

THE NINETY-NINTH DAY

CARSON CITY (Monday), May 11, 2009

Senate called to order at 11:57 a.m.

President Krolicki presiding.

Roll called.

All present.

Prayer by the Chaplain, Pastor Albert Tilstra.

Almighty God, give our Senators, today, the provisions of Your grace. Provide them with the grace of Your comfort to cheer, Your wisdom to teach, Your hand to guide, Your counsel to instruct and Your presence to inspire.

Prosper the works of their hands as You direct their steps. Lord, show them what needs to be changed and give them the courage and wisdom to do what is right for the people they represent. In all the work You have elected them to do, help them to strive to fulfill Your purposes for this day and for this Session. I pray in the Name of the Almighty.

AMEN.

Pledge of Allegiance to the Flag.

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

Motion carried.

REPORTS OF COMMITTEES

Mr. President:

Your Committee on Commerce and Labor, to which was referred Assembly Bill No. 486, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

MAGGIE CARLTON, *Chair*

Mr. President:

Your Committee on Energy, Infrastructure and Transportation, to which was referred Assembly Bill No. 510, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

MICHAEL A. SCHNEIDER, *Chair*

Mr. President:

Your Committee on Finance, to which was referred Senate Bill No. 409, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

Also, your Committee on Finance, to which was referred Senate Bill No. 146, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

BERNICE MATHEWS, *Cochair*

Mr. President:

Your Committee on Health and Education, to which were referred Assembly Bills Nos. 16, 52, 191, 243, 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 Legislative Operations and Elections, to which was referred Assembly Bill No. 79, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

JOYCE WOODHOUSE, *Chair*

MESSAGES FROM THE ASSEMBLY

ASSEMBLY CHAMBER, Carson City, May 8, 2009

To the Honorable the Senate:

I have the honor to inform your honorable body that the Assembly on this day adopted Senate Concurrent Resolutions Nos. 3, 16, 33, 34.

Also, I have the honor to inform your honorable body that the Assembly on this day respectfully refused to recede from its action on Senate Bill No. 109, Assembly Amendment No. 576, and requests a conference, and appointed Assemblymen Claborn, Smith and Carpenter as a Conference Committee to meet with a like committee of the Senate.

DIANE M. KEETCH

Assistant Chief Clerk of the Assembly

MOTIONS, RESOLUTIONS AND NOTICES

By Senator Coffin:

Senate Concurrent Resolution No. 35—Urging Congress to enact legislation allowing states to collect sales taxes on remote sales, including sales on the Internet.

Senator Coffin moved that the resolution be referred to the Committee on Taxation.

Motion carried.

Senator Schneider moved that Assembly Bill No. 109 be taken from the Secretary's desk and placed on the bottom of the General File.

Motion carried.

INTRODUCTION, FIRST READING AND REFERENCE

By the Committee on Finance:

Senate Bill No. 422—AN ACT making a supplemental appropriation to the Department of Motor Vehicles for unanticipated shortfalls in revenue for Fiscal Year 2008-2009; 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. 423—AN ACT making appropriations to the Interim Finance Committee for allocation to assist state agencies in paying electricity, heating and cooling costs; 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. 424—AN ACT making an appropriation to the Fund for Insurance Premiums, commonly known as the Attorney General's Tort Claim Fund; 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. 425—AN ACT relating to state financial administration; extending the reversion date and reporting requirements for the appropriation made during the 74th Session of the Nevada Legislature to the Institute for Neuro-Immune Disease for the construction of a facility; and providing other matters properly relating thereto.

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

Motion carried.

SECOND READING AND AMENDMENT

Senate Bill No. 408.

Bill read second time.

The following amendment was proposed by the Committee on Finance:

Amendment No. 612.

"SUMMARY—Authorizes payments from the Patriot Relief Account in the State General Fund to certain members of the Nevada National Guard who return from deployment in a combat zone. (BDR 36-1183)"

"AN ACT relating to the Nevada National Guard; authorizing payments from the Patriot Relief Account in the State General Fund to certain members of the Nevada National Guard who return from deployment in a combat zone and attend a course on reintegration into the community; revising provisions governing the retention of interest and income earned on the money in the Account; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law authorizes the payment of various benefits to members of the Nevada National Guard from the Patriot Relief Account in the State General Fund. (NRS 412.1435) This bill authorizes payment from the Account of \$100 to a member of the Nevada National Guard who: (1) returns from deployment in a combat zone; (2) was on active service for 45 days or more in full-time National Guard duty; and (3) not more than 90 days after returning from deployment in the combat zone, attends a course on reintegration into the community with his spouse, an adult member of his immediate family or an adult with whom he cohabits.

This bill also provides that the interest and income on any unexpended appropriations made to the Patriot Relief Account must be credited to the Account.

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

Section 1. NRS 412.1435 is hereby amended to read as follows:

412.1435 1. The Patriot Relief Account is hereby created as a special account in the State General Fund.

2. The money in the Patriot Relief Account does not lapse to the State General Fund at the end of any fiscal year. The interest and income earned on the *sum of:*

(a) *The* money in the Patriot Relief Account, after deducting any applicable charges ~~+~~; *and*

(b) *Unexpended appropriations made to the Patriot Relief Account from the State General Fund.*

~~→~~ must be credited to the Account. All claims against the Patriot Relief Account must be paid as other claims against the State are paid.

3. The Office may accept gifts, grants and donations from any source for deposit in the Patriot Relief Account.

4. The money in the Patriot Relief Account may only be used to provide:

(a) Reimbursement to ~~members~~ *a member* of the Nevada National Guard for the cost of:

(1) Premiums on a policy of group life insurance purchased pursuant to the provisions of 38 U.S.C. §§ 1965 et seq.; and

(2) Textbooks required for a course of study in which the member is enrolled at an institution within the Nevada System of Higher Education; ~~and~~

(b) Monetary relief from economic hardships experienced by ~~members~~ *a member* of the Nevada National Guard who ~~have~~ *has* been called into active service ~~+~~; *and*

(c) *A payment of \$100 to a member of the Nevada National Guard who:*

(1) *Returns from deployment in a combat zone;*

(2) *Was on active service for 45 days or more in full-time National Guard duty, as defined in 10 U.S.C. § 101(d)(5); and*

(3) *Not more than 90 days after returning from deployment in the combat zone, attends a course on reintegration into the community with his spouse, an adult member of his immediate family or an adult with whom he cohabits.*

5. The Adjutant General shall adopt any regulations necessary to determine eligibility for reimbursement or monetary relief from the Patriot Relief Account and to carry out a program to provide such reimbursement and monetary relief.

6. *As used in this section:*

(a) *"Combat zone" means any area which the President of the United States has designated by executive order as an area in which the Armed Forces of the United States are engaged in combat.*

(b) *"Course on reintegration into the community" means a class designed to provide a member of the Nevada National Guard who is returning from*

deployment in a combat zone with skills and training to enable him more easily to adapt to life outside of the combat zone.

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

Senator Horsford moved the adoption of the amendment.

Remarks by Senator Horsford.

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

The amendment authorizes payment from the Patriot Relief Account of \$100 to a member of the Nevada National Guard who attends a course on the reintegration into the community after returning from deployment in combat or who was in active service for 45 days or more in full-time National Guard duty.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 6.

Bill read second time and ordered to third reading.

Assembly Bill No. 14.

Bill read second time and ordered to third reading.

Assembly Bill No. 24.

Bill read second time.

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

Amendment No. 599.

"SUMMARY—Revises provisions governing claims for compensation under industrial insurance. (BDR 53-423)"

"AN ACT relating to industrial insurance; revising provisions relating to the duty of an insurer to accept or deny a claim for compensation; revising provisions relating to the selection of a physician or chiropractor by an injured employee; revising provisions relating to the denial of compensation due to discharge from employment for misconduct; revising provisions relating to the closure of a claim; repealing provisions requiring the reduction of compensation by the amount of federal disability insurance benefits received by an injured employee; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under existing law, an insurer is required to accept or deny a claim for compensation within 30 days after the insurer has been notified of an industrial accident. (NRS 616C.065) Section 2 of this bill provides that if an insurer is ordered by the Administrator of the Division of Industrial Relations of the Department of Business and Industry, a hearing or appeals officer, a district court or the Supreme Court of Nevada to make a new determination relating to a claim for compensation, such a determination must be made within 30 days after the order.

Existing law provides that an injured employee may choose an alternative treating physician or chiropractor after making his initial choice if the

alternative choice is made within 90 days after the injury. (NRS 616C.090) Section 3 of this bill clarifies existing law by providing that an injured employee may make the alternative choice without the insurer's approval if the alternative choice is made within 90 days after the injury. Section 3 also provides that an injured employee may make a change in the treating physician or chiropractor at any time, subject to the insurer's approval. Section 3 further requires an insurer to provide to an injured employee whose request for a change in the treating physician or chiropractor has been denied the specific reason for the denial.

Section 4 of this bill provides that the affidavit or declaration of a qualified laboratory director, chemist or any other person meeting certain qualifications may be used to prove the existence of alcohol or controlled substances in an employee's system in denying, reducing or suspending the payment of compensation for an injury. (NRS 616C.230)

Section 5 of this bill revises existing provisions governing the denial of compensation to injured employees who have been discharged for misconduct by providing that only compensation for temporary total disability may be denied. (NRS 616C.232)

Section 5.5 of this bill revises existing law by requiring an insurer to notify an injured employee whose claim will be closed whether an evaluation for a permanent partial disability has been scheduled or, if such an evaluation has not been scheduled, that the reason is because the insurer determined there is no possibility of a permanent impairment of any kind. (NRS 616C.235)

Section 9 of this bill repeals the provisions requiring a reduction in the compensation received by an employee for temporary disability, permanent partial disability or permanent total disability by the amount of federal disability insurance benefits received by the employee. (NRS 616C.430)

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

Section 1. NRS 616C.050 is hereby amended to read as follows:

616C.050 1. An insurer shall provide to each claimant:

(a) Upon written request, one copy of any medical information concerning his injury or illness.

(b) A statement which contains information concerning the claimant's right to:

- (1) Receive the information and forms necessary to file a claim;
- (2) Select a treating physician or chiropractor and an alternative treating physician or chiropractor in accordance with the provisions of NRS 616C.090;
- (3) Request the appointment of the Nevada Attorney for Injured Workers to represent him before the appeals officer;
- (4) File a complaint with the Administrator;
- (5) When applicable, receive compensation for:
 - (I) Permanent total disability;
 - (II) Temporary total disability;

(III) Permanent partial disability;

(IV) Temporary partial disability;

(V) All medical costs related to his injury or disease; or

(VI) The hours he is absent from the place of employment to receive medical treatment pursuant to NRS 616C.477;

(6) Receive services for rehabilitation if his injury prevents him from returning to gainful employment;

(7) Review by a hearing officer of any determination or rejection of a claim by the insurer within the time specified by statute; and

(8) Judicial review of any final decision within the time specified by statute.

2. The insurer's statement must include a copy of the form designed by the Administrator pursuant to subsection ~~{7}~~ 8 of NRS 616C.090 that notifies injured employees of their right to select an alternative treating physician or chiropractor. The Administrator shall adopt regulations for the manner of compliance by an insurer with the other provisions of subsection 1.

Sec. 2. NRS 616C.065 is hereby amended to read as follows:

616C.065 1. Except as otherwise provided in NRS 616C.136, within 30 days after the insurer has been notified of an industrial accident, every insurer shall:

(a) Accept a claim for compensation, notify the claimant or the person acting on behalf of the claimant that the claim has been accepted and commence payment of the claim; or

(b) Deny the claim and notify the claimant or the person acting on behalf of the claimant and the Administrator that the claim has been denied.

2. *If an insurer is ordered by the Administrator, a hearing officer, an appeals officer, a district court or the Supreme Court of Nevada to make a new determination, including, without limitation, a new determination regarding the acceptance or denial of a claim for compensation, the insurer shall make the new determination within 30 days after the date on which the insurer has been ordered to do so.*

3. Payments made by an insurer pursuant to this section are not an admission of liability for the claim or any portion of the claim.

~~{3}~~ 4. Except as otherwise provided in this subsection, if an insurer unreasonably delays or refuses to pay the claim within 30 days after the insurer has been notified of an industrial accident, the insurer shall pay upon order of the Administrator an additional amount equal to three times the amount specified in the order as refused or unreasonably delayed. This payment is for the benefit of the claimant and must be paid to him with the compensation assessed pursuant to chapters 616A to 617, inclusive, of NRS. The provisions of this section do not apply to the payment of a bill for accident benefits that is governed by the provisions of NRS 616C.136.

~~{4}~~ 5. The insurer shall notify the claimant or the person acting on behalf of the claimant that a claim has been accepted or denied pursuant to subsection 1 or 2 by:

(a) Mailing its written determination to the claimant or the person acting on behalf of the claimant; and

(b) If the claim has been denied, in whole or in part, obtaining a certificate of mailing.

~~{5.}~~ 6. The failure of the insurer to obtain a certificate of mailing as required by paragraph (b) of subsection ~~{4}~~ 5 shall be deemed to be a failure of the insurer to mail the written determination of the denial of a claim as required by this section.

~~{6.}~~ 7. Upon request, the insurer shall provide a copy of the certificate of mailing, if any, to the claimant or the person acting on behalf of the claimant.

~~{7.}~~ 8. For the purposes of this section, the insurer shall mail the written determination to:

(a) The mailing address of the claimant or the person acting on behalf of the claimant that is provided on the form prescribed by the Administrator for filing the claim; or

(b) Another mailing address if the claimant or the person acting on behalf of the claimant provides to the insurer written notice of another mailing address.

~~{8.}~~ 9. As used in this section, "certificate of mailing" means a receipt that provides evidence of the date on which the insurer presented its written determination to the United States Postal Service for mailing.

Sec. 3. NRS 616C.090 is hereby amended to read as follows:

616C.090 1. The Administrator shall establish a panel of physicians and chiropractors who have demonstrated special competence and interest in industrial health to treat injured employees under chapters 616A to 616D, inclusive, or chapter 617 of NRS. Every employer whose insurer has not entered into a contract with an organization for managed care or with providers of health care services pursuant to NRS 616B.527 shall maintain a list of those physicians and chiropractors on the panel who are reasonably accessible to his employees.

2. An injured employee whose employer's insurer has not entered into a contract with an organization for managed care or with providers of health care services pursuant to NRS 616B.527 may choose his treating physician or chiropractor from the panel of physicians and chiropractors. If the injured employee is not satisfied with the first physician or chiropractor he so chooses, he may make an alternative choice of physician or chiropractor from the panel if the choice is made within 90 days after his injury. The insurer shall notify the first physician or chiropractor in writing. The notice must be postmarked within 3 working days after the insurer receives knowledge of the change. The first physician or chiropractor must be reimbursed only for the services he rendered to the injured employee up to and including the date of notification. Except as otherwise provided in this subsection, any further change is subject to the approval of the insurer, which must be granted or denied within 10 days after a written request for such a change is received from the injured employee. If no action is taken on the request within

10 days, the request shall be deemed granted. Any request for a change of physician or chiropractor must include the name of the new physician or chiropractor chosen by the injured employee. If the treating physician or chiropractor refers the injured employee to a specialist for treatment, the treating physician or chiropractor shall provide to the injured employee a list that includes the name of each physician or chiropractor with that specialization who is on the panel. After receiving the list, the injured employee shall, at the time the referral is made, select a physician or chiropractor from the list.

3. An injured employee whose employer's insurer has entered into a contract with an organization for managed care or with providers of health care services pursuant to NRS 616B.527 must choose his treating physician or chiropractor pursuant to the terms of that contract. If the injured employee is not satisfied with the first physician or chiropractor he so chooses, he may make an alternative choice of physician or chiropractor pursuant to the terms of the contract *without the approval of the insurer* if the choice is made within 90 days after his injury. If the injured employee, after choosing his treating physician or chiropractor, moves to a county which is not served by the organization for managed care or providers of health care services named in the contract and the insurer determines that it is impractical for the injured employee to continue treatment with the physician or chiropractor, the injured employee must choose a treating physician or chiropractor who has agreed to the terms of that contract unless the insurer authorizes the injured employee to choose another physician or chiropractor. If the treating physician or chiropractor refers the injured employee to a specialist for treatment, the treating physician or chiropractor shall provide to the injured employee a list that includes the name of each physician or chiropractor with that specialization who is available pursuant to the terms of the contract with the organization for managed care or with providers of health care services pursuant to NRS 616B.527, as appropriate. After receiving the list, the injured employee shall, at the time the referral is made, select a physician or chiropractor from the list. If the employee fails to select a physician or chiropractor, the insurer may select a physician or chiropractor with that specialization. If a physician or chiropractor with that specialization is not available pursuant to the terms of the contract, the organization for managed care or the provider of health care services may select a physician or chiropractor with that specialization.

4. *If the injured employee is not satisfied with the physician or chiropractor selected by himself or by the insurer, the organization for managed care or the provider of health care services pursuant to subsection 3, the injured employee may make an alternative choice of physician or chiropractor pursuant to the terms of the contract. A change in the treating physician or chiropractor may be made at any time but is subject to the approval of the insurer, which must be granted or denied within 10 days after a written request for such a change is received from the injured*

employee. If no action is taken on the request within 10 days, the request shall be deemed granted. Any request for a change of physician or chiropractor must include the name of the new physician or chiropractor chosen by the injured employee. If the insurer denies a request for a change in the treating physician or chiropractor under this subsection, the insurer must include in a written notice of denial to the injured employee the specific reason for the denial of the request.

5. Except when emergency medical care is required and except as otherwise provided in NRS 616C.055, the insurer is not responsible for any charges for medical treatment or other accident benefits furnished or ordered by any physician, chiropractor or other person selected by the injured employee in disregard of the provisions of this section or for any compensation for any aggravation of the injured employee's injury attributable to improper treatments by such physician, chiropractor or other person.

~~{5.}~~ 6. The Administrator may order necessary changes in a panel of physicians and chiropractors and shall suspend or remove any physician or chiropractor from a panel for good cause shown.

~~{6.}~~ 7. An injured employee may receive treatment by more than one physician or chiropractor if the insurer provides written authorization for such treatment.

~~{7.}~~ 8. The Administrator shall design a form that notifies injured employees of their right pursuant to subsections 2, ~~and~~ 3 and 4 to select an alternative treating physician or chiropractor and make the form available to insurers for distribution pursuant to subsection 2 of NRS 616C.050.

Sec. 4. NRS 616C.230 is hereby amended to read as follows:

616C.230 1. Compensation is not payable pursuant to the provisions of chapters 616A to 616D, inclusive, or chapter 617 of NRS for an injury:

(a) Caused by the employee's willful intention to injure himself.

(b) Caused by the employee's willful intention to injure another.

(c) Proximately caused by the employee's intoxication. If the employee was intoxicated at the time of his injury, intoxication must be presumed to be a proximate cause unless rebutted by evidence to the contrary.

(d) Proximately caused by the employee's use of a controlled substance. If the employee had any amount of a controlled substance in his system at the time of his injury for which the employee did not have a current and lawful prescription issued in his name or that he was not using in accordance with the provisions of chapter 453A of NRS, the controlled substance must be presumed to be a proximate cause unless rebutted by evidence to the contrary.

2. For the purposes of paragraphs (c) and (d) of subsection 1:

(a) The affidavit or declaration of an expert or other person described in NRS 50.310, 50.315 or 50.320 is admissible to prove the existence of any alcohol or the existence, quantity or identity of a controlled substance in an

employee's system. If the affidavit or declaration is to be so used, it must be submitted in the manner prescribed in NRS 616C.355.

(b) When an examination requested or ordered includes testing for the use of alcohol or a controlled substance, the laboratory that conducts the testing must be licensed pursuant to the provisions of chapter 652 of NRS.

3. No compensation is payable for the death, disability or treatment of an employee if his death is caused by, or insofar as his disability is aggravated, caused or continued by, an unreasonable refusal or neglect to submit to or to follow any competent and reasonable surgical treatment or medical aid.

4. If any employee persists in an unsanitary or injurious practice that imperils or retards his recovery, or refuses to submit to such medical or surgical treatment as is necessary to promote his recovery, his compensation may be reduced or suspended.

5. An injured employee's compensation, other than accident benefits, must be suspended if:

(a) A physician or chiropractor determines that the employee is unable to undergo treatment, testing or examination for the industrial injury solely because of a condition or injury that did not arise out of and in the course of his employment; and

(b) It is within the ability of the employee to correct the nonindustrial condition or injury.

↪ The compensation must be suspended until the injured employee is able to resume treatment, testing or examination for the industrial injury. The insurer may elect to pay for the treatment of the nonindustrial condition or injury.

Sec. 5. NRS 616C.232 is hereby amended to read as follows:

616C.232 1. If an injured employee is discharged from his employment as a result of misconduct, an insurer may deny compensation *for temporary total disability* to the injured employee because of that discharge for misconduct only if the insurer proves by a preponderance of the evidence that:

(a) The injured employee was discharged from his employment solely for his misconduct and not for any reason relating to his claim for compensation; and

(b) It is the injured employee's discharge from his employment for misconduct, and not his injury, that is the sole cause for the injured employee's inability to return to work with the preinjury employer.

2. An insurer waives its rights under subsection 1 if the insurer does not make a determination to deny or suspend compensation to the injured employee within 70 days after the date on which the insurer learns that the injured employee has been discharged for misconduct.

3. *An insurer may not deny any compensation pursuant to this section except for compensation for temporary total disability pursuant to subsection 1.*

Sec. 5.5. NRS 616C.235 is hereby amended to read as follows:

616C.235 1. Except as otherwise provided in subsections 2, 3 and 4:

(a) When the insurer determines that a claim should be closed before all benefits to which the claimant may be entitled have been paid, the insurer shall send a written notice of its intention to close the claim to the claimant by first-class mail addressed to the last known address of the claimant and, if the insurer has been notified that the claimant is represented by an attorney, to the attorney for the claimant by first-class mail addressed to the last known address of the attorney. The notice must include, on a separate page, a statement describing the effects of closing a claim pursuant to this section and a statement that if the claimant does not agree with the determination, he has a right to request a resolution of the dispute pursuant to NRS 616C.305 and 616C.315 to 616C.385, inclusive, including, without limitation, a statement which prominently displays the limit on the time that the claimant has to request a resolution of the dispute as set forth in NRS 616C.315. A suitable form for requesting a resolution of the dispute must be enclosed with the notice. The closure of a claim pursuant to this subsection is not effective unless notice is given as required by this subsection.

(b) If the insurer does not receive a request for the resolution of the dispute, it may close the claim.

(c) Notwithstanding the provisions of NRS 233B.125, if a hearing is conducted to resolve the dispute, the decision of the hearing officer may be served by first-class mail.

2. If, during the first 12 months after a claim is opened, the medical benefits required to be paid for a claim are less than \$300, the insurer may close the claim at any time after he sends, by first-class mail addressed to the last known address of the claimant, written notice that includes a statement which prominently displays that:

(a) The claim is being closed pursuant to this subsection;

(b) The injured employee may appeal the closure of the claim pursuant to the provisions of NRS 616C.305 and 616C.315 to 616C.385, inclusive; and

(c) If the injured employee does not appeal the closure of the claim or appeals the closure of the claim but is not successful, the claim cannot be reopened.

3. In addition to the notice described in subsection 2, an insurer shall send to each claimant who receives less than \$300 in medical benefits within 6 months after the claim is opened a written notice that explains the circumstances under which a claim may be closed pursuant to subsection 2. The written notice provided pursuant to this subsection does not create any right to appeal the contents of that notice. The written notice must be:

(a) Sent by first-class mail addressed to the last known address of the claimant; and

(b) A document that is separate from any other document or form that is used by the insurer.

4. The closure of a claim pursuant to subsection 2 is not effective unless notice is given as required by subsections 2 and 3.

5. *In addition to the requirements of this section, an insurer shall include in the written notice described in subsection 2:*

(a) If an evaluation for a permanent partial disability has been scheduled pursuant to NRS 616C.490, a statement to that effect; or

(b) If an evaluation for a permanent partial disability will not be scheduled pursuant to NRS 616C.490, a statement explaining that the reason is because the insurer has determined there is no possibility of a permanent impairment of any kind.

Sec. 6. (Deleted by amendment.)

Sec. 7. (Deleted by amendment.)

Sec. 8. NRS 616C.475 is hereby amended to read as follows:

616C.475 1. Except as otherwise provided in this section, NRS 616C.175 and 616C.390, every employee in the employ of an employer, within the provisions of chapters 616A to 616D, inclusive, of NRS, who is injured by accident arising out of and in the course of employment, or his dependents, is entitled to receive for the period of temporary total disability, $66 \frac{2}{3}$ percent of the average monthly wage.

2. Except as otherwise provided in NRS 616B.028 and 616B.029, an injured employee or his dependents are not entitled to accrue or be paid any benefits for a temporary total disability during the time the injured employee is incarcerated. The injured employee or his dependents are entitled to receive such benefits when the injured employee is released from incarceration if he is certified as temporarily totally disabled by a physician or chiropractor.

3. If a claim for the period of temporary total disability is allowed, the first payment pursuant to this section must be issued by the insurer within 14 working days after receipt of the initial certification of disability and regularly thereafter.

4. Any increase in compensation and benefits effected by the amendment of subsection 1 is not retroactive.

5. Payments for a temporary total disability must cease when:

(a) A physician or chiropractor determines that the employee is physically capable of any gainful employment for which the employee is suited, after giving consideration to the employee's education, training and experience;

(b) The employer offers the employee light-duty employment or employment that is modified according to the limitations or restrictions imposed by a physician or chiropractor pursuant to subsection 7; or

(c) Except as otherwise provided in NRS 616B.028 and 616B.029, the employee is incarcerated.

6. Each insurer may, with each check that it issues to an injured employee for a temporary total disability, include a form approved by the Division for the injured employee to request continued compensation for the temporary total disability.

7. A certification of disability issued by a physician or chiropractor must:

(a) Include the period of disability and a description of any physical limitations or restrictions imposed upon the work of the employee;

(b) Specify whether the limitations or restrictions are permanent or temporary; and

(c) Be signed by the treating physician or chiropractor authorized pursuant to NRS 616B.527 or appropriately chosen pursuant to subsection 3 *or* 4 of NRS 616C.090.

8. If the certification of disability specifies that the physical limitations or restrictions are temporary, the employer of the employee at the time of his accident may offer temporary, light-duty employment to the employee. If the employer makes such an offer, the employer shall confirm the offer in writing within 10 days after making the offer. The making, acceptance or rejection of an offer of temporary, light-duty employment pursuant to this subsection does not affect the eligibility of the employee to receive vocational rehabilitation services, including compensation, and does not exempt the employer from complying with NRS 616C.545 to 616C.575, inclusive, and 616C.590 or the regulations adopted by the Division governing vocational rehabilitation services. Any offer of temporary, light-duty employment made by the employer must specify a position that:

(a) Is substantially similar to the employee's position at the time of his injury in relation to the location of the employment and the hours he is required to work;

(b) Provides a gross wage that is:

(1) If the position is in the same classification of employment, equal to the gross wage the employee was earning at the time of his injury; or

(2) If the position is not in the same classification of employment, substantially similar to the gross wage the employee was earning at the time of his injury; and

(c) Has the same employment benefits as the position of the employee at the time of his injury.

Sec. 9. NRS 616C.430 is hereby repealed.

Sec. 10. This act becomes effective on July 1, 2009.

TEXT OF REPEALED SECTION

616C.430 Reduction of compensation by amount of federal disability insurance benefits received by employee.

1. If an employee who is entitled to compensation under chapters 616A to 616D, inclusive, of NRS for temporary total disability, permanent partial disability or permanent total disability becomes entitled to federal disability insurance benefits under section 202 or 223 of the Social Security Act, as amended, 42 U.S.C. §§ 402 and 423, respectively, the employee's compensation under chapters 616A to 616D, inclusive, of NRS must be reduced by the amount of the federal benefits being received by him.

2. This section must not be applied to reduce the employee's compensation under chapters 616A to 616D, inclusive, of NRS to any greater extent than his federal benefits would have otherwise been reduced by the

Social Security Administration under section 224 of the Social Security Act, as amended, 42 U.S.C. § 424a. After any reduction pursuant to this section, the combination of his state compensation and federal benefits must be at least as much as the greater of:

(a) The benefits payable pursuant to chapters 616A to 616D, inclusive, of NRS, without the reduction; or

(b) The benefits payable under the Social Security Act, without any reduction.

3. After a reduced amount of compensation for an employee has been established pursuant to this section, no further reduction in his compensation may be made because he receives an increase in his benefits under the Social Security Act as the result of an adjustment based on an increase in the cost of living.

4. No compensation may be reduced pursuant to this section until the Social Security Administration has determined the amount of benefits payable to the employee under section 202 or 223 of the Social Security Act and he has begun to receive those benefits.

5. If an employee:

(a) Fails to report the amount of benefits which he is receiving under section 202 or 223 of the Social Security Act, within 30 days after he is requested in writing by the insurer to make that report; or

(b) Fails to provide the insurer with a written authorization for the Social Security Administration to release information on the employee's average current earnings and the amount of benefits to which he is entitled, within 30 days after he is requested to provide that authorization,

↪ the insurer may reduce by 50 percent the compensation which the employee would otherwise receive pursuant to chapters 616A to 616D, inclusive, of NRS. Any compensation which is withheld pursuant to this subsection must be paid to the employee when he has furnished the report or authorization as requested.

6. If the provisions of section 224 of the Social Security Act are amended:

(a) To allow an employee to receive more compensation under chapters 616A to 616D, inclusive, of NRS without any reduction in benefits payable under section 202 or 223 of the Social Security Act; or

(b) To lower the maximum sum of compensation payable under chapters 616A to 616D, inclusive, of NRS and benefits payable under section 202 or 223 of the Social Security Act,

↪ the reduction imposed by this section must be increased or decreased correspondingly.

7. No reduction in compensation may be made under this section for any period of entitlement which:

(a) Occurs before January 1, 1982;

(b) Occurs before the employee has been given a written notice by mail of the intended reduction; or

(c) Includes any week after the week in which the employee becomes 62 years of age.

Senator Carlton moved the adoption of the amendment.

Remarks by Senator Carlton.

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

Amendment No. 599 to Assembly Bill No. 24 clarifies that an insurer must accept or deny an injured worker's written request for a change in treating physician within 10 days of receiving such a request. The questions that were asked on this amendment were answered. I urge passage of this amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Assembly Bill No. 41.

Bill read second time.

The following amendment was proposed by the Committee on Legislative Operations and Elections:

Amendment No. 607.

"SUMMARY—Makes various changes to voter registration and voting procedures for certain members of the Armed Forces of the United States and certain members of their families, and certain other voters who reside outside the United States. (BDR 24-324)"

"AN ACT relating to elections; making various changes concerning voter registration and voting procedures for certain members of the Armed Forces of the United States and their spouses and dependents, and certain other voters who reside outside the United States; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Section 6 of this bill authorizes the Secretary of State to adopt regulations concerning standards for the approved electronic transmission of certain applications, forms and ballots. (NRS 293.247)

Section 8 of this bill expands the acceptable use of the form provided by the Federal Government from a special absent ballot to be used only in general elections and only for federal offices to allow its use in primary and special elections, in addition to general elections, and for state and local offices in addition to federal offices. (NRS 293.3155)

Section 15 of this bill provides that an elector of this State who resides outside the United States may use the special absent ballot as a simultaneous application for registration and ballot to vote. (NRS 293.501)

Sections 8, 9, 11, 12, 15, 16, 18 and 20-22 of this bill allow certain members of the Armed Forces and their spouses and dependents, and certain other electors of this State who reside outside the United States: (1) to request forms for registration, absent ballots, special absent ballots and the form provided by the Federal Government for simultaneous registration and request of an absent ballot; and (2) to return voted ballots by approved

electronic transmission. (NRS 293.3155, 293.3157, 293.320, 293.323, 293.501, 293.502, 293.553, 293C.315, 293C.320, 293C.322)

~~{ Sections 14 and 17 of this bill allow certain citizens of the United States who have never resided in the United States to use the address of a parent who resides in this State for purposes of establishing residency for voter registration. (NRS 293.486, 293.507) }~~

Section 16 of this bill expands the eligibility for late registration by those who have recently returned to residency in the United States to include: (1) the spouses and dependents of members of the Armed Forces stationed outside the United States who have been recently discharged; and (2) persons recently separated from employment outside of the United States and the spouses and dependents of such persons. (NRS 293.502)

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

Section 1. Chapter 293 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 4 of this act.

Sec. 2. *"Approved electronic transmission" means the sending of information by facsimile machine or by use of the Internet pursuant to the acceptable standards set forth by regulations of the Secretary of State adopted pursuant to NRS 293.247.*

Sec. 3. (Deleted by amendment.)

Sec. 4. *"Special absent ballot" means the absent ballot provided by the Federal Government pursuant to 42 U.S.C. § 1973ff et seq. to ~~any elector or registered voter of this State who is in the~~ Armed Forces personnel or ~~resides outside the continental United States.~~ overseas citizens.*

Sec. 5. NRS 293.010 is hereby amended to read as follows:

293.010 As used in this title, unless the context otherwise requires, the words and terms defined in NRS 293.013 to 293.121, inclusive, and sections 2 and 4 of this act have the meanings ascribed to them in those sections.

Sec. 6. NRS 293.247 is hereby amended to read as follows:

293.247 1. The Secretary of State shall adopt regulations, not inconsistent with the election laws of this State, for the conduct of primary, general, special and district elections in all cities and counties. Permanent regulations of the Secretary of State that regulate the conduct of a primary, general, special or district election that are effective on or before December 31 of the year immediately preceding a primary, general, special or district election govern the conduct of that election.

2. The Secretary of State shall prescribe the forms for a declaration of candidacy, certificate of candidacy, acceptance of candidacy and any petition which is filed pursuant to the general election laws of this State.

3. The regulations must prescribe:

- (a) The duties of election boards;
- (b) The type and amount of election supplies;

- (c) The manner of printing ballots and the number of ballots to be distributed to precincts and districts;
- (d) The method to be used in distributing ballots to precincts and districts;
- (e) The method of inspection and the disposition of ballot boxes;
- (f) The form and placement of instructions to voters;
- (g) The recess periods for election boards;
- (h) The size, lighting and placement of voting booths;
- (i) The amount and placement of guardrails and other furniture and equipment at voting places;
- (j) The disposition of election returns;
- (k) The procedures to be used for canvasses, ties, recounts and contests, including, without limitation, the appropriate use of a paper record created when a voter casts a ballot on a mechanical voting system that directly records the votes electronically;
- (l) The procedures to be used to ensure the security of the ballots from the time they are transferred from the polling place until they are stored pursuant to the provisions of NRS 293.391 or 293C.390;
- (m) The procedures to be used to ensure the security and accuracy of computer programs and tapes used for elections;
- (n) The procedures to be used for the testing, use and auditing of a mechanical voting system which directly records the votes electronically and which creates a paper record when a voter casts a ballot on the system;
- (o) The procedures to be used for the disposition of absent ballots in case of an emergency;
- (p) *The acceptable standards for the sending and receiving of applications, forms and ballots, by approved electronic transmission, by the county clerks and the electors or registered voters who are authorized to use approved electronic transmission pursuant to the provisions of this title;*
- (q) The forms for applications to register to vote and any other forms necessary for the administration of this title; and
- ~~(q)~~ (r) Such other matters as determined necessary by the Secretary of State.

4. The Secretary of State may provide interpretations and take other actions necessary for the effective administration of the statutes and regulations governing the conduct of primary, general, special and district elections in this State.

5. The Secretary of State shall prepare and distribute to each county and city clerk copies of:

- (a) Laws and regulations concerning elections in this State;
- (b) Interpretations issued by the Secretary of State's Office; and
- (c) Any Attorney General's opinions or any state or federal court decisions which affect state election laws or regulations whenever any of those opinions or decisions become known to the Secretary of State.

Sec. 7. NRS 293.270 is hereby amended to read as follows:

293.270 1. Voting at any election regulated by this title must be on printed ballots or by any other system approved by the Secretary of State or specifically authorized by law.

2. ~~Voting~~ Except as otherwise provided in NRS 293.3155, voting must be only upon candidates whose names appear upon the ballot prepared by the election officers, and no person may write in the name of an additional candidate for any office.

Sec. 8. NRS 293.3155 is hereby amended to read as follows:

293.3155 Notwithstanding any other provisions of this title:

1. Any registered voter of this State who ~~resides outside the continental United States~~ *is Armed Forces personnel or an overseas citizen* may use ~~the form provided by the Federal Government as~~ a special absent ballot for a primary, general or special election. ~~if the voter:~~

~~(a) Requests an absent ballot and the request is received by the county clerk not later than 30 days before the general election; and~~

~~(b) Does not receive the absent ballot.~~

2. The special absent ballot ~~must~~ may be used ~~only~~ for the offices of President and Vice President of the United States, United States Senator and Representative in Congress ~~}, and for any state or local offices and ballot questions for which the registered voter is entitled to cast his ballot.~~ The ballot must allow the registered voter to vote by writing in his choice of a political party for each office or the name of a candidate whose name appears on the ballot for each office.

3. The special absent ballot may be voted by completing the ballot according to the instructions and returning it to the county clerk by:

(a) Mail, if it can be returned in a timely manner; or

(b) Approved electronic transmission.

4. The special absent ballot must not be counted if:

(a) It is submitted from any location within the continental United States ~~},~~ *by an overseas citizen; or*

~~(b) The county clerk receives the request for an absent ballot less than 30 days before the general election; or~~

~~(c) The county clerk receives the regular absent ballot from the voter on or before the date of the primary, general or special election.~~

5. As used in this section, "regular absent ballot" means the absent ballot prepared by the county clerk pursuant to NRS 293.309.

Sec. 9. NRS 293.3157 is hereby amended to read as follows:

293.3157 1. Any registered voter of this State who resides outside the continental United States may use ~~a facsimile machine~~ approved electronic transmission to request an absent ballot. Such a request must be received by the county clerk not later than 5 p.m. on the seventh day before the primary, general or special election. The registered voter shall state on the request whether ~~he~~:

(a) He requests the county clerk to send the absent ballot by mail or ~~facsimile machine~~ approved electronic transmission; and ~~whether he~~

(b) *He* will return the absent ballot to the county clerk by mail or ~~facsimile machine~~ approved electronic transmission.

2. If the registered voter indicates pursuant to subsection 1 that he will submit the absent ballot by mail, he shall include with his completed absent ballot the identification envelope provided by the county clerk. The identification envelope must be in the form prescribed by the Secretary of State and include, without limitation:

(a) A declaration, under penalty of perjury, stating that the registered voter resides within the precinct in which he is voting and is the person whose name appears on the envelope;

(b) The signature of the registered voter;

(c) The address that the registered voter provided on his application for voter registration; and

(d) A statement that the voter has not applied and will not apply to any other county clerk for an absent ballot.

3. If the registered voter indicates pursuant to subsection 1 that he will submit the absent ballot by ~~facsimile machine~~ approved electronic transmission, he shall include with his completed absent ballot the following:

OATH OF VOTER

I, _____, acknowledge that by returning my voted ballot by ~~facsimile transmission~~ approved electronic transmission, I have waived my right to have my ballot kept secret. Nevertheless, I understand that, as with any absent voter, my signature, whether on this oath of voter form or my identification envelope, will be permanently separated from my voted ballot to maintain its secrecy at the outset of the tabulation process and thereafter.

My residential address is _____.

(Street Address) (City) (ZIP Code)

My current mailing address is _____.

My e-mail address is _____.

My facsimile transmission number is (if applicable) _____.

I am a resident of _____ County, State of Nevada, and I have not applied, nor do I intend to apply, for an absentee ballot from any other jurisdiction for the same election.

I declare under penalty of perjury under the laws of the State of Nevada that the foregoing is true and correct.

Dated this _____ day of _____, 20__.

(Signed)

Voter (power of attorney cannot be accepted)

YOUR BALLOT CANNOT BE COUNTED UNLESS YOU SIGN THE ABOVE OATH AND INCLUDE IT WITH YOUR BALLOT, ALL OF WHICH ARE RETURNED BY ~~FACSIMILE TRANSMISSION.~~ *APPROVED ELECTRONIC TRANSMISSION.*

4. The county clerk, if so requested pursuant to subsection 1, shall use ~~fa~~ ~~facsimile machine~~ *approved electronic transmission* to send an absent ballot and the oath, as required pursuant to subsection 3, to the registered voter.

5. Each county clerk shall, *insofar as is practicable*, ensure the secrecy of absent ballots that are submitted by ~~facsimile machine.~~ *approved electronic transmission.*

6. The Secretary of State shall adopt regulations to carry out the provisions of this section.

Sec. 10. NRS 293.317 is hereby amended to read as follows:

293.317 Absent ballots, including special absent ballots, ~~described in NRS 293.3155,~~ received by the county or city clerk after the polls are closed on the day of election are invalid.

Sec. 11. NRS 293.320 is hereby amended to read as follows:

293.320 1. The county clerk shall determine before issuing an absent ballot that the person making application is a registered voter in the proper county.

2. Armed Forces personnel *and overseas citizens* who are not registered to vote and are applying for absent ballots must complete:

(a) The application to register to vote required by NRS 293.517 for registration; ~~for~~

(b) The form provided by the Federal Government for registration and request of an absent ballot, *pursuant to the provisions of the Uniformed and Overseas Citizens Absentee Voting Act, 42 U.S.C. §§ 1973ff et seq.; or*

(c) *A special absent ballot used only for purposes of registering the person to vote,*

↪ before receiving an absent ballot.

3. If the county clerk rejects an application submitted pursuant to subsection 2, ~~for submitted by an overseas voter,~~ the county clerk shall inform the applicant of the reason for the rejection.

Sec. 12. NRS 293.323 is hereby amended to read as follows:

293.323 1. Except as otherwise provided in subsection 2 ~~and~~ *and* *NRS 293.3157*, if the request for an absent ballot is made by mail or facsimile machine, the county clerk shall, as soon as the official absent ballot for the precinct or district in which the applicant resides has been printed, send to the voter by first-class mail, or by any class of mail if the Official Election Mail logo or an equivalent logo or mark created by the United States Postal Service is properly placed on the official absent ballot : ~~unless otherwise~~

~~requested pursuant to NRS 293.3157, if the absent voter is within the boundaries of the United States, its territories or possessions or on a military base, or by air mail, unless otherwise requested pursuant to NRS 293.3157, if the absent voter is in a foreign country but not on a military base.}~~

- (a) An absent ballot;
- (b) A return envelope;
- (c) An envelope or similar device into which the ballot is inserted to ensure its secrecy;
- (d) An identification envelope, if applicable pursuant to NRS 293.3157; and
- (e) Instructions.

2. If the county clerk fails to send an absent ballot pursuant to subsection 1 to a voter who resides within the continental United States, the county clerk may use a facsimile machine to send an absent ballot and instructions to the voter. The voter may mail his absent ballot to the county clerk or submit his absent ballot by facsimile machine.

3. The return envelope sent pursuant to subsection 1 must include postage prepaid by first-class mail if the absent voter is within the boundaries of the United States, its territories or possessions or on a military base.

4. Nothing may be enclosed or sent with an absent ballot except as required by subsection 1 or 2 and NRS 293.3157.

5. Before depositing a ballot in the mail or sending a ballot by facsimile machine, the county clerk shall record the date the ballot is issued, the name of the registered voter to whom it is issued, his precinct or district, his political affiliation, if any, the number of the ballot and any remarks he finds appropriate.

6. The Secretary of State shall adopt regulations to carry out the provisions of subsection 2.

Sec. 13. NRS 293.325 is hereby amended to read as follows:

293.325 1. Except as otherwise provided in subsection 2, when an absent ballot is returned by a registered voter to the county clerk through the mail, by facsimile machine *or other approved electronic transmission* or in person, and record thereof is made in the absent ballot record book, the county clerk shall neatly stack, unopened, the absent ballot with any other absent ballot received that day in a container and deliver, or cause to be delivered, that container to the precinct or district election board.

2. If an absent ballot central counting board has been appointed, when an absent ballot is returned by a registered voter to the county clerk through the mail, by facsimile machine *or other approved electronic transmission* or in person, the county clerk shall check the signature on the return envelope ~~for~~, facsimile *or other approved electronic transmission* against the original signature of the voter on the county clerk's register. If the county clerk determines that the absent voter is entitled to cast his ballot, he shall deposit the ballot in the proper ballot box or place the ballot, unopened, in a container that must be securely locked or under the control of the county

clerk at all times. At the end of each day before election day, the county clerk may remove the ballots from each ballot box, neatly stack the ballots in a container and seal the container with a numbered seal. Not earlier than 4 working days before the election, the county clerk shall deliver the ballots to the absent ballot central counting board to be processed and prepared for counting pursuant to the procedures established by the Secretary of State to ensure the confidentiality of the prepared ballots until after the polls have closed pursuant to NRS 293.273 or 293.305.

Sec. 14. ~~NRS 293.486 is hereby amended to read as follows:~~

~~293.486 1. Except as otherwise provided in [subsection 2,] subsections 2 and 3, for the purposes of registering to vote, the address at which the voter actually resides is the street address assigned to the location at which the voter actually resides.~~

~~2. For the purposes of registering to vote, if the voter does not reside at a location that has been assigned a street address, the address at which the voter actually resides is a description of the location at which the voter actually resides. The description must identify the location with sufficient specificity to allow the county clerk to assign the location to a precinct.~~

~~3. A person who:~~

~~(a) Is a citizen of the United States;~~

~~(b) Has never been a resident of any state but is lawfully entitled to reside in the United States;~~

~~(c) Would otherwise be an elector of this State; and~~

~~(d) Has a parent who has an actual residence in this State pursuant to subsection 1 or 2,~~

~~may use the street address or description of the location at which his parent resides in this State as his address for the purposes of registering to vote in this State.~~

~~4. The provisions of this section do not authorize a person to register to vote if he is not otherwise eligible to register to vote. (Deleted by amendment.)~~

Sec. 15. NRS 293.501 is hereby amended to read as follows:

293.501 Notwithstanding any other provisions of this title:

1. ~~{Any elector of this State who resides outside this State}~~ *Armed Forces personnel and overseas citizens* may use the form provided by the Federal Government for registration and request of an absent ballot pursuant to the provisions of the Uniformed and Overseas Citizens Absentee Voting Act , ~~{of 1986,}~~ 42 U.S.C. ~~{§ 1973,}~~ §§ 1973ff et seq., to register to vote in this State.

2. ~~{The county clerk shall not register a voter who submits the form from any location within this State.~~

3. ~~If an elector registers to vote pursuant to the provisions of subsection 1, he shall be deemed to be registered as of the date that the form or the envelope containing the form is postmarked.} An elector referred to in subsection 1 may complete the form and return it by:~~

- (a) Mail, if it can be returned in a timely manner; or
- (b) Approved electronic transmission.

3. If an elector registers to vote pursuant to the provisions of this section and returns the form provided by the Federal Government for registration and request of an absent ballot by:

- (a) Mail, he shall be deemed to be registered as of the date that the form or the envelope containing the form is postmarked.
- (b) Approved electronic transmission, he shall be deemed to be registered as of the date on which he initiates the approved electronic transmission.

Sec. 16. NRS 293.502 is hereby amended to read as follows:

293.502 1. An elector ~~who:~~

~~(a) Complies~~ :

(a) Who complies with the requirements for registration set forth in the Uniformed and Overseas Citizens Absentee Voting Act, 42 U.S.C. ~~§§ 1973;~~

~~(b) Is~~ §§ 1973ff et seq.;

(b) Who, not more than 60 days before an election:

(1) Is discharged from the Armed Forces of the United States or is the spouse or dependent of an elector who is discharged from the Armed Forces; or

(2) Is separated from employment outside the territorial limits of the United States ~~[not more than 60 days before an election;]~~ or is the spouse or dependent of an elector who is separated from employment outside the territorial limits of the United States;

(c) ~~Presents~~ Who presents evidence of ~~his~~ the discharge or separation from employment described in paragraph (b) to the county clerk; and

(d) Is not registered to vote at the close of registration for that election,
 ↪ must be allowed to register to vote in the election.

2. Such an elector must:

- (a) Register in person; and
- (b) Vote in the office of the county clerk unless he is otherwise entitled to vote an absent ballot pursuant to federal law.

3. The Secretary of State shall adopt regulations to carry out a program of registration for such electors.

Sec. 17. ~~[NRS 293.507 is hereby amended to read as follows:~~

~~293.507 1. The Secretary of State shall prescribe:~~

- ~~(a) A standard form for applications to register to vote;~~
- ~~(b) A special form for registration to be used in a county where registrations are performed and records of registration are kept by computer; and~~
- ~~(c) A standard form for the affidavit described in subsection 5.~~

~~2. The county clerks shall provide forms for applications to register to vote to field registrars in the form and number prescribed by the Secretary of State.~~

~~3. Each form for an application to register to vote must include a:~~

- ~~(a) Unique control number assigned by the Secretary of State; and~~

~~(b) Receipt which:~~~~(1) Includes a space for a person assisting an applicant in completing the form to enter his name; and~~~~(2) May be retained by the applicant upon completion of the form.~~~~4. The form for an application to register to vote must include:~~~~(a) A line for use by the applicant to enter:~~~~(1) The number indicated on the applicant's current and valid driver's license issued by the Department of Motor Vehicles, if the applicant has such a driver's license;~~~~(2) The last four digits of the applicant's social security number, if the applicant does not have a driver's license issued by the Department of Motor Vehicles and does have a social security number; or~~~~(3) The number issued to the applicant pursuant to subsection 5, if the applicant does not have a current and valid driver's license issued by the Department of Motor Vehicles or a social security number.~~~~(b) A line on which to enter the address at which the applicant or his parent actually resides, as set forth in NRS 293.486.~~~~(c) A notice that the applicant may not list a business as the address required pursuant to paragraph (b) unless he actually resides there.~~~~(d) A line on which to enter an address at which the applicant may receive mail, including, without limitation, a post office box or general delivery.~~~~5. If an applicant does not have the identification set forth in subparagraph (1) or (2) of paragraph (a) of subsection 4, the applicant shall sign an affidavit stating that he does not have a current and valid driver's license issued by the Department of Motor Vehicles or a social security number. Upon receipt of the affidavit, the county clerk shall issue an identification number to the applicant which must be the same number as the unique identifier assigned to the applicant for purposes of the statewide voter registration list.~~~~6. The Secretary of State shall adopt regulations to carry out the provisions of subsections 3, 4 and 5. (Deleted by amendment.)~~

Sec. 18. NRS 293.553 is hereby amended to read as follows:

293.553 Any elector of this State who is in the service of the United States or attending an institution of learning, and by reason thereof is beyond the boundaries of this State, and who has not registered before or whose registration has been cancelled may, at any time, request from the county clerk of the county of the elector's residence ~~{by mail, telephone or telegram}~~ an application to register to vote. The county clerk, if satisfied that the elector is eligible for registration, shall forward the application immediately. The county clerk shall, upon receipt of the completed application, file it in the manner provided by law.

Sec. 19. (Deleted by amendment.)

Sec. 20. NRS 293C.315 is hereby amended to read as follows:

293C.315 1. Any registered voter of this State who resides outside the continental United States may use ~~{a facsimile machine}~~ approved electronic

transmission to request an absent ballot. *Such a request must be received by the city clerk not later than 5 p.m. on the seventh day before the primary, general or special election.* The registered voter shall state on the request whether ~~[he]~~ :

(a) *He* requests the city clerk to send the absent ballot by mail or ~~[facsimile machine]~~ *approved electronic transmission*; and ~~[whether he]~~

(b) *He* will return the absent ballot to the city clerk by mail or ~~[facsimile machine]~~ *approved electronic transmission.*

2. If the registered voter indicates pursuant to subsection 1 that he will submit the absent ballot by mail, he shall include with his completed absent ballot the identification envelope provided by the city clerk. The identification envelope must be in the form prescribed by the Secretary of State and include, without limitation:

(a) A declaration, under penalty of perjury, stating that the registered voter resides within the precinct or district in which he is voting and is the person whose name appears on the envelope;

(b) The signature of the registered voter;

(c) The address that the registered voter provided on his application for voter registration; and

(d) A statement that the voter has not applied and will not apply to any other city clerk for an absent ballot.

3. If the registered voter indicates pursuant to subsection 1 that he will submit the absent ballot by ~~[facsimile machine]~~ *approved electronic transmission*, he shall include with his completed absent ballot the following:

OATH OF VOTER

I, _____, acknowledge that by returning my voted ballot by ~~[facsimile transmission]~~ *approved electronic transmission*, I have waived my right to have my ballot kept secret. Nevertheless, I understand that, as with any absent voter, my signature, whether on this oath of voter form or my identification envelope, will be permanently separated from my voted ballot to maintain its secrecy at the outset of the tabulation process and thereafter.

My residential address is

 (Street Address) (City) (ZIP Code)

My current mailing address is

_____.

My e-mail address is _____.

My facsimile transmission number is *(if applicable)* _____.

I am a resident of _____ County, State of Nevada, and I have not applied, nor do I intend to apply, for an absentee ballot from any other jurisdiction for the same election.

I declare under penalty of perjury under the laws of the State of Nevada that the foregoing is true and correct.

Dated this ____ day of _____, 20__.

(Signed)

Voter (power of attorney cannot be accepted)

YOUR BALLOT CANNOT BE COUNTED UNLESS YOU SIGN THE ABOVE OATH AND INCLUDE IT WITH YOUR BALLOT, ALL OF WHICH ARE RETURNED BY ~~Facsimile Transmission~~ APPROVED ELECTRONIC TRANSMISSION.

4. The city clerk, if so requested pursuant to subsection 1, shall use ~~facsimile machine~~ *approved electronic transmission* to send an absent ballot and the oath, as required pursuant to subsection 3, to the registered voter.

5. Each city clerk shall, *insofar as is practicable*, ensure the secrecy of absent ballots that are submitted by ~~facsimile machine~~ *approved electronic transmission*.

6. The Secretary of State shall adopt regulations to carry out the provisions of this section.

Sec. 21. NRS 293C.320 is hereby amended to read as follows:

293C.320 1. The city clerk shall determine before issuing an absent ballot that the person making application is a registered voter in the proper city.

2. Armed Forces personnel *and overseas citizens* who are not registered to vote and are applying for absent ballots must complete:

(a) The application to register to vote required by NRS 293.517 for registration; ~~or~~

(b) The form provided by the Federal Government for registration and request of an absent ballot, *pursuant to the provisions of the Uniformed and Overseas Citizens Absentee Voting Act, 42 U.S.C. §§ 1973ff et seq.; or*

(c) *A special absent ballot used only for purposes of registering the person to vote,*

↪ before receiving an absent ballot.

Sec. 22. NRS 293C.322 is hereby amended to read as follows:

293C.322 1. Except as otherwise provided in subsection 2 ~~and~~ *NRS 293C.315*, if the request for an absent ballot is made by mail or facsimile machine, the city clerk shall, as soon as the official absent ballot for the precinct or district in which the applicant resides has been printed, send to the voter by first-class mail, or by any class of mail if the Official Election Mail logo or an equivalent logo or mark created by the United States Postal Service is properly placed on the official absent ballot : ~~unless otherwise requested pursuant to NRS 293C.315, if the absent voter is within the boundaries of the United States, its territories or possessions or on a military~~

~~base, or by air mail, unless otherwise requested pursuant to NRS 293C.315, if the absent voter is in a foreign country but not on a military base.}]~~

- (a) An absent ballot;
- (b) A return envelope;
- (c) An envelope or similar device into which the ballot is inserted to ensure its secrecy;
- (d) An identification envelope, if applicable pursuant to NRS 293C.315; and
- (e) Instructions.

2. If the city clerk fails to send an absent ballot pursuant to subsection 1 to a voter who resides within the continental United States, the city clerk may use a facsimile machine to send an absent ballot and instructions to the voter. The voter may mail his absent ballot to the city clerk or submit his absent ballot by facsimile machine.

3. The return envelope sent pursuant to subsection 1 must include postage prepaid by first-class mail if the absent voter is within the boundaries of the United States, its territories or possessions or on a military base.

4. Nothing may be enclosed or sent with an absent ballot except as required by subsection 1 or 2 and NRS 293C.315.

5. Before depositing a ballot with the United States Postal Service or sending a ballot by facsimile machine, the city clerk shall record the date the ballot is issued, the name of the registered voter to whom it is issued, his precinct or district, the number of the ballot and any remarks he finds appropriate.

6. The Secretary of State shall adopt regulations to carry out the provisions of subsection 2.

Sec. 23. NRS 293C.325 is hereby amended to read as follows:

293C.325 1. Except as otherwise provided in subsection 2, when an absent ballot is returned by a registered voter to the city clerk through the mail, by facsimile machine *or other approved electronic transmission* or in person, and record thereof is made in the absent ballot record book, the city clerk shall neatly stack, unopened, the absent ballot with any other absent ballot received that day in a container and deliver, or cause to be delivered, that container to the precinct or district election board.

2. If an absent ballot central counting board has been appointed, when an absent ballot is returned by a registered voter to the county clerk through the mail, by facsimile machine *or other approved electronic transmission* or in person, the county clerk shall check the signature on the return envelope, ~~for~~ facsimile *or other approved electronic transmission* against the original signature of the voter on the county clerk's register. If the city clerk determines that the absent voter is entitled to cast his ballot, he shall deposit the ballot in the proper ballot box or place the ballot, unopened, in a container that must be securely locked or under the control of the city clerk at all times. At the end of each day before election day, the city clerk may remove the ballots from each ballot box, neatly stack the ballots in a

container and seal the container with a numbered seal. Not earlier than 4 working days before the election, the county clerk shall deliver the ballots to the absent ballot central counting board to be processed and prepared for counting pursuant to the procedures established by the Secretary of State to ensure the confidentiality of the prepared ballots until after the polls have closed pursuant to NRS 293C.267 or 293C.297.

Sec. 24. This act becomes effective on July 1, 2009.

Senator Woodhouse moved the adoption of the amendment.

Remarks by Senator Woodhouse.

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

Amendment No. 607 makes several changes to Assembly Bill No. 41 to bring the bill into compliance with federal law.

The amendment specifies that special absent ballots would not be counted if submitted from a location in the continental United States by an overseas citizen, except for Armed Forces personnel, and it deletes provisions in the bill that would have certain citizens who have never lived in the United States to use the parent's street address to register to vote.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Assembly Bill No. 112.

Bill read second time and ordered to third reading.

Assembly Bill No. 121.

Bill read second time and ordered to third reading.

Assembly Bill No. 196.

Bill read second time and ordered to third reading.

Assembly Bill No. 219.

Bill read second time and ordered to third reading.

Assembly Bill No. 289.

Bill read second time and ordered to third reading.

Assembly Bill No. 301.

Bill read second time and ordered to third reading.

Assembly Bill No. 305.

Bill read second time and ordered to third reading.

Assembly Bill No. 306.

Bill read second time and ordered to third reading.

Assembly Bill No. 352.

Bill read second time and ordered to third reading.

Assembly Bill No. 372.

Bill read second time and ordered to third reading.

Assembly Bill No. 425.

Bill read second time.

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

Amendment No. 616.

"SUMMARY—Revises provisions governing the licensure of certain educational personnel. (BDR 34-817)"

"AN ACT relating to education; authorizing the Superintendent of Public Instruction to issue an additional license to teach elementary education, middle school or junior high school education or secondary education to certain licensed teachers; revising provisions governing the reciprocal licensure of teachers and other educational personnel; requiring the Commission on Professional Standards in Education to conduct a review of the regulations of the Commission governing the licensure and endorsement of special education teachers; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law authorizes the Superintendent of Public Instruction to issue a license to teach elementary education, middle school or junior high school education or secondary education to an applicant pursuant to regulations adopted by the Commission on Professional Standards in Education. (NRS 391.031, 391.033) Existing regulations of the Commission require a teacher licensed in this State to apply for and meet the requirements for an initial license to teach elementary education, middle school or junior high school education or secondary education, including participation in a program of student teaching or supervised teaching in the designated grade level, if he is applying for a license outside the grade level he is licensed to teach. (NAC 391.025, 391.095, 391.111, 391.120) Section 1 of this bill authorizes the Superintendent to issue to a licensed teacher an additional license to teach elementary education, middle school or junior high school education or secondary education, other than for the teaching pupils with disabilities, which is outside his grade level of experience if he meets the course work requirements and qualifications for the license. A licensed teacher must not be required to participate in a program of student teaching or supervised teaching as a condition for the issuance of the additional license if he has 3 years of verified teaching experience.

Existing law authorizes the Commission to adopt regulations that exempt an applicant from the examinations required for initial licensure of teachers and other educational personnel if the applicant has previous teaching experience or has performed other educational functions in another state. (NRS 391.021, 391.032) Sections 4 and 5 of this bill remove the requirement that an applicant have previous experience and authorizes the exemption if the Commission determines that the examinations required for initial licensure in the other state are comparable to the examinations required for initial licensure in this State.

Section 6 of this bill requires the Commission to conduct a review of the regulations of the Commission governing the licensure and endorsement of

special education teachers to improve and enhance the reciprocal licensure in this State of special education teachers from other states.

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

Section 1. Chapter 391 of NRS is hereby amended by adding thereto a new section to read as follows:

1. *A person licensed to teach elementary education, middle school or junior high school education or secondary education in this State may apply for and the Superintendent of Public Instruction may issue to that person an additional license to teach elementary education, middle school or junior high school education or secondary education, other than for the teaching pupils with disabilities, which is outside his grade level of experience if he meets the course work requirements and qualifications for the license.*

2. *A licensed teacher who applies for an additional license pursuant to this section must not be required to participate in a program of student teaching as a condition for the issuance of the additional license if he has 3 years of verified teaching experience.*

Sec. 2. NRS 391.019 is hereby amended to read as follows:

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

(a) Shall adopt regulations:

(1) Prescribing the qualifications for licensing teachers and other educational personnel, including, without limitation, the qualifications for a license to teach middle school or junior high school education, and the procedures for the issuance and renewal of those licenses. *The regulations must not prescribe qualifications which are more stringent than the qualifications set forth in section 1 of this act for a licensed teacher who applies for an additional license in accordance with that section.*

(2) Identifying fields of specialization in teaching which require the specialized training of teachers.

(3) Except as otherwise provided in NRS 391.125, requiring teachers to obtain from the Department an endorsement in a field of specialization to be eligible to teach in that field of specialization.

(4) Setting forth the educational requirements a teacher must satisfy to qualify for an endorsement in each field of specialization.

(5) Setting forth the qualifications and requirements for obtaining a license or endorsement to teach American Sign Language, including, without limitation, being registered with the Office of Disability Services of the Department of Health and Human Services pursuant to NRS 656A.100 to engage in the practice of interpreting in an educational setting.

(6) Requiring teachers and other educational personnel to be registered with the Office of Disability Services pursuant to NRS 656A.100 to engage in the practice of interpreting in an educational setting if they:

(I) Provide instruction or other educational services; and

(II) Concurrently engage in the practice of interpreting, as defined in NRS 656A.060.

(7) Providing for the issuance and renewal of a special qualifications license to an applicant who holds a master's degree or a doctoral degree from an accredited degree-granting postsecondary educational institution in a field for which the applicant will provide instruction in a classroom and who has:

(I) At least 2 years of experience teaching at an accredited degree-granting postsecondary educational institution in a field for which the applicant will provide instruction in a classroom and at least 3 years of experience working in that field; or

(II) At least 5 years of experience working in a field for which the applicant will provide instruction in a classroom.

(8) Requiring an applicant for a special qualifications license to:

(I) Pass each examination required by NRS 391.021 for the specific subject or subjects in which the applicant will provide instruction; or

(II) Hold a valid license issued by a professional licensing board of any state that is directly related to the subject area of the master's degree or doctoral degree held by the applicant.

(9) Setting forth the subject areas that may be taught by a person who holds a special qualifications license, based upon the subject area of the master's degree or doctoral degree held by that person.

(10) Providing for the issuance and renewal of a special qualifications license to an applicant who:

(I) Holds a graduate degree from an accredited college or university in the field for which he will be providing instruction;

(II) Is not licensed to teach public school in another state;

(III) Has at least 5 years of experience teaching with satisfactory evaluations at a school that is accredited by a national or regional accrediting agency recognized by the United States Department of Education; and

(IV) Submits proof of participation in a program of student teaching or mentoring or agrees to participate in a program of mentoring for the first year of his employment as a teacher with a school district or charter school.

↪ An applicant for licensure pursuant to this subparagraph is exempt from each examination required by NRS 391.021 if the applicant successfully passed the examination in another state.

(11) If the Commission approves the Passport to Teaching certification from the American Board for Certification of Teacher Excellence as an alternative route to licensure, providing for the issuance and renewal of a special qualifications license to an applicant who:

(I) Holds a Passport to Teaching certification from the American Board for Certification of Teacher Excellence;

(II) Passes each examination required by NRS 391.021 for the specific subject or subjects in which the applicant will provide instruction; and

(III) Agrees to participate in a program of mentoring prescribed by the Commission for the first year of his employment as a teacher with a school district or charter school.

(b) May adopt such other regulations as it deems necessary for its own government or to carry out its duties.

2. Any regulation which increases the amount of education, training or experience required for licensing:

(a) Must, in addition to the requirements for publication in chapter 233B of NRS, be publicized before its adoption in a manner reasonably calculated to inform those persons affected by the change.

(b) Must not become effective until at least 1 year after the date it is adopted by the Commission.

(c) Is not applicable to a license in effect on the date the regulation becomes effective.

3. A person who is licensed pursuant to subparagraph (7), (10) or (11) of paragraph (a) of subsection 1:

(a) Shall comply with all applicable statutes and regulations.

(b) Except as otherwise provided by specific statute, is entitled to all benefits, rights and privileges conferred by statutes and regulations on licensed teachers.

(c) Except as otherwise provided by specific statute, if he is employed as a teacher by the board of trustees of a school district or the governing body of a charter school, is entitled to all benefits, rights and privileges conferred by statutes and regulations on the licensed employees of a school district or charter school, as applicable.

Sec. 3. NRS 391.019 is hereby amended to read as follows:

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

(a) Shall adopt regulations:

(1) Prescribing the qualifications for licensing teachers and other educational personnel, including, without limitation, the qualifications for a license to teach middle school or junior high school education, and the procedures for the issuance and renewal of those licenses. *The regulations must not prescribe qualifications which are more stringent than the qualifications set forth in section 1 of this act for a licensed teacher who applies for an additional license in accordance with that section.*

(2) Identifying fields of specialization in teaching which require the specialized training of teachers.

(3) Except as otherwise provided in NRS 391.125, requiring teachers to obtain from the Department an endorsement in a field of specialization to be eligible to teach in that field of specialization.

(4) Setting forth the educational requirements a teacher must satisfy to qualify for an endorsement in each field of specialization.

(5) Setting forth the qualifications and requirements for obtaining a license or endorsement to teach American Sign Language, including, without

limitation, being registered with the Office of Disability Services of the Department of Health and Human Services pursuant to NRS 656A.100 to engage in the practice of interpreting in an educational setting.

(6) Requiring teachers and other educational personnel to be registered with the Office of Disability Services pursuant to NRS 656A.100 to engage in the practice of interpreting in an educational setting if they:

(I) Provide instruction or other educational services; and

(II) Concurrently engage in the practice of interpreting, as defined in NRS 656A.060.

(7) Providing for the issuance and renewal of a special qualifications license to an applicant who holds a master's degree or a doctoral degree from an accredited degree-granting postsecondary educational institution in a field for which the applicant will provide instruction in a classroom and who has:

(I) At least 2 years of experience teaching at an accredited degree-granting postsecondary educational institution in a field for which the applicant will provide instruction in a classroom and at least 3 years of experience working in that field; or

(II) At least 5 years of experience working in a field for which the applicant will provide instruction in a classroom.

(8) Requiring an applicant for a special qualifications license to:

(I) Pass each examination required by NRS 391.021 for the specific subject or subjects in which the applicant will provide instruction; or

(II) Hold a valid license issued by a professional licensing board of any state that is directly related to the subject area of the master's degree or doctoral degree held by the applicant.

(9) Setting forth the subject areas that may be taught by a person who holds a special qualifications license, based upon the subject area of the master's degree or doctoral degree held by that person.

(10) Providing for the issuance and renewal of a special qualifications license to an applicant who:

(I) Holds a graduate degree from an accredited college or university in the field for which he will be providing instruction;

(II) Is not licensed to teach public school in another state;

(III) Has at least 5 years of experience teaching with satisfactory evaluations at a school that is accredited by a national or regional accrediting agency recognized by the United States Department of Education; and

(IV) Submits proof of participation in a program of student teaching or mentoring or agrees to participate in a program of mentoring for the first year of his employment as a teacher with a school district or charter school.

➔ An applicant for licensure pursuant to this subparagraph is exempt from each examination required by NRS 391.021 if the applicant successfully passed the examination in another state.

(b) May adopt such other regulations as it deems necessary for its own government or to carry out its duties.

2. Any regulation which increases the amount of education, training or experience required for licensing:

(a) Must, in addition to the requirements for publication in chapter 233B of NRS, be publicized before its adoption in a manner reasonably calculated to inform those persons affected by the change.

(b) Must not become effective until at least 1 year after the date it is adopted by the Commission.

(c) Is not applicable to a license in effect on the date the regulation becomes effective.

3. A person who is licensed pursuant to subparagraph (7) or (10) of paragraph (a) of subsection 1:

(a) Shall comply with all applicable statutes and regulations.

(b) Except as otherwise provided by specific statute, is entitled to all benefits, rights and privileges conferred by statutes and regulations on licensed teachers.

(c) Except as otherwise provided by specific statute, if he is employed as a teacher by the board of trustees of a school district or the governing body of a charter school, is entitled to all benefits, rights and privileges conferred by statutes and regulations on the licensed employees of a school district or charter school, as applicable.

Sec. 4. NRS 391.021 is hereby amended to read as follows:

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

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

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

Sec. 5. NRS 391.032 is hereby amended to read as follows:

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

(a) Consider and may adopt regulations which provide for the issuance of conditional licenses to teachers and other educational personnel before

completion of all courses of study or other requirements for a license in this State.

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

2. The regulations adopted pursuant to paragraph (b) of subsection 1 may provide an exemption from the examinations required for initial licensure for teachers and other educational personnel ~~[who have previous experience in teaching or performing other educational functions in]~~ from another state ~~[. If the Commission adopts regulations providing such an exemption, the Commission shall identify the examinations to which the exemption applies.]~~ *if the Commission determines that the examinations required for initial licensure for teachers and other educational personnel in that state are comparable to the examinations required for initial licensure in this State.*

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

Sec. 6. 1. The Commission on Professional Standards in Education shall conduct a review of the regulations of the Commission governing the licensure and endorsement of special education teachers to improve and enhance the reciprocal licensure in this State of special education teachers from other states. The review must include an analysis of:

(a) The possible consolidation of the categorical special education endorsements into broader, noncategorical endorsements; and

(b) The possible issuance of a waiver of the requirement of specific course work for the categorical endorsements for teaching pupils with disabilities required by regulation of the Commission if a teacher has 3 years of verified teaching experience in a classroom providing instruction to pupils with the area of disability in which he seeks the categorical endorsement.

2. On or before January 1, 2010, the Commission shall submit to the Legislative Committee on Education a report of:

(a) The results of the review conducted pursuant to subsection 1; and

(b) Any regulations relating to the endorsements proposed by the Commission as a result of its review or, if the Commission is not proposing any regulations, a detailed explanation of why it is not.

3. On or before July 1, 2010, the Commission shall submit to the Legislative Committee on Education:

(a) A report of the regulations adopted by the Commission as a result of its review or, if no regulations are adopted, a detailed explanation of why the Commission did not adopt regulations; and

(b) Any recommendations for legislation relating to the licensure and endorsement of special education teachers.

Sec. 7. 1. This section and sections 1, 2, 4, 5 and 6 of this act become effective ~~on July 1, 2009,~~ *upon passage and approval.*

2. Section 3 of this act becomes effective on July 1, 2011.

Senator Woodhouse moved the adoption of the amendment.

Remarks by Senator Woodhouse.

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

Amendment No. 616 to Assembly Bill No. 425 makes the provisions of the measure effective upon passage and approval instead of July 1, 2009.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Assembly Bill No. 428.

Bill read second time and ordered to third reading.

Assembly Bill No. 432.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 602.

"SUMMARY—Revises provisions governing alcoholic beverage awareness programs. (BDR 32-526)"

"AN ACT relating to intoxicating liquors; revising provisions relating to alcoholic beverage awareness programs; providing for enforcement of certain provisions by peace officers; revising the distribution of civil fines paid for certain violations; requiring certain reports to be made to the Legislature; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under existing law, certain employees of certain establishments that sell alcohol must have successfully completed an alcoholic beverage awareness program. The owner of an establishment that is not in compliance must pay an administrative fine, to be imposed by the Department of Taxation. Money from the administrative fines must be divided equally into the Fund for the Compensation of Victims of Crime and the Alcoholic Beverage Awareness Program Account in the State General Fund. (NRS 369.630) Section 1 of this bill provides that peace officers may enforce the requirements of the provision relating to employees having successfully completed the program by issuing a notice of a civil infraction for violations. Section 1 also revises the provision for distribution of the money received by the Department for fines from establishments found in violation, providing that instead of depositing 50 percent of the money in the *Fund for the Compensation of Victims of Crime and 50 percent of the money in the* Alcoholic Beverage Awareness Program Account, 50 percent of the money must be deposited in the *Account for Aid for Victims of Domestic Violence and 50 percent of the money must be deposited in the* account created in the State General Fund for the support of community juvenile justice programs and must be used only to enforce laws that prohibit the purchase, consumption or possession of alcoholic beverages by persons under the age of 21 years.

Section 2 of this bill requires each recipient of money from the collection of fines for civil infractions to submit a report to the Legislature concerning

the amount of money received and how the money was used. In addition, certain law enforcement agencies and the Department of Taxation are required to submit a report to the Legislature concerning the enforcement of the provisions requiring employees to participate in an alcoholic beverage awareness program.

Section 4 of this bill requires the Legislative Auditor to conduct an audit of any fines imposed pursuant to NRS 369.630 after July 1, 2007.

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

Section 1. NRS 369.630 is hereby amended to read as follows:

369.630 1. Except as otherwise provided in subsection ~~{5,}~~ 7, on and after July 1, 2007, a person who owns or operates an establishment shall not:

(a) Hire a person to sell or serve alcoholic beverages or perform the duties of a security guard at the establishment unless:

(1) The person hired to sell or serve alcoholic beverages or perform the duties of a security guard at the establishment has already successfully completed a certified program and already holds a valid alcohol education card; or

(2) The person who owns or operates the establishment ensures that the person hired to sell or serve alcoholic beverages or perform the duties of a security guard at the establishment, within 30 days after the date on which he is hired, successfully completes a certified program and obtains a valid alcohol education card; or

(b) Continue to employ a person who was hired before that date to sell or serve alcoholic beverages or perform the duties of a security guard at the establishment unless:

(1) The person who continues to be employed to sell or serve alcoholic beverages or perform the duties of a security guard at the establishment has already successfully completed a certified program and already holds a valid alcohol education card; or

(2) The person who owns or operates the establishment ensures that the person who continues to be employed to sell or serve alcoholic beverages or perform the duties of a security guard at the establishment, not later than July 31, 2007, successfully completes a certified program and obtains a valid alcohol education card.

2. ~~{The Department shall impose upon an owner or operator of an establishment who violates any of the provisions of this section an administrative fine of not more than:}~~ *A violation of this section is a civil infraction, and when an owner or operator of an establishment is found in violation pursuant to subsection 3, a notice of infraction must be issued on a form prescribed by the Department, and must contain, without limitation, the following information:*

- (a) The location at which the violation occurred;*
- (b) The date and time of the violation;*
- (c) The name of the establishment and the owner;*

- (d) The signature of the person who issued the notice of infraction;
- (e) A copy of this section which allegedly is being violated;
- (f) Information which advises of the manner in which, and the time within which, the notice of infraction must be answered; and
- (g) Any other reasonable information which is prescribed by the Department.

3. The notice of infraction may be issued by any peace officer or by any person who is authorized by the Department to issue such a notice. A duplicate of the notice of infraction must be served on the person to whom it is issued either in person, by providing the notice to the person in charge of the establishment at the time the notice of infraction is issued, or by affixing the notice to the establishment in a conspicuous place.

4. The notice of infraction or a facsimile thereof must be filed with the Department and retained by the Department and is deemed to be a public record of matters which are observed pursuant to a duty imposed by law and is prima facie evidence of the facts which are alleged therein.

5. A person who responds to the notice of infraction must:

(a) Admit the commission of the infraction by paying to the Department the appropriate civil fine:

(1) For the first violation within a 24-month period, \$500.

~~{(b)}~~ (2) For the second violation within a 24-month period, \$1,000.

~~{(c)}~~ (3) For the third and any subsequent violation within a 24-month period, \$5,000.

~~{3-}~~ (b) Deny liability for the infraction by notifying the Department and requesting a hearing in the manner indicated on the notice of infraction. Upon receipt of such a request, the Department shall afford to the person making the request an opportunity for a hearing pursuant to the provisions of NRS 233B.121.

6. Of the money collected by the Department from ~~{fines}~~ a civil fine pursuant to subsection ~~{2-}~~ 5:

(a) Fifty percent must be deposited with the State Treasurer for credit to the ~~{Fund}~~ Account for ~~{the Compensation of}~~ Aid for Victims of ~~{Crime}~~ Domestic Violence created by NRS ~~{217.260-}~~ 217.440.

(b) Fifty percent must be deposited in the ~~{Alcoholic Beverage Awareness Program Account, which is hereby created in the State General Fund. The Account must be administered by the Commission. The interest and income earned on the money in the Account, after deducting any applicable charges, must be credited to the Account. The money in the Account must be used solely to reduce the costs for employees to complete programs certified by the Commission pursuant to subsection 3 of NRS 369.625.}~~

~~4. Any law enforcement agency whose officer discovers a violation of this section shall report the violation to the Department.~~

~~5-} account created in the State General Fund for the support of community juvenile justice programs and must be used only to enforce laws~~

that prohibit the purchase, consumption or possession of alcoholic beverages by persons under the age of 21 years.

7. The provisions of this section apply only in a jurisdiction that:

- (a) Is located in a county whose population is 100,000 or more; or
- (b) Is located in a county whose population is less than 100,000, if the governing body of the jurisdiction has, by the affirmative vote of a majority of its members, agreed to be bound by the provisions of this section.

~~{6}~~ 8. As used in this section:

(a) "Certified program" means an alcoholic beverage awareness program certified by the Commission pursuant to NRS 369.625.

(b) "Valid alcohol education card" means a card issued by a certified program which has been obtained or renewed within the immediately preceding 4 years.

Sec. 2. 1. Each recipient of money pursuant to subsection 6 of section 1 of this act shall submit a report to the Director of the Legislative Counsel Bureau on or before February 1, 2011, for distribution to the Legislature setting forth the amount of money received during the biennium, the manner in which the money was used and the amount of money that remains in the account of the recipient.

2. Each law enforcement agency in a county subject to the provisions of NRS 369.630 and the Department of Taxation shall prepare and submit a report to the Director of the Legislative Counsel Bureau on or before February 1, 2011, for distribution to the Legislature which sets forth the actions taken by the agency or the Department, as applicable, to enforce the provisions of NRS 369.600 to 369.635, inclusive, and the number of violations of those provisions that were discovered by them. The Department shall also include in the report the amount of money collected from fines imposed for such violations.

Sec. 3. ~~{This act becomes effective on July 1, 2009.} (Deleted by amendment.)~~

Sec. 4. 1. The Legislative Auditor shall conduct an audit concerning any fines imposed by the Department of Taxation pursuant to NRS 369.630 after July 1, 2007.

2. The audit must include, without limitation, an analysis of:

- (a) Whether any fines were imposed pursuant to NRS 369.630; and
- (b) If any fines were imposed pursuant to NRS 369.630, the disposition of all such fines that were imposed.

3. The Legislative Auditor shall present a final written report of the audit to the Audit Subcommittee of the Legislative Commission not later than February 7, 2011. A copy of the final written report must be provided to the Department of Taxation not later than February 7, 2011.

4. The provisions of NRS 218.737 to 218.893, inclusive, apply to the audit performed pursuant to this section.

5. The Department of Taxation shall use the results of the audit to improve the efficiency and effectiveness of imposing and collecting fines pursuant to NRS 369.630.

Senator Care moved the adoption of the amendment.

Remarks by Senators Care, Carlton and Raggio.

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

SENATOR CARE:

The amendment changes the recipient of 50 percent of the funds to the Account for Aid for Victims of Domestic Violence, and it requires a Legislative Counsel Bureau Audit of the fines imposed on establishments that violate NRS 369.630.

SENATOR CARLTON:

Thank you, Mr. President. What would the 50 percent be? What type of money are we talking about? Is the Fund for the Compensation of Victims of Crime in good enough shape that they could withstand this type of hit?

SENATOR CARE:

This is a statutory scheme that we enacted two sessions ago. The problem is that it does not seem that anyone is enforcing it. No one has collected any fines. That is the reason for the audit requested by Senator Washington. When and if we start collecting fines, my understanding is that 50 percent of those fines collected would go to the Account for Aid for Victims of Domestic Violence on the theory that alcohol is often the underlying cause of domestic violence.

SENATOR RAGGIO:

Thank you, Mr. President. Recently, we passed a measure that provided substantial additional funding for the Victims of Domestic Violence. We doubled the initial request of increasing marriage license fees by adding a fee for certification of marriage licenses for that purpose as well as the initial request. That will raise a substantial amount of funding. This will also shift additional money to the Domestic Violence Fund and will delete the money that is now going into the Victims of Crime Fund. The nexus was that substance abuse, including alcohol abuse, is directly related to domestic violence. The same thing can be said of victims of crime. Was there any coordination between actions taken by one committee funding domestic violence and the Judiciary Committee, which redirected this funding? It seems we are taking money away from one area and putting it into another area where we have already enhanced the funding.

SENATOR CARE:

In section 1, subsection 6, of the amendment, it says, "of the money collected by the department from a civil fine pursuant to subsection 5." Subsection 5 takes it up to only those fines that are accrued from violation of this statute, which goes to training people who sell alcohol. It is only that money.

In subsection 6(a), 50 percent must be deposited with the State Treasurer for credit to the "Account for Aid for Victims of Domestic Violence" created by NRS 217.440. This is money collected from those fines. In section 4 of the amendment, the requirement for the audit is at 50 percent of nothing right now, because nothing is being collected. We want to know why it is not being collected. I do not know how much money that would be. No one has any idea. There was not any coordination by the committees with reference to the legislation. We never had that discussion.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Assembly Bill No. 441.

Bill read second time and ordered to third reading.

Assembly Bill No. 455.

Bill read second time and ordered to third reading.

Assembly Bill No. 472.

Bill read second time and ordered to third reading.

Assembly Bill No. 481.

Bill read second time and ordered to third reading.

Assembly Bill No. 512.

Bill read second time and ordered to third reading.

Assembly Joint Resolution No. 10.

Resolution read second time and ordered to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Care moved Assembly Bills Nos. 29, 47, 48, 49, 71, 73, 85, 97, 107, 109, 122, 168, 174, 176, 177, 194, 209, 213, 230, 231, 232, 242, 248, 257, 259, 274, 311, 353, 362, 364, 377, 389, 410, 415, 429, 459, 475, 480, 499, 516 be taken from the General File and placed on the General File for the next legislative day.

Motion carried.

REPORTS OF COMMITTEES

Mr. President:

Your Committee on Finance, to which was referred Senate Bill No. 395, has had the same under consideration, and begs leave to report the same back with the recommendation: Without recommendation and rerefer to the Committee on Energy, Infrastructure and Transportation.

BERNICE MATHEWS, *Cochair*

MOTIONS, RESOLUTIONS AND NOTICES

Senator Mathews moved that Senate Bill No. 395 be rereferred to the Committee on Energy, Infrastructure and Transportation.

Remarks by Senator Mathews.

Motion carried.

UNFINISHED BUSINESS

SIGNING OF BILLS AND RESOLUTIONS

There being no objections, the President and Secretary signed Senate Bills Nos. 49, 83, 91, 129, 220, 280, 300, 304, 307, 335, 343, 348; Senate Concurrent Resolutions Nos. 30, 31, 32; Assembly Concurrent Resolution No. 31.

GUESTS EXTENDED PRIVILEGE OF SENATE FLOOR

On request of Senator Amodei, the privilege of the floor of the Senate Chamber for this day was extended to the following students, parent and teachers from the Fritsch Elementary School: Camryn Aten, Brianna Bazhaw, Jordan Black, Emma Breeding, Alyssa Brooks, Daniel Chavez, Scott Coolbaugh, Kyra Gonzales, Nina Hernandez, Jared Juby, Anthony Lucas, Tony Magallanes, Devin McMenemy, Luis Ontiveros, Dylan Parnham, Michael Peregrina, Morgan Pruzzo, Rachel Rombardo, Ryan

Tomita, Krystal Torres, Maya Vasquez, Analih Victorio, Whitney Warren, Sterling White, Isaiah Williams, Marin Woomer, Christian Anderson, Fabian Francis, Yessenia Franco, Kaly Garner-Branco, Collin Gleba, Anna Glenn, Joshua Guevera, William Hoffecker, Rylan Kane, Annalucia Kinder, Christy Krahn, Haylee Krupp, Reed Lequerica, Maria Maldonado, Samantha Martinez, Jordan Miller, Brett Pettersen, Sophia Ruedy, Taylor Saarem, Bryceton Schilling, Jay Session, Nicholas Tibma, Megan Tingle, Tyler White, Julianna Williams, Jiavanna Wong-Fortunato, Thalia Yanez, Michael Peregrina; parent: Gina Parnham; teachers: Mrs. Hoppe and Diana Easby.

On request of Senator Mathews, the privilege of the floor of the Senate Chamber for this day was extended to the following students from the Robert Mitchell Elementary School: Collin Austin, Jackson Brewer, Dannielle Calissie, Julie Cook, Heather Crossen, Nicholas Esparza, Cristian Garcia Ramirez, Yaneth Guerrero Bonilla, Nancy Guerrero Ruiz, Aireo Hall, Ericka Hill, Denice Lara, Joselin Vianney Lopez, Dennis Martin, Preston Matson, Kaitlyn McKenna, Rudy Prieto, Emanuel Pulido, Guadalupe Ramirez Garcia, Mark Reali, Monique Renteria, Joseph Resendez, Adriana Simnitt, Vance Stinson, Natalia Wharton, Luis Servin, Se'Mari Traylor, Francisco Ortega Sarmiento, Fernando Perez Schmitz, Jose Quintana-Ojeda, Veronica Arzate, Ryan Avants, Justin Baker, Katelyn Bouyea, Melody Clarity, Aurelio Cortes, Ana Valeria Hernandez Esqueda, Daniel Iniestra, Pablo Izquierdo Oregel, Christopher Kaulitzke, Sara Legg, Porsha Major, Dutch Martin, Louis Martin, Jose Martinez, Kenia Monge, Bryan Ramil, Roy Ramirez, Sierra Samaniego, Madeline Sargent, Jessica Talmon, Shelby Underwood, Brandon Urtusuastegui Quintero, Travis Williams, Marissa Wooten, Jonathon Huson, Alondra Salcedo and Maria Valladares.

On request of Senator Washington, the privilege of the floor of the Senate Chamber for this day was extended to the following students and teacher from the Alyce Taylor Elementary School: George Baumann, Ryan Beaudoin, Davian Cerda, Jon Cody Corpuz, Tristan Cox, Kaylyn Dunlap, Nicholas Ferguson, Matthew Fick, Dylan Fish, Joshua Foster, Sierra Foster, Olivia Galletti, SaMoura Horsley, Emilee Howe, Kevin Huynh, Dane Ingersoll, Bailey Jones, Makenzie Lawson, Emmett Malone, Paola Medina, Justin Merritt, Tyler Morse, Leah Quirk, Nicholas Ramsey, Summer Salvo, Malia Sanderson, Dylan Scarnati-Hughes, Avery Schroeder, Leo Vargas, Vernon Long and teacher: Barbara Richburg-Hughes.

Senator Horsford moved that the Senate adjourn until Tuesday, May 12, 2009, at 11 a.m.

Motion carried.

Senate adjourned at 12:21 p.m.

Approved:

BRIAN K. KROLICKI
President of the Senate

Attest: CLAIRE J. CLIFT
Secretary of the Senate