditionally approve or disapprove the parcel map. Unless the time is extended by mutual agreement, if the governing body, the director of planning or other authorized person or

agency fails to take action within the period specified in this subsection, the parcel map shall be deemed approved.

4. *The planning commission and the governing body or director of planning or other authorized person or agency shall not approve the parcel map unless the person proposing to divide the land has submitted an affidavit stating that the person has made provision for the payment of the tax imposed by chapter 375 of NRS and for compliance with the disclosure and recording requirements of subsection 5 of NRS 598.0923, if applicable.*

5. Except as otherwise provided in NRS 278.463, if unusual circumstances exist, a governing body or, if authorized by the governing body, the planning commission may waive the requirement for a parcel map. Before waiving the requirement for a parcel map, a determination must be made by the county surveyor, city surveyor or professional land surveyor appointed by the governing body that a survey is not required. Unless the time is extended by mutual agreement, a request for a waiver must be acted upon:

- (a) In a county whose population is 400,000 or more, within 45 days; or
 - (b) In a county whose population is less than 400,000, within 60 days,
- after the date of the request for the waiver or, in the absence of action, the waiver shall be deemed approved.

~~5.~~ 6. A governing body may consider or may, by ordinance, authorize the consideration of the criteria set forth in subsection 3 of NRS 278.349 in determining whether to approve, conditionally approve or disapprove a second or subsequent parcel map for land that has been divided by a parcel map which was recorded within the 5 years immediately preceding the acceptance of the second or subsequent parcel map as a complete application.

~~6.~~ 7. An applicant or other person aggrieved by a decision of the governing body's authorized representative or by a final act of the planning commission may appeal the decision in accordance with the ordinance adopted pursuant to NRS 278.3195.

~~7.~~ 8. If a parcel map and the associated division of land are approved or deemed approved pursuant to this section, the approval must be noted on the map in the form of a certificate attached thereto and executed by the clerk of the governing body, the governing body's designated representative or the chairman of the planning commission. A certificate attached to a parcel map pursuant to this subsection must indicate, if applicable, that the governing body or planning commission determined that a public street, easement or utility easement which will not remain in effect after a merger and resubdivision of parcels conducted pursuant to NRS 278.4925 has been vacated or abandoned in accordance with NRS 278.480.

~~Sec. 11.~~ Sec. 13. NRS 278.4713 is hereby amended to read as follows:

278.4713 1. Unless the filing of a tentative map is waived, a person who proposes to make a division of land pursuant to NRS 278.471 to 278.4725, inclusive, must first:

(a) File a tentative map for the area in which the land is located with the planning commission or its designated representative or with the clerk of the governing body if there is no planning commission; ~~and~~

(b) ~~Submit evidence of compliance with the provisions of paragraphs (k) and (l) of subsection 3 of NRS 278.349;~~ an affidavit stating that the person has made provision for the payment of the tax imposed by chapter 375 of NRS and for compliance with the disclosure and recording requirements of subsection 5 of NRS 598.0923, if applicable; and

(c) Pay a filing fee of no more than \$750 set by the governing body.

2. This map must be:

(a) Entitled "Tentative Map of Division into Large Parcels"; and

(b) Prepared and certified by a professional land surveyor.

3. This map must show:

(a) The approximate, calculated or actual acreage of each lot and the total acreage of the land to be divided.

(b) Any roads or easements of access which exist, are proposed in the applicable master plan or are proposed by the person who intends to divide the land.

(c) Except as otherwise provided in NRS 278.329, an easement for public utilities that provide gas, electric and telecommunications services and for any video service providers that are authorized pursuant to chapter 711 of NRS to operate a video service network in that area.

(d) Except as otherwise provided in NRS 278.329, an easement for public utilities that provide water and sewer services.

(e) Any existing easements for irrigation or drainage, and any normally continuously flowing watercourses.

(f) An indication of any existing road or easement which the owner does not intend to dedicate.

(g) The name and address of the owner of the land.

3. The planning commission and the governing body or its authorized representative shall not approve the tentative map unless the person proposing to divide the land has submitted an affidavit stating that the person has made provision for the payment of the tax imposed by chapter 375 of NRS and for compliance with the disclosure and recording requirements of subsection 5 of NRS 598.0923, if applicable.

~~{Sec. 12.}~~ Sec. 14. NRS 598.0923 is hereby amended to read as follows:

598.0923 A person engages in a "deceptive trade practice" when in the course of his business or occupation he knowingly:

1. Conducts the business or occupation without all required state, county or city licenses.

2. Fails to disclose a material fact in connection with the sale or lease of goods or services.

3. Violates a state or federal statute or regulation relating to the sale or lease of goods or services.

4. Uses coercion, duress or intimidation in a transaction.

5. *As the seller in a land sale installment contract, fails to:*

(a) *Disclose in writing to the buyer:*

(1) *Any encumbrance or other legal interest in the real property subject to such contract; or*

(2) *Any condition known to the seller that would affect the buyer's use of such property.*

(b) *Disclose the nature and extent of legal access to the real property subject to such agreement.*

(c) *Record the land sale installment contract pursuant to NRS 111.315 within 30 calendar days after the date upon which the seller accepts the first payment from the buyer under such a contract.*

(d) *Pay the tax imposed on the land sale installment contract pursuant to chapter 375 of NRS.*

(e) *Include terms in the land sale installment contract providing rights and protections to the buyer that are substantially the same as those under a foreclosure pursuant to chapter 40 of NRS.*

➔ *As used in this subsection, "land sale installment contract" has the meaning ascribed to it in paragraph (d) of subsection 1 of NRS 375.010.*

~~Sec. 13.~~ Sec. 15. This act becomes effective on July 1, 2009.

Senator Coffin moved the adoption of the amendment.

Remarks by Senator Coffin.

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

Thank you, Mr. President. The purpose of the amendment is to try and make sure that the governing bodies do not approve parcels for sale unless there is an affidavit stating that the subdividers have made provisions for the payment of the real property taxes. This goes along way towards helping to prevent fraud which is out there particularly on Internet sales of land. This will also tighten up the provisions to make sure there is no double taxation in the event those taxes had been paid when a transfer of title is made.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 280.

Bill read second time.

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

Amendment No. 391.

"SUMMARY—Enacts provisions governing hunting in the Carson Lake Wildlife Management Area. (BDR 45-156)"

"AN ACT relating to hunting; making it unlawful to hunt in the Carson Lake Wildlife Management Area without a permit or other documentation specified by the Department of Wildlife; requiring the Department to charge and collect certain fees; providing a penalty; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Section 2 of this bill makes it unlawful for a person to hunt in the Carson Lake Wildlife Management Area unless he carries upon his person a special permit issued for that purpose on a form prescribed by the Department of Wildlife or carries certain other documentation specified by the Department. The provisions of NRS 501.385 ~~and 502.010~~ make a violation of section 2 a misdemeanor. Section 2 also sets forth the fees that a person must pay for such a permit or documentation. Section 3 of this bill requires the money received by the Department for such a permit or documentation to be ~~accounted for separately~~ deposited in the Wildlife Account in the State General Fund and ~~authorizes~~ requires the Department to use the money to operate and manage the Carson Lake Wildlife Management Area.

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

Section 1. NRS 501.356 is hereby amended to read as follows:

501.356 1. Money received by the Department from:

- (a) The sale of licenses;
 - (b) Fees pursuant to the provisions of NRS 488.075 and 488.1795;
 - (c) Remittances from the State Treasurer pursuant to the provisions of NRS 365.535;
 - (d) Appropriations made by the Legislature; and
 - (e) All other sources, except money derived from the forfeiture of any property described in NRS 501.3857 or money deposited in the Wildlife Heritage Trust Account pursuant to NRS 501.3575 or in the Trout Management Account pursuant to NRS 502.327,
- ↪ must be deposited with the State Treasurer for credit to the Wildlife Account in the State General Fund.

2. The interest and income earned on the money in the Wildlife Account, after deducting any applicable charges, must be credited to the Account.

3. Except as otherwise provided in subsection 4, the Department may use money in the Wildlife Account only to carry out the provisions of this title and chapter 488 of NRS and as provided in NRS 365.535, and the money must not be diverted to any other use.

4. Except as otherwise provided in NRS 502.250 and 504.155, and section 3 of this act, all fees for the sale or issuance of stamps, tags, permits and licenses that are required to be deposited in the Wildlife Account pursuant to the provisions of this title must be accounted for separately and may be used only for the management of wildlife.

~~Section 1.~~ *Sec. 1.5.* Chapter 502 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.

Sec. 2. 1. Except as otherwise provided in subsection 2, it is unlawful for any person to hunt in the Carson Lake Wildlife Management Area unless, at the time of entry and while hunting, he carries upon his person:

- (a) *An unexpired permit issued for that purpose on a form specified by the Department; or*

(b) Any other documentation specified by the Department as proof that the person has paid to the Department, for the period of licensing that includes the time the person is hunting, a fee that is equal to the amount of the fee required pursuant to subsection 4 for a seasonal permit or daily permit, as appropriate.

2. The provisions of subsection 1 do not apply to a person under 16 years of age who is accompanied by a person who is carrying upon his person the permit or documentation required pursuant to subsection 1.

3. A permit issued pursuant to subsection 1 may be sold only by the Department or a person designated by the Department.

4. The Department shall charge and collect the following fees for issuing a permit pursuant to subsection 1:

(a) Sixty dollars for a seasonal permit, the effective dates of which must, as determined by the Department, coincide with the license to hunt of the person purchasing the permit.

(b) Fifteen dollars for a daily permit. The Department shall not make a daily permit specified in this paragraph available for purchase before the second Monday of the open season for ducks.

5. The fee required pursuant to subsection 4 is in addition to any fee required for a license or permit to hunt pursuant to NRS 502.240.

Sec. 3. 1. Any money received by the Department pursuant to section 2 of this act must be deposited ~~in~~ with the State ~~Treasury~~ and accounted for ~~separately~~ Treasurer for credit to the Wildlife Account in the State General Fund.

2. The Department:

(a) Shall maintain separate accounting records for the receipt and expenditure of any money pursuant to this section or section 2 of this act; and

(b) ~~May~~ Must use the money to operate and manage the Carson Lake Wildlife Management Area.

Sec. 4. This act becomes effective on July 1, 2010, or upon conveyance of the Carson Lake Pasture to the State of Nevada in accordance with chapter 209, Statutes of Nevada 1993, at page 447, whichever is later.

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 requires that money received by Nevada's Department of Wildlife (NDOW) for a permit or other documentation to hunt in the Carson Lake Wildlife Management Area be credited to the Wildlife Account. Additionally, the amendment requires, rather than simply authorizes, the money received by NDOW to be used to operate and manage the Carson Lake Wildlife Management Area.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 300.

Bill read second time.

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

Amendment No. 390.

"SUMMARY—Requires the acceptance of the donation of certain improvements on certain state land by the Division of State Lands of the State Department of Conservation and Natural Resources. (BDR S-974)"

"AN ACT relating to state lands; requiring the acceptance by the Division of State Lands of the State Department of Conservation and Natural Resources of the donation of certain improvements to certain state land; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

The Division of State Lands of the State Department of Conservation and Natural Resources manages lands owned by the State. (Chapter 321 of NRS) Some of these lands were granted by the Federal Government to the State of Nevada to be used for educational purposes. (Nev. Const. Art. 11, 3) This bill requires the Division to accept as a donation the paving and improvement of a portion of a specific parcel of such school trust land to be used as a parking lot to which the public has access, without charge, until the parcel is sold, leased or used for ~~educational~~ other purposes.

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

Section 1. The Division of State Lands of the State Department of Conservation and Natural Resources shall accept the donation of paving and otherwise improving the unimproved portion ~~in~~ *of the southwest corner of* the south half of the property owned by the State of Nevada at the 6200 block of West Oakey Boulevard in Las Vegas, Nevada, specifically at Assessor's Parcel Number 16302601007, for use as a parking lot to which the public has access, without charge, until the property is sold, leased or used for ~~educational~~ other purposes.

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

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 describes the parcel of land referenced in the bill in greater detail.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 306.

Bill read second time.

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

Amendment No. 296.

"SUMMARY—Authorizes the Health Division of the Department of Health and Human Services to establish a grant program to support the expansion of various health care services. (BDR 40-1052)"

"AN ACT relating to health; authorizing the Health Division of the Department of Health and Human Services to establish and administer a program to make grants of money to support the expansion of federally qualified health centers and rural health clinics in this State; authorizing the Health Division to enter into any agreement and take any other action necessary to maximize the amount of federal money the State may obtain to carry out the program; authorizing the Health Division to apply for and accept any money from any source to carry out the program; making an appropriation to the Health Division for the grant program; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

~~This~~ Section 1 of this bill authorizes the Health Division of the Department of Health and Human Services to establish and administer a grant program to support the expansion of federally qualified health centers and rural health clinics. (42 U.S.C. 1395x(aa)(4), 1395x(aa)(2)) ~~This bill~~ Section 1 authorizes the Health Division to apply for and accept gifts, grants, appropriations or donations from any public or private source to carry out the program. ~~This bill~~ Section 1 further authorizes the Health Division to enter into any agreement and take any other action necessary to maximize the amount of money the State may obtain from the Federal Government to carry out the program. Any grants made pursuant to the program may be used to: (1) assist with the capital costs of constructing or expanding any facility and with operational costs to enhance or expand the ability of a federally qualified health center or rural health clinic to provide primary care services; (2) support access to primary care services for uninsured, underinsured and Medicaid patients; and (3) assist a federally qualified health center or rural health clinic with recruiting and retaining qualified personnel, including, without limitation, through a program for the repayment of student loans.

Section 2 of this bill makes an appropriation to the Health Division to establish and administer the grant program to support the expansion of federally qualified health centers and rural health clinics created pursuant to section 1 of this bill.

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

Section 1. Chapter 439 of NRS is hereby amended by adding thereto a new section to read as follows:

1. *The Health Division may, to the extent that money is available, establish and administer a program to make grants of money to support the expansion of federally qualified health centers and rural health clinics in this State.*

2. *Grants made pursuant to the program may be used to:*

(a) *Assist with the capital costs of constructing or expanding any facility and with operational costs to enhance or expand the ability of a federally qualified health center or rural health clinic to provide primary care services, including, without limitation, dental services;*

(b) Support access to primary care services for uninsured, underinsured and Medicaid patients; and

(c) Assist a federally qualified health center or rural health clinic with recruiting and retaining qualified personnel, including, without limitation, through a program for the repayment of student loans.

3. The Health Division may enter into any agreement or take any other action necessary to maximize the amount of money this State may obtain from the Federal Government to carry out the provisions of this section, including, without limitation, providing any matching money necessary to receive the federal money.

4. The Health Division may apply for and accept gifts, grants, appropriations or donations from any public or private source to assist the Health Division in carrying out the provisions of this section.

5. Money received by the Health Division to carry out the provisions of this section must be accounted for separately.

6. As used in this section:

(a) "Federally qualified health center" has the meaning ascribed to it in 42 U.S.C. 1395x(aa)(4).

(b) "Rural health clinic" has the meaning ascribed to it in 42 U.S.C. 1395x(aa)(2).

Sec. 2. 1. There is hereby appropriated from the State General Fund to the Health Division of the Department of Health and Human Services the sum of \$300,000 for establishing and administering the program to make grants of money to support the expansion of federally qualified health centers and rural health clinics in this State pursuant to section 1 of this act.

2. Any remaining balance of the appropriation made by subsection 1 must not be committed for expenditure after June 30, 2011, by the entity to which the appropriation is made or any entity to which money from the appropriation is granted or otherwise transferred in any manner, and any portion of the appropriated money remaining must not be spent for any purpose after September 16, 2011, by either the entity to which the money was appropriated or the entity to which the money was subsequently granted or transferred, and must be reverted to the State General Fund on or after September 16, 2011.

~~{Sec. 2}~~ Sec. 3. 1. This section and section 1 of this act ~~becomes~~ become effective upon passage and approval.

2. Section 2 of this act becomes effective on July 1, 2009.

Senator Wiener moved the adoption of the amendment.

Conflict of interest declared by Senator Carlton.

Remarks by Senator Wiener.

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

Amendment No. 296 to Senate Bill No. 306 makes an appropriation to the Health Division to establish and administer the grant program to support the expansion of federally qualified health centers and rural health clinics.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 325.

Bill read second time.

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

Amendment No. 261.

"SUMMARY—~~Requires~~ *Authorizes* hospitals to establish a program concerning methicillin-resistant *Staphylococcus aureus*. (BDR ~~(40-42)~~)" ~~S-42~~

"AN ACT relating to communicable diseases; ~~requiring~~ *authorizing* hospitals to establish a program concerning methicillin-resistant *Staphylococcus aureus*; ~~requiring the State Health Officer~~ *encouraging the Nevada Hospital Association to develop a method* to collect information concerning such infections; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

This bill ~~requires~~ *authorizes* each hospital in this State to establish a methicillin-resistant *Staphylococcus aureus* ~~(MRSA)~~ *infection control* program to identify patients with ~~MRSA~~ *methicillin-resistant Staphylococcus aureus infection*, isolate such patients, enforce hand-washing policies and *work with the Nevada Hospital Association to develop a method to report information about such infections.* ~~to the State Health Officer. The State Health Officer is required to compile aggregate information about the reported cases of MRSA and make such aggregate information available on the website of~~ *This bill further encourages the Nevada Hospital Association, in cooperation with the Health Division of the Department of Health and Human Services, and hospitals, to develop a model for reporting cases of methicillin-resistant Staphylococcus aureus infection.*

WHEREAS, *Methicillin-resistant Staphylococcus aureus is a type of bacterial infection that is resistant to more than one class of antimicrobial agents and is one of the most common pathogens that cause healthcare-associated infections in the United States and in many parts of the world; and*

WHEREAS, *Methicillin-resistant Staphylococcus aureus infections occur most frequently in patients who have undergone invasive medical procedures or who have a weakened immune system; and*

WHEREAS, *In 2004, methicillin-resistant Staphylococcus aureus accounted for 63 percent of the total number of staphylococcus infections in healthcare settings; and*

WHEREAS, *In 2005, approximately 94,360 people were infected with and 18,650 people died from methicillin-resistant Staphylococcus aureus infections; and*

WHEREAS, Methicillin-resistant Staphylococcus aureus infections can be prevented by practicing proper hygiene such as hand washing and contact recautions; now therefore,

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

Section 1. ~~{Chapter 441A 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. ~~{1. Each hospital in this State shall establish a MRSA program that requires:~~

~~(a) Identification of all MRSA colonized patients in all intensive care units, and other at risk patients identified by the hospital, through active surveillance testing;~~

~~(b) Isolation of identified MRSA colonized or MRSA infected patients in an appropriate manner;~~

~~(c) Monitoring and strict enforcement of requirements for appropriate hygiene related to washing hands;~~

~~(d) Maintenance of records and reporting of identified cases of MRSA to the State Health Officer.~~

~~2. As used in this section, "MRSA" means methicillin resistant Staphylococcus aureus.} (Deleted by amendment.)~~

Sec. 3. ~~{1. The State Health Officer shall compile aggregate data from the information submitted by hospitals pursuant to section 2 of this act concerning the total number of infections caused by methicillin resistant Staphylococcus aureus in this State that were present when a patient was admitted to the hospital or that occurred after admission;~~

~~2. The State Health Officer shall adopt regulations concerning the manner of reporting and the information to be reported by hospitals pursuant to section 2 of this act;~~

~~3. The aggregate data compiled pursuant to subsection 1 must be made available on the website of the Health Division of the Department of Health and Human Services.} (Deleted by amendment.)~~

Sec. 4. 1. Each hospital in this State is encouraged to establish a methicillin-resistant Staphylococcus aureus infection control program that requires:

(a) The identification, through testing, of all patients in all intensive care units and other patients who are at risk for infection with or who are colonized with methicillin-resistant Staphylococcus aureus;

(b) Proper isolation of patients who are identified as being infected with or colonized with methicillin-resistant Staphylococcus aureus;

(c) Monitoring and strict enforcement of proper hygiene, including, without limitation, hand washing; and

(d) The hospital to work with the Nevada Hospital Association to develop a model for reporting cases of methicillin-resistant Staphylococcus aureus infection in a timely manner.

2. The Nevada Hospital Association, in cooperation with the Health Division of the Department of Health and Human Services and hospitals in this State, is encouraged to develop a model for reporting cases of methicillin-resistant Staphylococcus aureus infection in a timely manner.

3. If the Nevada Hospital Association develops a model pursuant to subsection 2, on or before January 1, 2011, the Nevada Hospital Association shall submit a written report to the Director of the Legislative Counsel Bureau for transmission to the next regular session of the Legislature concerning the model developed pursuant to that subsection.

Senator Cegavske moved the adoption of the amendment.

Remarks by Senator Cegavske.

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

Amendment No. 261 to Senate Bill No. 325. authorizes, rather than requires, hospitals in this State to establish MRSA, methicillin-resistant Staphylococcus aureus infection control programs, and encourages the Nevada Hospital Association in cooperation with the Health Division and hospitals to develop a model for reporting cases of MRSA infection.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 349.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 323.

"SUMMARY—Makes various changes relating to constructional defects. (BDR 3-1151)"

"AN ACT relating to constructional defects; revising the definition of "constructional defect"; providing that a claimant may not recover attorney's fees as damages; requiring an attorney to obtain an affidavit from a claimant and file the affidavit with the court under certain circumstances; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Section 1 of this bill amends the existing definition of "constructional defect" to provide that a constructional defect is a defect ~~;~~ ~~which either:~~
(1) which presents an unreasonable risk of injury to a person or property; or
(2) ~~is a defect~~ which violates the law , unless the workmanship exceeds the standards set forth in any applicable codes and ordinances, which causes physical damages and which is not completed in a good and workmanlike manner. (NRS 40.615)

Section 2 of this bill removes from existing law the provision that allows a claimant to recover reasonable attorney's fees for a claim for a constructional defect. (NRS 40.655)

Section 3 of this bill provides that an attorney must obtain from a claimant a signed affidavit ~~(attesting)~~ stating that the ~~(attorney notified the)~~ claimant has been notified of certain provisions relating to constructional defects ~~, and that the claimant has read and understands such provisions.~~ If the

claimant is a representative of a homeowners' association, section 3 requires that the affidavit also attest that the claimant has notified the units' owners on whose behalf the claim is brought of the provisions of this section. Section 3 also provides that in a subsequent action, the attorney must file the affidavit with the court or the action will be dismissed. (NRS 40.688)

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

Section 1. NRS 40.615 is hereby amended to read as follows:

40.615 "Constructional defect" means a defect in the design, construction, manufacture, repair or landscaping of a new residence, of an alteration of or addition to an existing residence, or of an appurtenance and includes, without limitation, the design, construction, manufacture, repair or landscaping of a new residence, of an alteration of or addition to an existing residence, or of an appurtenance ~~+~~, *which presents an unreasonable risk of injury to a person or property or:*

1. Which is done in violation of law, including, without limitation, in violation of local codes or ordinances ~~+~~, *unless the workmanship of the design, construction, manufacture, repair or landscaping exceeds the standards set forth in any applicable codes and ordinances;*

2. Which proximately causes physical damage to the residence, an appurtenance or the real property to which the residence or appurtenance is affixed; *and*

3. Which is not completed in a good and workmanlike manner in accordance with the generally accepted standard of care in the industry for that type of design, construction, manufacture, repair or landscaping. ~~+~~ ~~or~~

~~4. Which presents an unreasonable risk of injury to a person or property.~~

Sec. 2. NRS 40.655 is hereby amended to read as follows:

40.655 1. Except as otherwise provided in NRS 40.650, in a claim governed by NRS 40.600 to 40.695, inclusive, the claimant may recover only the following damages to the extent proximately caused by a constructional defect:

(a) ~~Any reasonable attorney's fees;~~

~~(b)~~ The reasonable cost of any repairs already made that were necessary and of any repairs yet to be made that are necessary to cure any constructional defect that the contractor failed to cure and the reasonable expenses of temporary housing reasonably necessary during the repair;

~~(c)~~ (b) The reduction in market value of the residence or accessory structure, if any, to the extent the reduction is because of structural failure;

~~(d)~~ (c) The loss of the use of all or any part of the residence;

~~(e)~~ (d) The reasonable value of any other property damaged by the constructional defect;

~~(f)~~ (e) Any additional costs reasonably incurred by the claimant, including, but not limited to, any costs and fees incurred for the retention of experts to:

(1) Ascertain the nature and extent of the constructional defects;

(2) Evaluate appropriate corrective measures to estimate the value of loss of use; and

(3) Estimate the value of loss of use, the cost of temporary housing and the reduction of market value of the residence; and

~~{(g)}~~ (f) Any interest provided by statute.

2. ~~The amount of any attorney's fees awarded pursuant to this section must be approved by the court.~~

~~3.~~ If a contractor complies with the provisions of NRS 40.600 to 40.695, inclusive, the claimant may not recover from the contractor, as a result of the constructional defect, anything other than that which is provided pursuant to NRS 40.600 to 40.695, inclusive.

~~4.~~ 3. This section must not be construed as impairing any contractual rights between a contractor and a subcontractor, supplier or design professional.

~~5.~~ 4. As used in this section, "structural failure" means physical damage to the load-bearing portion of a residence or appurtenance caused by a failure of the load-bearing portion of the residence or appurtenance.

Sec. 3. NRS 40.688 is hereby amended to read as follows:

40.688 1. If a claimant attempts to sell a residence that is or has been the subject of a claim governed by NRS 40.600 to 40.695, inclusive, he shall disclose, in writing, to any prospective purchaser of the residence, not less than 30 days before the close of escrow for the sale of the residence or, if escrow is to close less than 30 days after the execution of the sales agreement, then immediately upon the execution of the sales agreement or, if a claim is initiated less than 30 days before the close of escrow, within 24 hours after giving written notice to the contractor pursuant to NRS 40.645:

(a) All notices given by the claimant to the contractor pursuant to NRS 40.600 to 40.695, inclusive, that are related to the residence;

(b) All opinions the claimant has obtained from experts regarding a constructional defect that is or has been the subject of the claim;

(c) The terms of any settlement, order or judgment relating to the claim; and

(d) A detailed report of all repairs made to the residence by or on behalf of the claimant as a result of a constructional defect that is or has been the subject of the claim.

2. Before taking any action on a claim pursuant to NRS 40.600 to 40.695, inclusive, the attorney for a claimant shall ~~notify~~ *obtain a signed affidavit from the claimant [in writing] [attesting] stating that the attorney has advised the claimant has been notified* of the provisions of this section ~~and that the claimant has read and understands the provisions of this section.~~ *If the claimant is a representative of a homeowners' association, the affidavit must attest that the claimant has notified the units' owners on whose behalf the claim is brought of the provisions of this section. At the time of commencing an action or amending a complaint to add a cause of action for*

a constructional defect, the attorney shall file the affidavit with the court. The court shall dismiss the action or cause of action if the attorney fails to file the required affidavit.

Sec. 4. The amendatory provisions of this act apply to any claim that arises on or after October 1, 2009.

Senator Care moved the adoption of the amendment.

Remarks by Senator Care.

Conflict of interest declared by Senator Hardy.

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

The amendment clarifies that if workmanship exceeds the standards of local codes and ordinances, it is not in violation of those codes and ordinances. Further, the amendment provides that if the claimant represents a homeowner's association, he must make certain notification to the units' owners.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 362.

Bill read second time and ordered to third reading.

Senate Joint Resolution No. 3.

Resolution read second time.

The following amendment was proposed by the Committee on Energy, Infrastructure and Transportation:

Amendment No. 265.

"SUMMARY—Urges ~~{Congress to authorize}~~ the Federal Aviation Administration and the Clark County Department of Aviation to ~~ban flights of experimental homebuilt aircraft to and from}~~ convene a stakeholders' group to develop and make recommendations to improve flight safety standards at the North Las Vegas Airport ~~[+]~~, particularly with respect to experimental homebuilt aircraft. (BDR R-803)"

SENATE JOINT RESOLUTION—Urging ~~{Congress to authorize}~~ the Federal Aviation Administration and the Clark County Department of Aviation to ~~ban flights of experimental homebuilt aircraft to and from}~~ convene a stakeholders' group to develop and make recommendations to improve flight safety standards at the North Las Vegas Airport ~~[+]~~, particularly with respect to experimental homebuilt aircraft.

Legislative Counsel's Digest:

Federal law provides that the United States Government has exclusive sovereignty of airspace of the United States and requires the Administrator of the Federal Aviation Administration to prescribe regulations on the flight of aircraft to prevent collisions between aircraft and to protect persons and property on the ground. (49 U.S.C. 40103) This resolution ~~expresses the concerns of the Legislature regarding the safety of flights of experimental homebuilt aircraft to and from the North Las Vegas Airport and urges Congress to enact legislation authorizing}~~ urges the Federal Aviation Administration to work closely with the Clark County Department of

~~Aviation to ban flights of experimental homebuilt aircraft to and from]~~
~~convene a stakeholders' group to develop and make recommendations to~~
~~improve flight safety standards at the North Las Vegas Airport.] .~~
~~particularly with respect to experimental homebuilt aircraft.~~

WHEREAS, The expansion of urban areas in Clark County increasingly places homes and neighborhoods directly in the flight paths of aircraft flying to and from the North Las Vegas Airport; and

WHEREAS, Flights of experimental homebuilt aircraft to and from the North Las Vegas Airport are increasingly common; and

WHEREAS, Experimental homebuilt aircraft have higher accident rates than other types of aircraft and accounted for more than 12 percent of airplane accidents nationwide in 2007; and

WHEREAS, Experimental homebuilt aircraft have been involved in ~~more than 20~~ nine accidents ~~in~~ at airports within the Clark County airport system since 2003 ~~in~~ , three of which were at the North Las Vegas Airport; and

WHEREAS, ~~Crashes~~ A crash involving an experimental homebuilt aircraft flying from the North Las Vegas Airport resulted in the deaths of ~~several~~ two persons on the ground in 2008; and

WHEREAS, The Federal Aviation Administration sets standards for the number of hours experimental homebuilt aircraft must be tested before such aircraft can be operated at airports such as the North Las Vegas Airport; and

WHEREAS, Some of the experimental homebuilt aircraft operated at the North Las Vegas Airport may have been operated without having met those national standards; and

WHEREAS, The safety of persons who live near the North Las Vegas Airport is of the highest concern to the people of this State; and

WHEREAS, The Clark County Department of Aviation cannot regulate the flights of experimental homebuilt aircraft to and from the North Las Vegas Airport because federal law provides the United States Government with exclusive sovereignty of airspace in the United States; now, therefore, be it

RESOLVED BY THE SENATE AND ASSEMBLY OF THE STATE OF NEVADA, JOINTLY, That the Nevada Legislature expresses serious concerns regarding the current flight safety ~~[of allowing flights of experimental homebuilt aircraft to and from]~~ practices at the North Las Vegas Airport; and be it further

RESOLVED, That the Nevada Legislature urges the ~~[Congress of the United States to enact legislation authorizing]~~ Federal Aviation Administration to work closely with the Clark County Department of Aviation and the entire aviation community in Clark County to ~~ban flights of experimental homebuilt aircraft to and from]~~ convene not later than June 1, 2009, a stakeholders' group, which must include, without limitation:

1. A representative from the Federal Aviation Administration;

2. A representative of the Clark County Department of Aviation;
 3. A representative of the Clark County Aviation Association;
 4. A representative of the City of North Las Vegas;
 5. A representative of the Aircraft Owners and Pilots Association;
 6. Residents of neighborhoods surrounding the North Las Vegas Airport;
- and

7. Tenants of the North Las Vegas Airport; and be it further
RESOLVED, That the stakeholders' group shall, on or before
August 1, 2009, issue its preliminary analysis of the concerns regarding the
current flight safety practices at the North Las Vegas Airport; and be it
further:

RESOLVED, That the stakeholders' group shall, on or before
November 1, 2009, develop and make recommendations to improve flight
safety standards at the North Las Vegas Airport, particularly with respect
to experimental homebuilt aircraft, for submission to the appropriate entities
for consideration and to the Legislative Commission; and be it further

RESOLVED, That the Nevada Legislature urges the Nevada Congressional
Delegation to use its best efforts to encourage the Federal Aviation
Administration to participate in this endeavor; 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,~~ Administrator of the Federal Aviation Administration, the Board of County Commissioners of Clark County, the Director of the Clark County Department of Aviation, the North Las Vegas City Council and each member of the Nevada Congressional Delegation; and be it further

RESOLVED, That this resolution becomes effective upon passage.

Senator Horsford moved the adoption of the amendment.

Remarks by Senator Horsford.

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

Amendment No. 265 to Senate Joint Resolution No. 3 urges the Federal Aviation Administration and the Clark County Department of Aviation to convene a stakeholders' group to develop recommendations to improve flight safety standards at the North Las Vegas airport, particularly with respect to experimental homebuilt aircraft.

Amendment adopted.

Resolution ordered reprinted, engrossed and to third reading.

Assembly Bill No. 136.

Bill read second time and ordered to third reading.

Assembly Bill No. 137.

Bill read second time and ordered to third reading.

Assembly Bill No. 250.

Bill read second time and ordered to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Care moved that Senate Bills Nos. 57, 60, 78, 306 be rereferred to the Committee on Finance upon from reprint.

Motion carried.

Mr. President announced that if there were no objections, the Senate would recess subject to the call of the Chair.

Senate in recess at 1:51 p.m.

SENATE IN SESSION

At 1:53 p.m.

President Krolicki presiding.

Quorum present.

Senator Care moved that the motion whereby Senate Bill No. 57 was rereferred to the Committee on Finance be rescinded.

Motion carried.

GENERAL FILE AND THIRD READING

Senate Bill No. 12.

Bill read third time.

Roll call on Senate Bill No. 12:

YEAS—21.

NAYS—None.

Senate Bill No. 12 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Senate Bill No. 14.

Bill read third time.

The following amendment was proposed by Senator Washington:

Amendment No. 267.

"SUMMARY—Makes various changes to fees relating to a marriage license that fund the Account for Aid for Victims of Domestic Violence. (BDR 11-117)"

"AN ACT relating to marriage; increasing the portion of the fee for a marriage license that funds the Account for Aid for Victims of Domestic Violence; providing for the collection of an additional ~~fees~~ fee relating to marriage licenses to fund the Account for Aid for Victims of Domestic Violence; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law requires a county clerk to collect certain fees when issuing a marriage license. (NRS 122.060) A portion of the fee a county clerk collects when issuing a marriage license is dedicated to the Account for Aid for Victims of Domestic Violence in the State General Fund. Section 1 of this

bill increases the portion of the fee for a marriage license that funds the Account for Aid for Victims of Domestic Violence from \$20 to \$25.

Section ~~(2)~~ 3 of this bill ~~[provide]~~ *provides* that the county ~~[clerk]~~ *recorder* shall collect ~~[, if authorized by the board of county commissioners,]~~ an additional fee of \$5 for the Account for Aid for Victims of Domestic Violence in the State General Fund when certifying a copy of a certificate of marriage or when certifying an abstract of a certificate of marriage. ~~[(NRS 246.180) Section 3 of this bill requires the county recorder to charge the same fee as required in section 2.]~~ (NRS 247.305)

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

Section 1. NRS 122.060 is hereby amended to read as follows:

122.060 1. The county clerk is entitled to receive as his fee for issuing ~~[the]~~ a *marriage* license the sum of \$21.

2. The county clerk shall also at the time of issuing the *marriage* license:

(a) Collect the sum of \$10 and:

(1) If the board of county commissioners has adopted an ordinance pursuant to NRS 246.100, deposit the sum into the county general fund pursuant to NRS 246.180 for filing the originally signed copy of the certificate of marriage described in NRS 122.120.

(2) If the board of county commissioners has not adopted an ordinance pursuant to NRS 246.100, pay it over to the county recorder as his fee for recording the originally signed copy of the certificate of marriage described in NRS 122.120.

(b) Collect the additional fee described in subsection 2 of NRS 246.180, if the board of county commissioners has adopted an ordinance authorizing the collection of such fee, and deposit the fee pursuant to NRS 246.190.

3. The county clerk shall also at the time of issuing the *marriage* license collect the additional sum of \$4 for the State of Nevada. The fees collected for the State must be paid over to the county treasurer by the county clerk on or before the fifth day of each month for the preceding calendar month, and must be placed to the credit of the State General Fund. The county treasurer shall remit quarterly all such fees deposited by the county clerk to the State Controller for credit to the State General Fund.

4. The county clerk shall also at the time of issuing the *marriage* license collect the additional sum of ~~[\$20]~~ \$25 for the Account for Aid for Victims of Domestic Violence in the State General Fund. The fees collected for this purpose must be paid over to the county treasurer by the county clerk on or before the fifth day of each month for the preceding calendar month, and must be placed to the credit of that Account. The county treasurer shall, on or before the 15th day of each month, remit those fees deposited by the county clerk to the State Controller for credit to that Account.

Sec. 2. ~~[(NRS 246.180) Section 3 of this bill requires the county recorder to charge the same fee as required in section 2.]~~ (NRS 246.180 is hereby amended to read as follows:

~~246.180 1. If the board of county commissioners has adopted an ordinance pursuant to NRS 246.100, the county clerk shall charge and collect the following fees:~~

- ~~(a) For filing any certificate of marriage, \$10.~~
- ~~(b) For copying any certificate of marriage, \$1 per page.~~
- ~~(c) For a certified copy of a certificate of marriage, \$10.~~
- ~~(d) For a certified abstract of a certificate of marriage, \$10.~~
- ~~(e) For a certified copy of a certificate of marriage or for a certified abstract of a certificate of marriage, the additional sum of \$5 for the Account for Aid for Victims of Domestic Violence in the State General Fund. The fees collected for this purpose must be paid over to the county treasurer by the county clerk on or before the fifth day of each month for the preceding calendar month, and must be credited to that Account. The county treasurer shall, on or before the 15th day of each month, remit those fees deposited by the clerk to the State Controller for credit to that Account.~~

~~2. In addition to the fees described in subsection 1, a county clerk may charge and collect an additional fee not to exceed \$3 for filing a certificate of marriage, if the board of county commissioners has adopted an ordinance authorizing the additional fee. The county clerk shall pay to the county treasurer the amount of fees collected by him pursuant to this subsection for credit to the account established pursuant to NRS 246.190.~~

~~3. A county clerk shall charge and collect the fees specified in this section for copying a document specified in this section at the request of the State of Nevada or any city or town within the county. For copying, and for his certificate and seal upon the copy, the county clerk shall charge the regular fee.~~

~~4. Except as otherwise provided in an ordinance adopted pursuant to NRS 244.207, county clerks shall, on or before the fifth working day of each month, account for and pay to the county treasurer all fees related to filing certificates of marriage collected during the preceding month.~~

~~5. For purposes of this section, "State of Nevada," "county," "city" and "town" include any department or agency thereof and any officer thereof in his official capacity. (Deleted by amendment.)~~

Sec. 3. NRS 247.305 is hereby amended to read as follows:

247.305 1. If another statute specifies the fee to be charged for a service, county recorders shall charge and collect only the fee specified. Otherwise, unless prohibited by NRS 375.060, county recorders shall charge and collect the following fees:

- (a) For recording any document, for the first page , \$10 .
- (b) For each additional page , \$1 .
- (c) For recording each portion of a document which must be separately indexed, after the first indexing , \$3 .
- (d) For copying any record, for each page , \$1 .
- (e) For certifying, including certificate and seal , \$4 .
- (f) For a certified copy of a certificate of marriage , \$10 .

(g) For a certified abstract of a certificate of marriage , \$10 .

(h) *For a certified copy of a certificate of marriage or for a certified abstract of a certificate of marriage, the additional sum of \$5 for the Account for Aid for Victims of Domestic Violence in the State General Fund. The fees collected for this purpose must be paid over to the county treasurer by the county recorder on or before the fifth day of each month for the preceding calendar month, and must be credited to that Account. The county treasurer shall, on or before the 15th day of each month, remit those fees deposited by the recorder to the State Controller for credit to that Account.*

2. Except as otherwise provided in this subsection and NRS 375.060, a county recorder may charge and collect, in addition to any fee that a county recorder is otherwise authorized to charge and collect, an additional fee not to exceed \$3 for recording a document, instrument, paper, notice, deed, conveyance, map, chart, survey or any other writing. A county recorder may not charge the additional fee authorized in this subsection for recording the originally signed copy of a certificate of marriage described in NRS 122.120. On or before the fifth day of each month, the county recorder shall pay the amount of fees collected by him pursuant to this subsection to the county treasurer for credit to the account established pursuant to NRS 247.306.

3. Except as otherwise provided in this subsection and NRS 375.060, a county recorder shall charge and collect, in addition to any fee that a county recorder is otherwise authorized to charge and collect, an additional fee of \$1 for recording a document, instrument, paper, notice, deed, conveyance, map, chart, survey or any other writing. A county recorder shall not charge the additional fee authorized in this subsection for recording the originally signed copy of a certificate of marriage described in NRS 122.120. On or before the fifth day of each month, the county recorder shall pay the amount of fees collected by him pursuant to this subsection to the county treasurer. On or before the 15th day of each month, the county treasurer shall remit the money received by him pursuant to this subsection to the State Treasurer for credit to the Account to Assist Persons Formerly in Foster Care established pursuant to NRS 432.017.

4. Except as otherwise provided in this subsection, subsection 5 or by specific statute, a county recorder may charge and collect, in addition to any fee that a county recorder is otherwise authorized to charge and collect, an additional fee not to exceed \$25 for recording any document that does not meet the standards set forth in subsection 3 of NRS 247.110. A county recorder shall not charge the additional fee authorized by this subsection for recording a document that is exempt from the provisions of subsection 3 of NRS 247.110.

5. Except as otherwise provided in subsection 6, a county recorder shall not charge or collect any fees for any of the services specified in this section when rendered by him to:

(a) The county in which his office is located.

(b) The State of Nevada or any city or town within the county in which his office is located, if the document being recorded:

- (1) Conveys to the State, or to that city or town, an interest in land;
- (2) Is a mortgage or deed of trust upon lands within the county which names the State or that city or town as beneficiary;
- (3) Imposes a lien in favor of the State or that city or town; or
- (4) Is a notice of the pendency of an action by the State or that city or town.

6. A county recorder shall charge and collect the fees specified in this section for copying any document at the request of the State of Nevada, and any city or town within the county. For copying, and for his certificate and seal upon the copy, the county recorder shall charge the regular fee.

7. If the amount of money collected by a county recorder for a fee pursuant to this section:

(a) Exceeds by \$5 or less the amount required by law to be paid, the county recorder shall deposit the excess payment with the county treasurer for credit to the county general fund.

(b) Exceeds by more than \$5 the amount required by law to be paid, the county recorder shall refund the entire amount of the excess payment.

8. Except as otherwise provided in subsection 2, 3 or 7 or by an ordinance adopted pursuant to the provisions of NRS 244.207, county recorders shall, on or before the fifth working day of each month, account for and pay to the county treasurer all such fees collected during the preceding month.

9. For the purposes of this section, "State of Nevada," "county," "city" and "town" include any department or agency thereof and any officer thereof in his official capacity.

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

Senator Washington moved the adoption of the amendment.

Remarks by Senators Washington, Carlton and Mathews.

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

SENATOR WASHINGTON:

The amendment deletes section 2 of Senate Bill No. 14. Section 2 deals with the marriage license fee. It increases it by \$5. The amendment deletes the section and keeps the rest of the bill in tact.

The reason why we proposed the amendment to the bill is because there has been a misunderstanding concerning Senate Bill No. 14 with its relation to the adoption of certified copies of marriage certificates versus the fee that was imposed upon marriage licenses. I would like to make it clear that this amendment does not do anything to harm the Victims of Domestic Violence Fund and their attempt to correct an ill in our society and the victims of this violence. Working with the members of the Victims of Domestic Violence Fund this summer, they indicated they were short in revenue. They wanted to introduce a bill that would try to close the gap in their revenues by imposing a fee on marriage licenses of \$5. I told them the Governor might have a resistance to this because it is a fee that is imposed upon marriage licenses. This may have a cause-and-effect on the wedding chapels. I indicated to them that we would try to

find different revenues for them. We want to help them in their endeavor to work with the victims of domestic violence.

We posed a question to the wedding chapel industry. They came up with a proposal that we thought would be sufficient to assist them with their revenue needs and keep the wedding chapel industry in tact. This \$5 fee would pose a burden on the small businesses. This industry has seen a decline during the past few years.

I would like to read some lines from the testimony given during the hearing in the Senate Committee on Finance. The Executive Director of Nevada Network Against Domestic Violence indicated that Senate Bill No. 14 would result in additional revenues of \$615,000. I understand that their current budget is almost \$1.5 million.

Her remarks stated, "We had planned to propose an amendment today making the total increase \$10 for each marriage license issued. Senator Washington, Washoe Senate District No. 2, and the wedding chapel industry brought forth another proposal. They proposed an increase to the fee for certified copies of marriage licenses which would not affect the wedding chapel industry." It would be a great benefit to the Victims of Domestic Violence Fund. She thought this proposal would be a stable and sufficient revenue stream. She continued her testimony by stating, "We received approximate numbers of certified marriage license copies requested from Senator Washington. Using the large number provided by Senator Washington, a \$5 increase on certified copy fee costs should generate more than \$900,000." She went on to indicate the proposal would only generate \$615,000. The chapels agreed with this proposed amendment saying that it not only would take the wedding chapel industry off the hook, but it would provide a sufficient and steady revenue stream.

In this testimony, Margaret Flint, who represents the wedding chapel industry, indicated the Reno Chapel of the Bells had been in existence since 1962. Because of previous legislation, they have seen their revenues decrease sufficiently. This would be one more added burden. She told the Committee, "I have provided the Committee with two pages depicting the reasons we are opposed to Senate Bill No. 14. The good news is we have an alternative proposal to present to the Committee as spoken about earlier."

This proposal would keep the chapels in tact and provide a steady revenue stream for domestic violence. The proposal is to place a \$7 fee on certified copies of marriage certificates. This would net almost \$900,000. Two dollars of that proposed fee would go to the appropriate counties for administering this fee. The counties indicated that they did not want it. Then, the fee went down to \$5. This proposal was to take the place of the \$5 that was going to be added to the marriage licenses. This would keep the marriage industry in tact. It would propose a fee on certified copies of marriage certificates. It was \$10 and would go up to \$15. It would provide a steady and sufficient revenue stream and net them about \$900,000.

The Victims of Domestic Violence Fund decided to take two bites of the apple. This was never the intent. The intent was to replace the \$5 that was going to be imposed on the marriage license and to provide the Victims of Domestic Violence Fund with a revenue stream. I understand that within the testimony that the wedding chapel industry had agreed to both amendments. That was never the intent nor was it the indication from the industry that they were going to accept both amendments. Their intent was to replace the proposed amendment, the \$5 on the certified copies of marriage certificates against the \$5 for the marriage license fee. Therefore, I urge my colleagues to adopt this amendment, take the burden and the stress off the industry, allow them to continue to do business without any additional burdens and adopt this amendment that will give the Domestic Violence Fund a steady, sufficient and increased revenue stream.

SENATOR CARLTON:

I understand what my colleagues concerns are, but I want to understand exactly what this amendment does. The amendment that is being proposed before us, today, leaves the \$5 fee that will go on the certified copies in tact so that after a marriage when a person needs those copies to change bank accounts, life insurance, mortgages, etc., that \$5 will be in the fee. But what the amendment is proposing to eliminate is the one-time \$5 fee on the actual marriage license.

SENATOR WASHINGTON:

That is correct. The amendment is an attempt to remove the \$5 one-time fee on marriage licenses and to add \$5 onto the fee for certified copies. That fee is currently \$10.

SENATOR CARLTON:

Thank you for the clarification. With that clarification, I rise in opposition to the amendment. There are times when people do not need to have a certified copy. If we truly want to impose a fee of only \$5 on a marriage license, if that will slow someone down from entering into the wrong marriage, then I am all for that \$5 fee.

SENATOR MATHEWS:

I would like to respond to some of the points made by Senator Washington. This bill originated in December, 2008. The Domestic Violence budget had been cut so severely, that the Department of Health came forth and found some money in its budget to support the Fund until a revenue stream could be found to help them. After much discussion, it was decided that \$5 on a marriage license would not harm anyone and would help the Fund. It would not harm the wedding chapels because the license is obtained before the couple arrives at the wedding chapel. If the fee was going to stop them from getting married, they would stop at the court house where they have to buy the wedding license.

During the conversations with Senator Washington, he stated he had found a great revenue stream. He brought forth an amendment and stated we can add \$5 for a copy of the marriage license and it would bring in revenue. We wanted to ask for \$10, but with the downturn of the economy, we decided not to. I thought it was a good idea because not everyone needs a copy of the marriage license, but it would give us the added money if a person did need it.

Wedding chapels are not in the business of issuing wedding licenses or duplicating them. This will not hurt their business in any way. Some people do not go to wedding chapels. Some go to churches. I have not heard anything about them. This is not going to hurt anyone. I am opposed to the amendment. We need the bill. Men and women, both need shelters, and it has nothing to do with wedding chapels and their business.

SENATOR WASHINGTON:

It does hurt the industry. The industry's comments come from their ties to tourism. The people who come to the wedding chapels to get married are usually tourists. In the last two years, Clark County marriage license sales have dropped by 17,000. In Washoe County, they have decreased by 3,500. Clark County has lost almost \$962,000. Washoe County has lost \$192,000. It also has a direct impact to the counties because of tourism but has a direct impact on the wedding chapels. The \$5 increase will reflect in their decision as to whether they will get married in this State or not. This is not an attempt to demean the efforts or the work of the Victims of Domestic Violence Fund, but it is an effort to strike a balance between an industry that is trying to survive because of the economic conditions and the Victims of Domestic Violence Fund. We are trying to find a revenue stream that is going to be sufficient for them in the future. Hopefully, my colleagues will adopt this amendment because we think it is fair and balanced.

Motion lost on a division of the house.

Roll call on Senate Bill No. 14:

YEAS—21.

NAYS—None.

Senate Bill No. 14 having received a two-thirds majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 18.

Bill read third time.

Roll call on Senate Bill No. 18:

YEAS—21.

NAYS—None.

Senate Bill No. 18 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 26.

Bill read third time.

Roll call on Senate Bill No. 26:

YEAS—21.

NAYS—None.

Senate Bill No. 26 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 31.

Bill read third time.

Roll call on Senate Bill No. 31:

YEAS—21.

NAYS—None.

Senate Bill No. 31 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 40.

Bill read third time.

Roll call on Senate Bill No. 40:

YEAS—21.

NAYS—None.

Senate Bill No. 40 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 42.

Bill read third time.

Roll call on Senate Bill No. 42:

YEAS—21.

NAYS—None.

Senate Bill No. 42 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 58.

Bill read third time.

Roll call on Senate Bill No. 58:

YEAS—21.

NAYS—None.

Senate Bill No. 58 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 61.

Bill read third time.

Roll call on Senate Bill No. 61:

YEAS—21.

NAYS—None.

Senate Bill No. 61 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Senate Bill No. 66.

Bill read third time.

Roll call on Senate Bill No. 66:

YEAS—21.

NAYS—None.

Senate Bill No. 66 having received a constitutional majority, Mr. President declared it passed, as amended.

Senator Raggio moved that the action whereby Senate Bill No. 66 was passed be rescinded.

Motion carried.

Roll call on Senate Bill No. 66:

YEAS—20.

NAYS—None.

NOT VOTING—Raggio.

Senate Bill No. 66 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 121.

Bill read third time.

Roll call on Senate Bill No. 121:

YEAS—21.

NAYS—None.

Senate Bill No. 121 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 124.

Bill read third time.

Roll call on Senate Bill No. 124:

YEAS—21.

NAYS—None.

Senate Bill No. 124 having received a constitutional majority,
Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 130.

Bill read third time.

Roll call on Senate Bill No. 130:

YEAS—21.

NAYS—None.

Senate Bill No. 130 having received a constitutional majority,
Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 156.

Bill read third time.

Roll call on Senate Bill No. 156:

YEAS—21.

NAYS—None.

Senate Bill No. 156 having received a constitutional majority,
Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Senate Bill No. 168.

Bill read third time.

Roll call on Senate Bill No. 168:

YEAS—21.

NAYS—None.

Senate Bill No. 168 having received a constitutional majority,
Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 173.

Bill read third time.

Roll call on Senate Bill No. 173:

YEAS—21.

NAYS—None.

Senate Bill No. 173 having received a constitutional majority,
Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 176.

Bill read third time.

Roll call on Senate Bill No. 176:

YEAS—21.

NAYS—None.

Senate Bill No. 176 having received a constitutional majority,
Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 193.

Bill read third time.

Roll call on Senate Bill No. 193:

YEAS—21.

NAYS—None.

Senate Bill No. 193 having received a constitutional majority,
Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Senate Bill No. 209.

Bill read third time.

Roll call on Senate Bill No. 209:

YEAS—21.

NAYS—None.

Senate Bill No. 209 having received a constitutional majority,
Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 216.

Bill read third time.

Roll call on Senate Bill No. 216:

YEAS—16.

NAYS—Care, Carlton, Copening, Townsend, Wiener—5.

Senate Bill No. 216 having received a constitutional majority,
Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 218.

Bill read third time.

Roll call on Senate Bill No. 218:

YEAS—19.

NAYS—Carlton, McGinness—2.

Senate Bill No. 218 having received a two-thirds majority, Mr. President
declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 219.

Bill read third time.

Roll call on Senate Bill No. 219:

YEAS—21.

NAYS—None.

Senate Bill No. 219 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 228.

Bill read third time.

Roll call on Senate Bill No. 228:

YEAS—21.

NAYS—None.

Senate Bill No. 228 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Senate Bill No. 246.

Bill read third time.

Conflict of interest declared by Senator Raggio.

Roll call on Senate Bill No. 246:

YEAS—20.

NAYS—None.

NOT VOTING—Raggio.

Senate Bill No. 246 having received a two-thirds majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 248.

Bill read third time.

Roll call on Senate Bill No. 248:

YEAS—21.

NAYS—None.

Senate Bill No. 248 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 253.

Bill read third time.

Remarks by Senators Townsend, Care and Parks.

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

SENATOR TOWNSEND:

In section 3, it states, "If an association solicits a bid for a project and that project is defined as but not limited to maintenance repair, replacement or restoration of any part of the common elements which are involved for the provision of service of the association, it must be open during a meeting of the executive board." That is understandable for the larger C.I.C.s in our large counties, but how does this function for our smaller community associations. Those are the

ones from whom we hear the most complaints when anytime we add any requirements to the statute. It is not the larger ones. The larger associations have executive boards, and they have executive sessions. It is in the smaller ones, whether in rural Nevada or in our larger counties about which we should be concerned.

Could this be addressed by someone?

SENATOR CARE:

This bill does not address that, because it does not make a distinction between a large association and a small association. It is clear from section 2 and section 3. Section 2 has a self-dealing provision in there, which can be found in a few other bills. Section 3 is self-explanatory. At one of the hearings on another HOA bill, the sponsor of this bill raised the question if we have reached the point where we are putting a burden on smaller associations that larger associations can handle every time we do HOA legislation. There is nothing contained in this bill that makes that distinction. This Committee is aware of it. This is an issue that will need to be addressed at some point.

SENATOR PARKS:

This was language I felt strongly about. I understand the issue of smaller associations versus larger associations. There has been a lot of discussion of how bids for projects are awarded but are not awarded with full knowledge of the interested owners in the association. The attempt with this was to add a degree of transparency where they would open these bids when other members of the associations could be present.

SENATOR TOWNSEND:

Nevada is going have to be sensitive to the legal distinction between the size of these associations. Many times, smaller associations, they do not have a need to use an executive board that can do this. At some point, the requirement will overburden these smaller associations.

I have another question, which is on section 6. This has been debated at some length. It has to do with the ability of a homeowner to rent or lease a unit. It says, "At the time a unit owner purchases his unit, the declaration prohibits the unit owner from renting or leasing." A property-rights issue may come into play with out statute and this change. Those who own a unit may rent to people whom they do not know. Behavior of these renters may conflict with the rules and or CC&Rs of those associations. That becomes a problem. Some associations have decided they are going to prohibit renting or cease, to prevent these challenges. This measure prohibits that. You will be able to rent to anyone, under any circumstance you want. Did you have this debate?

SENATOR CARE:

I will read the provision in the floor statement. "The bill provides that unless the declaration in effect at the time a unit was purchased specifically prohibited the rent or lease of the unit or required the unit's owner to secure association approval, the association may not prohibit the rent or lease of that unit. Additionally, any declaration in effect prior to October 1, 2009, that limits the number of units, it can be rented or leased in the common interest community cannot be amended to decrease the number after October 1, 2009."

There are two HOA bills coming to the Senate Floor that discuss when it is that the owner can be assessed a fine when a tenant violates the CC&R or rule and regulation. That is not the subject of this bill. It has come up in the discussions we have had in the hearings on the other bills we have had. I do not remember it in this bill. This bill is confined to what it says.

Roll call on Senate Bill No. 253:

YEAS—17.

NAYS—Cegavske, Nolan, Raggio, Townsend—4.

Senate Bill No. 253 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 254.

Bill read third time.

Roll call on Senate Bill No. 254:

YEAS—21.

NAYS—None.

Senate Bill No. 254 having received a constitutional majority,
Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Senate Bill No. 256.

Bill read third time.

Roll call on Senate Bill No. 256:

YEAS—21.

NAYS—None.

Senate Bill No. 256 having received a constitutional majority,
Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 262.

Bill read third time.

Roll call on Senate Bill No. 262:

YEAS—18.

NAYS—Carlton, Horsford, Mathews—3.

Senate Bill No. 262 having received a constitutional majority,
Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 298.

Bill read third time.

Roll call on Senate Bill No. 298:

YEAS—21.

NAYS—None.

Senate Bill No. 298 having received a constitutional majority,
Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 304.

Bill read third time.

Roll call on Senate Bill No. 304:

YEAS—21.

NAYS—None.

Senate Bill No. 304 having received a constitutional majority,
Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 314.

Bill read third time.

Roll call on Senate Bill No. 314:

YEAS—21.

NAYS—None.

Senate Bill No. 314 having received a constitutional majority,
Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 327.

Bill read third time.

Roll call on Senate Bill No. 327:

YEAS—21.

NAYS—None.

Senate Bill No. 327 having received a constitutional majority,
Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 337.

Bill read third time.

Conflict of interest declared by Senator Hardy.

Senator Lee disclosed that he is a licensed contractor and the bill will have
no effect on him.

Roll call on Senate Bill No. 337:

YEAS—20.

NAYS—None.

NOT VOTING—Hardy.

Senate Bill No. 337 having received a constitutional majority,
Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 339.

Bill read third time.

Roll call on Senate Bill No. 339:

YEAS—21.

NAYS—None.

Senate Bill No. 339 having received a constitutional majority,
Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 348.

Bill read third time.

Roll call on Senate Bill No. 348:

YEAS—21.

NAYS—None.

Senate Bill No. 348 having received a constitutional majority,
Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Senate Bill No. 352.

Bill read third time.

Conflict of interest declared by Senator Hardy.

Senator Lee disclosed that he is a licensed contractor and the bill will have
no effect on him.

Roll call on Senate Bill No. 352:

YEAS—20.

NAYS—None.

NOT VOTING—Hardy.

Senate Bill No. 352 having received a constitutional majority,
Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 354.

Bill read third time.

Roll call on Senate Bill No. 354:

YEAS—21.

NAYS—None.

Senate Bill No. 354 having received a constitutional majority,
Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 391.

Bill read third time.

Roll call on Senate Bill No. 391:

YEAS—21.

NAYS—None.

Senate Bill No. 391 having received a constitutional majority,
Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Senate Joint Resolution No. 2.

Resolution read third time.

Roll call on Senate Joint Resolution No. 2:

YEAS—21.

NAYS—None.

Senate Joint Resolution No. 2 having received a constitutional majority,
Mr. President declared it passed, as amended.

Resolution ordered transmitted to the Assembly.

Senate Joint Resolution No. 7.

Resolution read third time.

Roll call on Senate Joint Resolution No. 7:

YEAS—21.

NAYS—None.

Senate Joint Resolution No. 7 having received a constitutional majority, Mr. President declared it passed, as amended.
Resolution ordered transmitted to the Assembly.

Senate Joint Resolution No. 4 of the 74th Session.

Resolution read third time.

Roll call on Senate Joint Resolution No. 4 of the 74th Session:

YEAS—8.

NAYS—Breedon, Care, Carlton, Cegavske, Coffin, Copening, Horsford, Lee, Mathews, Nolan, Schneider, Wiener, Woodhouse—13.

Senate Joint Resolution No. 4 of the 74th Session having failed to receive a constitutional majority, Mr. President declared it lost.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Care moved that Senate Bill No. 264 be rereferred to the Committee on Legislative Operations and Elections upon return from reprint.

Remarks by Senator Care.

Motion carried.

REPORTS OF COMMITTEES

Mr. President:

Your Committee on Taxation, to which was referred Senate Bill No. 294, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

BOB COFFIN, *Chair*

WAIVERS AND EXEMPTIONS WAIVER OF JOINT STANDING RULE(S)

A Waiver requested by Assemblywoman Smith

For: Assembly Bill No. 463.

To Waive:

Subsection 1 of Joint Standing Rule No. 14.3.

Subsection 2 of Joint Standing Rule No. 14.3.

With the following conditions:

May only be passed out of house of origin on or before Thursday, April 30, 2009.

Has been granted effective: Wednesday, April 15, 2009.

STEVEN A. HORSFORD
Senate Majority Leader

BARBARA BUCKLEY
Speaker of the Assembly

UNFINISHED BUSINESS SIGNING OF BILLS AND RESOLUTIONS

There being no objections, the President and Secretary signed Assembly Bill No. 39; Assembly Joint Resolution No. 3 of the 74th Session.

GUESTS EXTENDED PRIVILEGE OF SENATE FLOOR

On request of Senator Breedon, the privilege of the floor of the Senate Chamber for this day was extended to the following students, chaperones and teachers from the Green Valley Christian Academy: Gabriel Beajow, Matthew Buckels, Matthew Buford, Madison Cramer, Hunter Dale, Hayley

Ellis, Kiayna Ford, Dara Franceschi, Alexa Harris, Caleb Ho, Jillian James, Zachary Kaempfer, Dakota Kouba, Lauren Longworth, Cole Lory, Jonathon McSwain, Jayda Medeiros, Alondra Mejia, Harlee Miscovich, Brianna Moers, Caitlin Nielen, Erica Olsen, Kendal Poff, Samantha Rios, Colin Smith, Jesse Sturdivant, Alexis Tomassi, Claire Tulak, Benjamin Webster, Katie Williams, Dylan Ziegler; chaperones: Dario Franceschi, Ron Tulak, Charles McSwain, Robert Rios, Valerie James, Rich Kouba, Tina Poff, Nani Medeiros, Joannie Williams, Laurie Studivant, Jhovv Mejia, Kristen Farrell, Scott Ziegler, Becky Miscovich, Tricia Longworth, Nicole Dubois, Ty Lappen, Margaret Rios; teachers: Tina Rodilosso and Marina Joyner.

On request of Senator Lee, the privilege of the floor of the Senate Chamber for this day was extended to Betty Hicks.

On request of Senator Mathews, the privilege of the floor of the Senate Chamber for this day was extended to Kari Newberg, Kaisa Newberg, Ben Newberg and Elaine Walker.

Senator Horsford moved that the Senate adjourn until Thursday, April 16, 2009, at 11 a.m.

Motion carried.

Senate adjourned at 2:53 p.m.

Approved:

BRIAN K. KROLICKI
President of the Senate

Attest: CLAIRE J. CLIFT
Secretary of the Senate