

THE ONE HUNDREDTH DAY

CARSON CITY (Tuesday), May 12, 2009

Senate called to order at 11:48 a.m.

President Krolicki presiding.

Roll called.

All present.

Prayer by the Chaplain, Pastor Albert Tilstra.

Almighty God, the giver of true freedom, awaken in us a new appreciation for our Nation and our State, that we may apply ourselves to keeping alive a real sense of liberty.

Thank you for our Nation's founders, their ideals, their principles and their sacrifices. Thank you, Lord, for the long progression of statesmen and patriots who have guarded our rights and healed our land.

We thank You for the members of the Senate staff who serve behind the scenes and work into the evening sustaining our well-being. In an hour where great issues are at stake, may those who serve rise to meet the challenges and strive to be faithful.

We pray in Your Holy Name.

AMEN.

Pledge of Allegiance to the Flag.

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

Motion carried.

REPORTS OF COMMITTEES

Mr. President:

Your Committee on Energy, Infrastructure and Transportation, to which was referred Assembly Bill No. 503, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

MICHAEL A. SCHNEIDER, *Chair*

Mr. President:

Your Committee on Government Affairs, to which were referred Assembly Bills Nos. 139, 236, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

Also, your Committee on Government Affairs, to which was referred Assembly Bill No. 192, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

JOHN J. LEE, *Chair*

Mr. President:

Your Committee on Health and Education, to which was referred Assembly Bill No. 76, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

VALERIE WIENER, *Chair*

SECOND READING AND AMENDMENT

Senate Bill No. 146.

Bill read second time.

The following amendment was proposed by the Committee on Finance:

Amendment No. 610.

"SUMMARY—Provides funding to the Department of Wildlife for certain projects. (BDR S-652)"

"AN ACT relating to the Department of Wildlife; providing funding to the Department of Wildlife for certain projects; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

The Legislature submitted to the voters of this State, and the voters approved, at the general election held on November 5, 2002, a proposal to issue general obligation bonds of the State to protect, preserve and obtain the benefits of the property and natural resources of this State in an amount not to exceed \$200,000,000. Of this amount, \$27,500,000 was allocated to the Division of Wildlife of the State Department of Conservation and Natural Resources. (Chapter 6, Statutes of Nevada 2001, 17th Special Session, p. 104) This bill requires that ~~[\$1,000,000 of the \$27,500,000]~~ \$225,000 be allocated to the Department of Wildlife ~~[to fund projects in this State that]~~ for a coordinator and related costs to ensure that local, state and federal entities work together to: (1) protect and restore sagebrush habitats; (2) restore areas damaged by wildfires; (3) prevent wildfires; or (4) reduce cheatgrass.

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

Section 1. Notwithstanding the provisions of chapter 6, Statutes of Nevada 2001, 17th Special Session, from the ~~[\$27,500,000 in general obligation bonds allocated to the Division of Wildlife of]~~ Fund to Protect Natural Resources, administered by the State Department of Conservation and Natural Resources pursuant to subsection ~~[2 of section 2]~~ 5 of section 3 of that act, the sum of ~~[\$1,000,000]~~ \$225,000 must be allocated to the Department of Wildlife to create and fund ~~[projects that]~~ a position for a coordinator and related costs to ensure local, state and federal entities are working together to:

1. Protect and restore sagebrush habitats.
2. Restore areas damaged by wildfires.
3. Prevent wildfires.
4. Reduce cheatgrass.

Sec. 2. Any remaining balance of the allocation made by section 1 of this act not committed for expenditure by June 30, 2011, must be reverted to the Fund to Protect Natural Resources.

~~[Sec. 2]~~ Sec. 3. This act becomes effective [on July 1, 2009.] upon passage and approval.

Senator Mathews moved the adoption of the amendment.

Remarks by Senator Mathews.

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

This bill provides funding to the Department of Wildlife for funding for certain projects. The amendment adds new language to the original bill. The amendment allocates \$225,000 for the wildlife and fire districts.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 409.

Bill read second time and ordered to third reading.

Assembly Bill No. 16.

Bill read second time.

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

Amendment No. 631.

"SUMMARY—Provides for the disclosure of certain information to an emergency response employee concerning possible exposure to an infectious disease. (BDR 40-600)"

"AN ACT relating to emergency medical services; providing for the disclosure of certain information to an emergency response employee concerning possible exposure to an infectious disease; requiring certain notifications concerning such an exposure; providing a penalty; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Section 6 of this bill requires each employer of emergency response employees in this State to designate at least one employee to serve as a designated officer to act on behalf of its emergency response employees with regard to their possible exposure to infectious diseases.

Section 7 of this bill requires a medical facility or, in certain circumstances, the county coroner or medical examiner, as applicable, to notify a designated officer of an emergency response employee who transported a victim of an emergency who the medical facility , county coroner or medical examiner determines has an ~~airborne~~ infectious disease.

Section 8 of this bill authorizes an emergency response employee to request that his designated officer make an initial determination of the employee's possible exposure to an infectious disease. Section 9 of this bill requires a medical facility , county coroner or medical examiner to respond to a request from a designated officer of an emergency response employee regarding whether the employee may have been exposed to an infectious disease once the medical facility , county coroner or medical examiner makes such a determination. Section 10 of this bill provides that if information was insufficient for a medical facility , county coroner or medical examiner to determine whether an emergency response employee was exposed to an infectious disease, the health officer in whose jurisdiction the medical facility , county coroner or medical examiner is located shall evaluate the request and the response of the medical facility ~~to~~ , county coroner or medical

examiner. Section 11 of this bill requires a designated officer to notify each emergency response employee who responded to an emergency and may have been exposed to an infectious disease of the determination of the medical facility ~~+~~, county coroner or medical examiner. Section 12 of this bill provides limitations on the liability of a medical facility, county coroner, medical examiner or designated officer and clarifies that the provisions of this bill do not authorize an emergency response employee to fail to respond or deny services to a victim of an emergency. Section 12 further provides that this bill does not authorize or require a medical facility, county coroner or medical examiner to test any victim of an emergency for the presence of an infectious disease and does not authorize or require certain persons to disclose the identity of such a victim or an emergency response employee.

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

Section 1. Chapter 450B of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 12, inclusive, of this act.

Sec. 2. *"Designated officer" means a person designated by an employer to serve as a designated officer for its emergency response employees pursuant to section 6 of this act.*

Sec. 3. *"Emergency response employee" means a firefighter, attendant, volunteer attendant, emergency medical technician, intermediate emergency medical technician, advanced emergency medical technician, law enforcement officer, correctional officer, other peace officer or person who is employed by an agency of criminal justice, county coroner or medical examiner or any of their employees, any other public employee whose duties may require him to come into contact with human blood or bodily fluids or any other person who, in the course of his professional duties, responds to emergencies in this State.*

Sec. 4. *"Exposed" or "exposure" means any circumstances which create a significant risk of a person becoming infected with an infectious disease.*

Sec. 5. *"Infectious disease" means a disease caused by a living organism or other pathogen, including, without limitation, a fungus, bacillus, parasite, protozoan or virus.*

Sec. 6. *Each employer of emergency response employees in this State shall designate at least one employee to serve as a designated officer to receive notifications and responses and make requests on behalf of its emergency response employees pursuant to sections ~~+~~ 6 to 12, inclusive, of this act.*

Sec. 7. 1. *Except as otherwise provided in NRS 441A.195, if a victim of an emergency is transported by emergency response employees to a medical facility and the medical facility determines that the victim has an ~~airborne~~ infectious disease, the medical facility shall notify a designated officer of the emergency response employees of that determination.*

2. *If a victim of an emergency is transported by emergency response employees to a medical facility, the victim dies at or before reaching the*

medical facility and the ~~medical facility~~ county coroner or medical examiner of the county in which the victim dies, as applicable, determines the cause of death of the victim, the ~~medical facility~~ county coroner or medical examiner shall notify a designated officer of the emergency response employees of any determination by the ~~medical facility~~ county coroner or medical examiner that the victim had an ~~airborne~~ infectious disease.

3. The medical facility to which the victim is transported or the county coroner or medical examiner of the county in which the victim dies, as applicable, shall cause the notification required by subsection 1 or 2, as appropriate, to be made as soon as practicable, but not later than 48 hours after the determination is made.

4. The notification must include, without limitation:

(a) The name of the ~~airborne~~ infectious disease to which the emergency response employees may have been exposed; and

(b) The date on which the victim of the emergency was transported by the emergency response employees to the medical facility.

~~5. As used in this section, "airborne infectious disease" means an infectious disease transmitted from person to person by an aerosol, including, without limitation, tuberculosis.~~

Sec. 8. 1. Except as otherwise provided in NRS 441A.195, if an emergency response employee believes that he may have been exposed to an infectious disease by a victim of an emergency who was transported, attended, treated or assisted by the emergency response employee, a designated officer of the employee shall, upon the request of the employee, make an initial determination of the possible exposure of the employee to an infectious disease by:

(a) Collecting the facts relating to the circumstances under which the employee may have been exposed to an infectious disease; and

(b) Evaluating the facts to determine whether the victim had an infectious disease and whether the employee may have been exposed to the disease.

2. If a designated officer determines that an emergency response employee may have been exposed to an infectious disease, the designated officer shall submit to the medical facility to which the victim was transported or the county coroner or medical examiner of the county in which the victim died, as applicable, a written request for a response.

Sec. 9. 1. If a medical facility, county coroner or medical examiner, as applicable, receives a written request for a response pursuant to subsection 2 of section 8 of this act, the medical facility, county coroner or medical examiner shall, as soon as practicable but not later than 48 hours after receiving the request, evaluate the facts submitted in the request and determine whether the emergency response employee was exposed to an infectious disease.

2. If the medical facility, county coroner or medical examiner, as applicable, determines that the emergency response employee may have been exposed or was not exposed to an infectious disease or that insufficient

information exists for ~~it to make~~ a determination ~~to~~ to be made, the medical facility, county coroner or medical examiner shall notify, in writing, the designated officer who submitted the request.

~~3. If a victim dies at or before reaching the medical facility and the medical facility receives a written request for a response pursuant to subsection 2 of section 8 of this act, the medical facility shall provide a copy of the request to any other medical facility that is ascertaining the cause of death of the victim.~~

Sec. 10. 1. If a designated officer receives a notice from a medical facility, county coroner or medical examiner, as applicable, pursuant to subsection 2 of section 9 of this act that insufficient information exists for the medical facility, county coroner or medical examiner to make a determination of whether an emergency response employee was exposed to an infectious disease, the designated officer may submit a request for further evaluation to the health officer in whose jurisdiction the medical facility, county coroner or medical examiner is located. A request submitted pursuant to this subsection must include the original request for a written response submitted by the designated officer pursuant to subsection 2 of section 8 of this act.

2. If a health officer receives a request for further evaluation pursuant to subsection 1, the health officer shall evaluate the request and the request for a written response submitted by the designated officer pursuant to subsection 2 of section 8 of this act. An evaluation conducted pursuant to this subsection must be completed as soon as practicable but not later than 48 hours after the request for further evaluation is received.

3. If an evaluation conducted pursuant to subsection 2 indicates that the facts provided to the medical facility, county coroner or medical examiner, as applicable, were:

(a) Sufficient to determine that an emergency response employee was exposed to an infectious disease, the health officer shall, on behalf of the designated officer, resubmit the request to the medical facility ~~to~~, county coroner or medical examiner; or

(b) Insufficient to determine that an emergency response employee was exposed to an infectious disease, the health officer shall advise the designated officer in writing regarding the collection and description of additional facts for further evaluation by the medical facility, county coroner or medical examiner pursuant to section 9 of this act.

Sec. 11. 1. If a designated officer receives a notice from a medical facility, county coroner or medical examiner, as applicable, pursuant to section 9 of this act that an emergency response employee may have been exposed to an infectious disease, the designated officer shall, as soon as is practicable after receiving the notice, notify each emergency response employee who responded to the emergency and may have been exposed to an infectious disease.

2. The notification must include, without limitation:

- (a) A statement indicating that the emergency response employee may have been exposed to an infectious disease;
- (b) The name of the infectious disease;
- (c) The date on which the victim of the emergency was transported by the emergency response employee to the medical facility; and
- (d) Any action that is medically appropriate for the emergency response employee to take.

Sec. 12. The provisions of sections ~~6~~ 6 to 12, inclusive, of this act must not be construed to:

1. Authorize any cause of action for damages or any civil penalty against a medical facility, county coroner, medical examiner or designated officer that fails to comply with any requirement of those provisions.

2. Require or authorize a medical facility, county coroner or medical examiner to test a victim of an emergency for the presence of an infectious disease.

3. Require or authorize a medical facility, county coroner, medical examiner, designated officer or emergency response employee to disclose the identity of or identifying information about a victim of an emergency or an emergency response employee.

4. Authorize an emergency response employee to fail to respond or deny services to a victim of an emergency.

Sec. 13. NRS 450B.020 is hereby amended to read as follows:

450B.020 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 450B.025 to 450B.110, inclusive, and sections 2 to 5, inclusive, of this act have the meanings ascribed to them in those sections.

Sec. 14. This act becomes effective on July 1, 2009.

Senator Wiener moved the adoption of the amendment.

Remarks by Senator Wiener.

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

Amendment No. 631 to Assembly Bill No. 16 provides for the disclosure of certain information to a broader range of emergency response employees. This includes law enforcement officers, correctional officers, other peace officers, county coroners or medical examiners, and other public employees whose duties may require them to come into contact with human blood or bodily fluids.

It requires coroners and medical examiners in addition to medical facilities to notify the appropriate person if a decedent may have possibly exposed an emergency response employee, and it expands the type of infectious diseases that require notification by removing the term airborne.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Assembly Bill No. 52.

Bill read second time.

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

Amendment No. 615.

"SUMMARY—Requires hospitals in certain larger counties to provide a report of certain information concerning patients to the Legislative Committee on Health Care. (BDR S-448)"

"AN ACT relating to health care; requiring certain hospitals in certain larger counties to report information to the Legislative Committee on Health Care concerning the transfer of patients to another hospital; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Hospitals in this State are required to provide emergency services and care, and it is unlawful for a hospital or a physician working in a hospital emergency room to refuse to accept or treat a patient in need of emergency services and care. (NRS 439B.410) This bill requires certain hospitals located in larger counties to provide a report of certain information to the Legislative Committee on Health Care concerning the transfer of patients from the hospital to another hospital and the availability of specialty medical services in the hospital. Such a report must be made quarterly beginning on ~~September~~ October 15, 2009, and cover information from ~~June~~ July 1, 2009, through ~~August 31,~~ September 30, 2010.

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

Section 1. 1. Each hospital located in a county whose population is 400,000 or more which is licensed to have more than 70 beds shall provide to the Legislative Committee on Health Care reports with information concerning the transfer of patients from one hospital to another hospital. Such information must include:

- (a) The number of patients who are transferred from the hospital to another hospital;
- (b) The number of patients who were received by the hospital that were transferred from another hospital;
- (c) The reason for each transfer of a patient to another hospital;
- (d) The availability of specialty services and care in the hospital; and
- (e) Whether each patient who was transferred from the hospital had insurance or some other guaranteed form of payment for services.

2. Each hospital subject to the provisions of subsection 1 shall provide a report to the Legislative Committee on Health Care with the information required at least once every 3 months, and the reports must include information from ~~June~~ July 1, 2009, through ~~August 31,~~ September 30, 2010. The first report must be made by ~~September~~ October 15, 2009, and must include information from ~~June~~ July 1, 2009, through ~~August 31,~~ September 30, 2009. Subsequent reports must include information for the period since the last report.

3. The information reported pursuant to this section must be made available to each person or entity that provides information pursuant to this section to the extent that it is not required to be kept confidential.

4. The information reported pursuant to this section must be maintained and reported in a manner consistent with the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191.

5. As used in this section, "specialty services" includes, without limitation:

- (a) Cardiology services;
- (b) Gastroenterological services;
- (c) General surgical services;
- (d) Neurosurgical services;
- (e) Ophthalmology services;
- (f) Oral and maxillofacial surgical services;
- (g) Orthopedic services;
- (h) Otolaryngology services; and
- (i) Urological services.

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

Senator Wiener moved the adoption of the amendment.

Remarks by Senator Wiener.

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

Amendment No. 615 to Assembly Bill No. 52 revises the reporting dates by changing the beginning time for submission of the quarterly report from September 15 to October 15, 2009, and requiring that the report cover information from July 1, 2009, through September 20, 2010.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Assembly Bill No. 79.

Bill read second time and ordered to third reading.

Assembly Bill No. 191.

Bill read second time.

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

Amendment No. 629.

"SUMMARY—Revises provisions governing certain examinations of the height and weight of pupils. (BDR 34-827)"

"AN ACT relating to education; revising provisions governing examinations of the height and weight of pupils enrolled in public schools; ~~removing~~ *extending* the prospective expiration of the requirement that those examinations be conducted; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law requires each school to conduct physical examinations of pupils in certain grades to determine if a child has scoliosis, a visual or auditory problem or a gross physical defect, and to conduct examinations of the height and weight of a representative sample of pupils in certain grades. (NRS 392.420) The requirement for examinations of the height and weight of a representative sample of pupils in certain grades is scheduled to expire on

June 30, 2010. (Chapter 414, Statutes of Nevada 2007, p. 1873) Section 2 of this bill ~~removes~~ *extends* the prospective expiration of the requirement that each school conduct examinations of the height and weight of a representative sample of pupils ~~to June 30, 2015~~. Section 1 of this bill revises the grades in which the examinations of the height and weight of a representative sample of pupils are conducted to require each school district to conduct and report on the examinations for grades 4, 7 and 10 and authorizes a school district to conduct the examinations in other grade levels. (NRS 392.420)

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

Section 1. NRS 392.420 is hereby amended to read as follows:

392.420 1. In each school at which he is responsible for providing nursing services, a school nurse shall plan for and carry out, or supervise qualified health personnel in carrying out, a separate and careful observation and examination of every child who is regularly enrolled in a grade specified by the board of trustees or superintendent of schools of the school district in accordance with this subsection to determine whether the child has scoliosis, any visual or auditory problem, or any gross physical defect. The grades in which the observations and examinations must be carried out are as follows:

(a) For visual and auditory problems:

(1) Before the completion of the first year of initial enrollment in elementary school;

(2) In at least one additional grade of the elementary schools; and

(3) In one grade of the middle or junior high schools and one grade of the high schools; and

(b) For scoliosis, in at least one grade of schools below the high schools.

↪ Any person other than a school nurse, including, without limitation, a person employed at a school to provide basic first aid and health services to pupils, who performs an observation or examination pursuant to this subsection must be trained by a school nurse to conduct the observation or examination.

2. In addition to the requirements of subsection 1, each school district shall conduct examinations of *the* height and weight of a representative sample of pupils *enrolled in* ~~at least one grade of the:~~

~~(a) Elementary schools within the school district;~~

~~(b) Middle schools or junior high schools within the school district; and~~

~~(c) High schools} grades 4, 7 and 10 in the schools within the school district. In addition to those grade levels, a school district may conduct examinations of the height and weight of a representative sample of pupils enrolled in other grade levels within the school district.~~

↪ The Health Division of the Department of Health and Human Services shall define "representative sample" in collaboration with the school districts for purposes of this subsection.

3. If any child is attending school in a grade above one of the specified grades and has not previously received such an observation and examination, he must be included in the current schedule for observation and examination. Any child who is newly enrolled in the district must be examined for any medical condition for which children in a lower grade are examined.

4. A special examination for a possible visual or auditory problem must be provided for any child who:

- (a) Is enrolled in a special program;
- (b) Is repeating a grade;
- (c) Has failed an examination for a visual or auditory problem during the previous school year; or
- (d) Shows in any other way that he may have such a problem.

5. The school authorities shall notify the parent or guardian of any child who is found or believed to have scoliosis, any visual or auditory problem, or any gross physical defect, and shall recommend that appropriate medical attention be secured to correct it.

6. In any school district in which state, county or district public health services are available or conveniently obtainable, those services may be used to meet the responsibilities assigned under the provisions of this section. The board of trustees of the school district may employ qualified personnel to perform them. Any nursing services provided by such qualified personnel must be performed in compliance with chapter 632 of NRS.

7. The board of trustees of a school district may adopt a policy which encourages the school district and schools within the school district to collaborate with:

- (a) Qualified health care providers within the community to perform, or assist in the performance of, the services required by this section; and
- (b) Postsecondary educational institutions for qualified students enrolled in such an institution in a health-related program to perform, or assist in the performance of, the services required by this section.

8. The school authorities shall provide notice to the parent or guardian of a child before performing on the child the examinations required by this section. The notice must inform the parent or guardian of the right to exempt the child from all or part of the examinations. Any child must be exempted from an examination if his parent or guardian files with the teacher a written statement objecting to the examination.

9. ~~Each~~ *Except as otherwise provided in this subsection, each* school nurse or a designee of a school nurse, including, without limitation, a person employed at a school to provide basic first aid and health services to pupils, shall report the results of the examinations conducted pursuant to this section in each school at which he is responsible for providing services to the State Health Officer in the format prescribed by the State Health Officer. *If a school district conducts examinations of the height and weight of a representative sample of pupils enrolled in grade levels other than the grade levels required by subsection 2, the results of those examinations must not be*

included in the report submitted to the State Health Officer. Each such report must exclude any identifying information relating to a particular child. The State Health Officer shall compile all such information he receives to monitor the health status of children and shall retain the information.

Sec. 2. Section 5 of chapter 414, Statutes of Nevada 2007, at page 1873, is hereby amended to read as follows:

Sec. 5. 1. This section and sections 1 and 4 of this act become effective on July 1, 2007.

2. Section 1 of this act expires by limitation on June 30, ~~{2010.}~~ 2015.

3. Section 2 of this act becomes effective on July 1, ~~{2010.}~~ 2015.

Sec. 3. ~~{Section 2 of chapter 414, Statutes of Nevada 2007, at page 1872, is hereby repealed.}~~ *(Deleted by amendment.)*

Sec. 4. The Legislative Committee on Health Care shall, during the 2009-2010 interim, examine issues related to the weight and health of children, including, without limitation, any information reported to the State Health Officer pursuant to NRS 392.420, as amended by section 1 of this act. The Committee may identify programs, practices and studies to address the needs of children in this State related to maintaining a healthy weight.

Sec. 5. 1. This act becomes effective ~~{upon passage and approval.}~~ on July 1, 2009.

2. Section 1 of this act expires by limitation on June 30, 2015.

TEXT OF REPEALED SECTION

~~Section 2 of chapter 414, Statutes of Nevada 2007, at page 1872:~~

~~Sec. 2. NRS 392.420 is hereby amended to read as follows:~~

~~392.420 1. In each school at which he is responsible for providing nursing services, a school nurse shall plan for and carry out, or supervise qualified health personnel in carrying out, a separate and careful observation and examination of every child who is regularly enrolled in a grade specified by the board of trustees or superintendent of schools of the school district in accordance with this subsection to determine whether the child has scoliosis, any visual or auditory problem, or any gross physical defect. The grades in which the observations and examinations must be carried out are as follows:~~

~~(a) For visual and auditory problems:~~

~~(1) Before the completion of the first year of initial enrollment in elementary school;~~

~~(2) In at least one additional grade of the elementary schools; and~~

~~(3) In one grade of the middle or junior high schools and one grade of the high schools; and~~

~~(b) For scoliosis, in at least one grade of schools below the high schools.~~

~~* Any person other than a school nurse, including, without limitation, a person employed at a school to provide basic first aid~~

~~and health services to pupils, who performs an observation or examination pursuant to this subsection must be trained by a school nurse to conduct the observation or examination.~~

~~2. [In addition to the requirements of subsection 1, each school district shall conduct examinations of height and weight of a representative sample of pupils in at least one grade of the:~~

- ~~(a) Elementary schools within the school district;~~
- ~~(b) Middle schools or junior high schools within the school district;~~
- ~~and~~
- ~~(c) High schools within the school district;~~

~~→ The Health Division of the Department of Health and Human Services shall define "representative sample" in collaboration with the school districts for purposes of this subsection.~~

~~3.] If any child is attending school in a grade above one of the specified grades and has not previously received such an observation and examination, he must be included in the current schedule for observation and examination. Any child who is newly enrolled in the district must be examined for any medical condition for which children in a lower grade are examined.~~

~~[4.] 3. A special examination for a possible visual or auditory problem must be provided for any child who:~~

- ~~(a) Is enrolled in a special program;~~
- ~~(b) Is repeating a grade;~~
- ~~(c) Has failed an examination for a visual or auditory problem during the previous school year; or~~
- ~~(d) Shows in any other way that he may have such a problem.~~

~~[5.] 4. The school authorities shall notify the parent or guardian of any child who is found or believed to have scoliosis, any visual or auditory problem, or any gross physical defect, and shall recommend that appropriate medical attention be secured to correct it.~~

~~[6.] 5. In any school district in which state, county or district public health services are available or conveniently obtainable, those services may be used to meet the responsibilities assigned under the provisions of this section. The board of trustees of the school district may employ qualified personnel to perform them. Any nursing services provided by such qualified personnel must be performed in compliance with chapter 632 of NRS.~~

~~[7.] 6. The board of trustees of a school district may adopt a policy which encourages the school district and schools within the school district to collaborate with:~~

- ~~(a) Qualified health care providers within the community to perform, or assist in the performance of, the services required by this section; and~~

~~(b) Postsecondary educational institutions for qualified students enrolled in such an institution in a health-related program to perform, or assist in the performance of, the services required by this section.~~

~~[8.] 7. The school authorities shall provide notice to the parent or guardian of a child before performing on the child the examinations required by this section. The notice must inform the parent or guardian of the right to exempt the child from all or part of the examinations. Any child must be exempted from an examination if his parent or guardian files with the teacher a written statement objecting to the examination.~~

~~[9.] 8. Each school nurse or a designee of a school nurse, including, without limitation, a person employed at a school to provide basic first aid and health services to pupils, shall report the results of the examinations conducted pursuant to this section in each school at which he is responsible for providing services to the State Health Officer in the format prescribed by the State Health Officer. Each such report must exclude any identifying information relating to a particular child. The State Health Officer shall compile all such information he receives to monitor the health status of children and shall retain the information.]~~

Senator Wiener moved the adoption of the amendment.

Remarks by Senators Wiener, Townsend and Cegavske.

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

SENATOR WIENER:

Amendment No. 629 to Assembly Bill No. 191 extends the prospective expiration of the requirement for examinations of height and weight of pupils to June 30, 2015.

SENATOR TOWNSEND:

When this body places a sunset provision on a bill, it is for the purposes of reviewing the information that was acquired during the time prior to the expiration date. Do we have that information? Who received it? What did we gather from it? What actions are taken because of the information that was received? Why do we need to extend it if we have already done this once?

SENATOR WIENER:

This was a request from a prior session to gather random data on students on height and weight. It was supported by the entire health-provider community and health officials. They gathered much more data than the anticipated random sample. Healthcare providers need a long period of time to ensure that they have the appropriate longitudinal study. This was the date that was selected to determine that the longitudinal data would be accurate and meaningful. Healthcare professionals are working side by side with public health officials to gather the data so that they can apply it to schools and school districts.

SENATOR TOWNSEND:

I do not think it should take another study by Nevada to find out that our students are not exercising at the right level, are eating the wrong foods and are gaining weight.

What is the result of the information they will receive on the 15th? Where does it go, and what action will be taken? Based on the significant amount of tax studies we have seen, in

30 years, if we do not act on the results, they become useless. Unless there is an action plan associated with this, such as taking foods that are inappropriate for children of certain ages out of the schools or we put physical education back into the schools, then what is the necessity of gathering the information? Just walk around the schools. We can tell people are not getting the right kind of exercise and are eating inappropriate foods.

SENATOR WIENER:

The healthcare providers, who brought this bill to us in its original form, two years ago, have determined that it is important to lay a substantial and meaningful foundation. They need to gather statistical data on how profound this problem is in Nevada. I agree that it does not take much to determine that we have an obesity epidemic among our children. However, healthcare providers in our State are already working closely with the State Health Division and Nevada's local and county health officials to develop a plan. It is a rare accomplishment in Nevada to do the necessary foundation work, especially, when it involves such extensive data gathering to prepare a long-term plan. I might add that, even now, healthcare providers are not precluded from working with specific schools to address these needs. One of the concerns, in the original bill, in 2007, was protecting the anonymity of students to prevent discrimination and aggregate data gathering prevents this from occurring.

SENATOR CEGAVSKE:

I have concerns about the 2015 date. I think it should be 2011 when we should look at this study again. When the healthcare providers came before us, there was no plan. They have not utilized the information they have for anything. I am concerned that we are expending the time and effort of the school staff to collect data we do not use. I think they are using it to find out if there are areas within the schools where there may be more incidences of obesity or more health issues. That was not clear. I do not disagree that we have an issue, but I would like to see it brought back to the next session. At that time, the data from two or three years should be compiled, and then, we should receive a report on that.

The amendment extends the timeframe too far out. I would like to see the Chair change this to 2011. I have concerns there is not a plan initiated. One should be in this legislation.

Senator Wiener moved that the Senate recess subject to the call of the Chair.

Motion carried.

Senate in recess at 12:02 p.m.

SENATE IN SESSION

At 12:09 p.m.

President Krolicki presiding.

Quorum present.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Assembly Bill No. 243.

Bill read second time.

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

Amendment No. 628.

"SUMMARY—Requires certain employers to grant leave to parents, guardians and custodians of children to participate in certain school activities. (BDR 34-670)"

"AN ACT relating to education; requiring certain employers to grant leave to a parent, guardian or custodian of a child enrolled in public school or private school to participate in certain school conferences, activities and events; prohibiting employers from taking certain retaliatory actions against an employee who takes the authorized leave; authorizing a parent, guardian or custodian who is retaliated against to ~~request a hearing before~~ file a claim or complaint with the Labor Commissioner; providing a penalty; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Section 1 of this bill requires employers who employ 50 or more employees to grant to a parent, guardian or custodian of a child enrolled in a public school 4 hours of leave from his place of employment, which must be taken in increments of 1 hour, per school year per child to attend school-related activities or events or to volunteer at the school in which his child is enrolled. Section 1 also requires the leave to be taken at a mutually agreed upon time and the employer is not required to pay the employee for the leave. The provisions of section 1 do not apply if the employee is afforded the same leave under the same conditions pursuant to a collective bargaining agreement.

Existing law makes it unlawful for any employer or his agent to terminate the employment of a person who is a parent, guardian or custodian of a child enrolled in public school because the person attended a conference requested by a school administrator or was notified of an emergency involving the child at school. (NRS 392.920) Section 2 of this bill revises the prohibited acts by an employer or his agent to include demoting, suspending or otherwise discriminating against a parent, guardian or custodian of a child. Section 2 also prohibits the termination, demotion, suspension or other discrimination of a parent, guardian or custodian of a child who takes leave authorized by section 1 of this bill and authorizes a parent, guardian or custodian of a child who is terminated, demoted, suspended or otherwise discriminated against to ~~request a hearing before~~ file a claim or complaint with the Labor Commissioner. ~~If the dispute is not resolved, the parent, guardian or custodian may bring a civil action against his employer, as authorized in existing law.~~

Section 4 of this bill imposes the same requirements on employers for the parents, guardians and custodians of children enrolled in a private school. The provisions of section 4 do not apply if an employee is afforded the same leave under the same conditions pursuant to a collective bargaining agreement. Section 5 of this bill prohibits an employer or his agent from terminating, demoting, suspending or otherwise discriminating against a parent, guardian or custodian of a child enrolled in a private school for attending a conference requested by a school administrator, being notified of an emergency involving the child at school or taking leave authorized by section 4. Section 5 also authorizes ~~for a hearing before the Labor Commissioner. If the dispute is not resolved, the~~ a parent, guardian or

custodian ~~[may bring a civil action against his employer.]~~ to file a claim or complaint with the Labor Commissioner.

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

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

1. ~~[(A)]~~ Except as otherwise provided in subsection 5, an employer shall grant a parent, guardian or custodian of a child who is enrolled in a public school leave from his place of employment for 4 hours per school year, which must be taken in increments of at least 1 hour, to:

- (a) Attend parent-teacher conferences;
- (b) Attend school-related activities during regular school hours;
- (c) Volunteer or otherwise be involved at the school in which his child is enrolled during regular school hours; and
- (d) Attend school-sponsored events.

↪ The leave must be at a time mutually agreed upon by the employer and the employee.

2. An employer may require:

- (a) An employee to provide a written request for the leave at least 5 school days before the leave is taken; and
- (b) An employee who takes leave pursuant to this section to provide documentation that during the time of the leave, the employee attended or was otherwise involved at the school or school-related activity for one of the purposes set forth in subsection 1.

3. An employer is not required to pay an employee for any leave taken pursuant to this section.

4. A parent, guardian or custodian must be granted leave in accordance with this section for each child of the parent, guardian or custodian who is enrolled in public school.

5. The provisions of this section do not apply if an employee is afforded pursuant to the provisions of a collective bargaining agreement:

(a) At least 4 hours of leave or more per school year for the purposes set forth in subsection 1 and subject to the same provisions as subsections 2, 3 and 4; and

(b) Substantially similar protections and remedies for violations by the employer as those that are set forth in NRS 392.920.

6. As used in this section, "employer" means any person who has 50 or more employees for each working day in each of 20 or more calendar weeks in the current calendar year.

Sec. 2. NRS 392.920 is hereby amended to read as follows:

392.920 1. It is unlawful for an employer or his agent to:

(a) Terminate the employment of , or to demote, suspend or otherwise discriminate against, a person who, as the parent, guardian or custodian of a child:

(1) Appears at a conference requested by an administrator of the school attended by the child; ~~or~~

(2) Is notified during his work by a school employee of an emergency regarding the child; or

(3) Takes leave pursuant to section 1 of this act if the employer is subject to the requirements of that section; or

(b) Assert to the person that his appearance or prospective appearance at such a conference, ~~or~~ the receipt of such a notification during his work or leave taken pursuant to section 1 of this act will result in the termination of his employment ~~or~~ a demotion, suspension or other discrimination in the terms and conditions of his employment.

2. Any person who violates the provisions of subsection 1 is guilty of a misdemeanor.

3. A person who is discharged from employment or who is demoted, suspended or otherwise discriminated against in violation of subsection 1 may ~~request a hearing before~~ file a claim or complaint with the Labor Commissioner. The employer shall provide the person who is discharged from employment or who is demoted, suspended or otherwise discriminated against with all the forms necessary to request such ~~a hearing. The~~ a claim or complaint. If the Labor Commissioner determines that the claim or complaint is valid and enforceable, the Labor Commissioner shall provide notice and opportunity for a hearing ~~must be conducted in the manner prescribed in~~ pursuant to NRS 607.205 to 607.215, inclusive.

4. ~~If the Labor Commissioner is unsuccessful in resolving the dispute, the person who requested the hearing pursuant to subsection 3 may commence a civil action against his employer and obtain~~ issues a written decision in favor of the employee, the Labor Commissioner may award in addition to any remedies and penalties provided in chapters 607 and 608 of NRS:

(a) Wages and benefits lost as a result of the violation;

(b) An order of reinstatement without loss of position, seniority or benefits; and

(c) Damages equal to the amount of the lost wages and benefits, ~~and~~

~~(d) Reasonable attorney's fees fixed by the court.~~

Sec. 3. Chapter 394 of NRS is hereby amended by adding thereto the provisions set forth as sections 4 and 5 of this act.

Sec. 4. 1. ~~Am~~ Except as otherwise provided in subsection 5, an employer shall grant a parent, guardian or custodian of a child who is enrolled in a private school leave from his place of employment for 4 hours per school year, which must be taken in increments of at least 1 hour, to:

(a) Attend parent-teacher conferences;

(b) Attend school-related activities during regular school hours;

(c) Volunteer or otherwise be involved at the school in which his child is enrolled during regular school hours; and

(d) Attend school-sponsored events.

↪ *The leave must be at a time mutually agreed upon by the employer and the employee.*

2. *An employer may require:*

(a) *An employee to provide a written request for the leave at least 5 school days before leave is taken; and*

(b) *An employee who takes leave pursuant to this section to provide documentation that during the time of the leave, the employee attended or was otherwise involved at the private school or school-related activity for one of the purposes set forth in subsection 1.*

3. *An employer is not required to pay an employee for any leave taken pursuant to this section.*

4. *A parent, guardian or custodian must be granted leave in accordance with this section for each child of the parent, guardian or custodian who is enrolled in private school.*

5. *The provisions of this section do not apply if an employee is afforded pursuant to the provisions of a collective bargaining agreement:*

(a) At least 4 hours of leave or more per school year for the purposes set forth in subsection 1 and subject to the same provisions as subsections 2, 3 and 4; and

(b) Substantially similar protections and remedies for violations by the employer as those that are set forth in section 5 of this act.

6. *As used in this section, "employer" means any person who has 50 or more employees for each working day in each of 20 or more calendar weeks in the current calendar year.*

Sec. 5. 1. *It is unlawful for an employer or his agent to:*

(a) *Terminate the employment of, or to demote, suspend or otherwise discriminate against, a person who, as the parent, guardian or custodian of a child:*

(1) *Appears at a conference requested by an administrator of the private school attended by the child;*

(2) *Is notified during his work by a school employee of an emergency regarding the child; or*

(3) *Takes leave pursuant to section 4 of this act if the employer is subject to the requirements of that section; or*

(b) *Assert to the person that his appearance or prospective appearance at such a conference, the receipt of such a notification during his work or leave taken pursuant to section 4 of this act will result in the termination of his employment or a demotion, suspension or other discrimination in the terms and conditions of his employment.*

2. *Any person who violates the provisions of subsection 1 is guilty of a misdemeanor.*

3. *A person who is discharged from employment or who is demoted, suspended or otherwise discriminated against in violation of subsection 1 may ~~request a hearing before~~ file a claim or complaint with the Labor Commissioner. The employer shall provide the person who is discharged*

from employment or who is demoted, suspended or otherwise discriminated against with all the forms necessary to request such a ~~hearing. The~~ claim or complaint. If the Labor Commissioner determines that the claim or complaint is valid and enforceable, the Labor Commissioner shall provide notice and an opportunity for a hearing ~~must be conducted in the manner prescribed in~~ pursuant to NRS 607.205 to 607.215, inclusive.

4. If the Labor Commissioner ~~is unsuccessful in resolving the dispute, the person who requested the hearing pursuant to subsection 3 may commence a civil action against his employer and obtain.~~ issues a written decision in favor of the employee, the Labor Commissioner may award in addition to any remedies and penalties set forth in chapters 607 and 608 of NRS:

- (a) Wages and benefits lost as a result of the violation;*
- (b) An order of reinstatement without loss of position, seniority or benefits; and*
- (c) Damages equal to the amount of the lost wages and benefits . ~~f; and~~*
- ~~(d) Reasonable attorney's fees fixed by the court.~~*

Sec. 6. NRS 394.201 is hereby amended to read as follows:

394.201 NRS 394.201 to 394.351, inclusive, *and sections 4 and 5 of this act* may be cited as the Private Elementary and Secondary Education Authorization Act.

Sec. 7. This act becomes effective on August 15, 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. 628 to Assembly Bill No. 243 provides that the provisions for granting leave to an employee who is a parent or legal guardian of a pupil in a public or private school do not apply if the employee is afforded the same leave under the same conditions pursuant to a collective bargaining agreement.

It clarifies that a person who has been wronged may file a claim or complaint with the Labor Commissioner, rather than request a hearing before the Commissioner. If the Commissioner determines that the claim or complaint is valid and enforceable, the Commissioner provides notice and opportunity for a hearing. If the Commissioner decides in favor of the employee, the Commissioner may award additional remedies, which would no longer include reasonable attorney's fees fixed by the court.

Motion carried on a division of the house.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Assembly Bill No. 486.

Bill read second time and ordered to third reading.

Assembly Bill No. 510.

Bill read second time and ordered to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Care moved that Assembly Bills Nos. 121, 230 be taken from the General File and placed on the General File for the next legislative day.

Motion carried.

GENERAL FILE AND THIRD READING

Senate Bill No. 408.

Bill read third time.

Roll call on Senate Bill No. 408:

YEAS—21.

NAYS—None.

Senate Bill No. 408 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 6.

Bill read third time.

Roll call on Assembly Bill No. 6:

YEAS—21.

NAYS—None.

Assembly Bill No. 6 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 14.

Bill read third time.

Roll call on Assembly Bill No. 14:

YEAS—21.

NAYS—None.

Assembly Bill No. 14 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 24.

Bill read third time.

Roll call on Assembly Bill No. 24:

YEAS—21.

NAYS—None.

Assembly Bill No. 24 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 29.

Bill read third time.

Roll call on Assembly Bill No. 29:

YEAS—21.

NAYS—None.

Assembly Bill No. 29 having received a constitutional majority,
Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 41.

Bill read third time.

Roll call on Assembly Bill No. 41:

YEAS—21.

NAYS—None.

Assembly Bill No. 41 having received a constitutional majority,
Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 47.

Bill read third time.

Roll call on Assembly Bill No. 47:

YEAS—21.

NAYS—None.

Assembly Bill No. 47 having received a constitutional majority,
Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 48.

Bill read third time.

Roll call on Assembly Bill No. 48:

YEAS—21.

NAYS—None.

Assembly Bill No. 48 having received a constitutional majority,
Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 49.

Bill read third time.

Roll call on Assembly Bill No. 49:

YEAS—21.

NAYS—None.

Assembly Bill No. 49 having received a constitutional majority,
Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 71.

Bill read third time.

Roll call on Assembly Bill No. 71:

YEAS—21.

NAYS—None.

Assembly Bill No. 71 having received a constitutional majority,
Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 73.

Bill read third time.

Roll call on Assembly Bill No. 73:

YEAS—21.

NAYS—None.

Assembly Bill No. 73 having received a constitutional majority,
Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 85.

Bill read third time.

Roll call on Assembly Bill No. 85:

YEAS—21.

NAYS—None.

Assembly Bill No. 85 having received a constitutional majority,
Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 97.

Bill read third time.

Roll call on Assembly Bill No. 97:

YEAS—21.

NAYS—None.

Assembly Bill No. 97 having received a constitutional majority,
Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 107.

Bill read third time.

Roll call on Assembly Bill No. 107:

YEAS—21.

NAYS—None.

Assembly Bill No. 107 having received a constitutional majority,
Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 109.

Bill read third time.

The following amendment was proposed by the Committee on Energy,
Infrastructure and Transportation:

Amendment No. 620.

"SUMMARY—Revises provisions governing special license plates. (BDR 43-958)"

"AN ACT relating to motor vehicles; requiring that license plates without distinguishing marks be furnished for two vehicles used by the office of the county coroner; ~~authorizing~~ *deleting provisions which prohibit the Department of Motor Vehicles ~~to issue certain~~ from issuing special license plates for the support and enhancement of parks, recreation facilities and programs in the City of Reno unless the Department receives at least 1,000 applications for the issuance of those plates before May 29, 2009; authorizing the Department to issue certain special license plates* for use on motorcycles; prescribing the fees for special license plates for use on vehicles other than passenger cars and light commercial vehicles; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law provides that license plates furnished for certain exempt vehicles maintained for and used by certain governmental entities must be free of distinguishing marks which would otherwise identify the vehicle as a governmental vehicle. (NRS 482.368) Section ~~1.1~~ 1.3 of this bill adds two vehicles used by the office of a county coroner to the list of vehicles for which license plates without a distinguishing mark must be furnished.

Existing law authorizes the Department of Motor Vehicles to issue special license plates for the support and enhancement of parks, recreation facilities and programs in the City of Reno if the Department receives at least 1,000 applications for the issuance of the special license plates before May 29, 2009. (NRS 482.379375) Sections 1 and 1.7 of this bill delete the provisions which authorize the Department to issue such special plates only if the Department receives at least 1,000 applications before May 29, 2009.

Under existing law, if the Department ~~of Motor Vehicles~~ issues special license plates for use on a passenger car or light commercial vehicle and if those special license plates generate financial support for a charitable organization, the Department is authorized to issue the special license plates for use on a trailer or other type of vehicle that is not a passenger car or light commercial vehicle, but is prohibited from issuing the special license plates for use on a motorcycle or heavy commercial vehicle. (NRS 482.3824) Effective July 1, 2010, section 2 of this bill removes the prohibition against the Department issuing such special license plates for use on motorcycles and provides further that the fees for special license plates issued for use on vehicles other than passenger cars or light commercial vehicles must be the same as if the special license plates were issued for use on a passenger car or light commercial vehicle.

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

Section 1. NRS 482.36705 is hereby amended to read as follows:

482.36705 1. If a new special license plate is authorized by an act of the Legislature after January 1, 2003, *other than a special license plate that*

is authorized pursuant to NRS 482.379375, the Legislature will direct that the license plate not be designed, prepared or issued by the Department unless the Department receives at least 1,000 applications for the issuance of that plate within 2 years after the effective date of the act of the Legislature that authorized the plate.

2. In addition to the requirements set forth in subsection 1, if a new special license plate is authorized by an act of the Legislature after July 1, 2005, the Legislature will direct that the license plate not be issued by the Department unless its issuance complies with subsection 2 of NRS 482.367008.

3. In addition to the requirements set forth in subsections 1 and 2, if a new special license plate is authorized by an act of the Legislature after January 1, 2007, the Legislature will direct that the license plate not be designed, prepared or issued by the Department unless the Commission on Special License Plates approves the application for the authorized plate pursuant to NRS 482.367004.

~~Section 1.~~ *Sec. 1.3.* NRS 482.368 is hereby amended to read as follows:

482.368 1. Except as otherwise provided in subsection 2, the Department shall provide suitable distinguishing license plates for exempt vehicles. These plates must be displayed on the vehicles in the same manner as provided for privately owned vehicles. The fee for the issuance of the plates is \$5. Any license plates authorized by this section must be immediately returned to the Department when the vehicle for which they were issued ceases to be used exclusively for the purpose for which it was exempted from the governmental services tax.

2. License plates furnished for:

(a) Those vehicles which are maintained for and used by the Governor or under the authority and direction of the Chief Parole and Probation Officer, the State Contractors' Board and auditors, the State Fire Marshal, the Investigation Division of the Department of Public Safety and any authorized federal law enforcement agency or law enforcement agency from another state;

(b) One vehicle used by the Department of Corrections, three vehicles used by the Department of Wildlife, two vehicles used by the Caliente Youth Center and four vehicles used by the Nevada Youth Training Center;

(c) Vehicles of a city, county or the State, if authorized by the Department for the purposes of law enforcement or work related thereto or such other purposes as are approved upon proper application and justification; ~~and~~

(d) *Two vehicles used by the office of the county coroner of any county which has created that office pursuant to NRS 244.163; and*

(e) Vehicles maintained for and used by investigators of the following:

- (1) The State Gaming Control Board;
- (2) The State Department of Agriculture;
- (3) The Attorney General;

- (4) City or county juvenile officers;
- (5) District attorneys' offices;
- (6) Public administrators' offices;
- (7) Public guardians' offices;
- (8) Sheriffs' offices;
- (9) Police departments in the State; and
- (10) The Securities Division of the Office of the Secretary of State,

↪ must not bear any distinguishing mark which would serve to identify the vehicles as owned by the State, county or city. These license plates must be issued annually for \$12 per plate or, if issued in sets, per set.

3. The Director may enter into agreements with departments of motor vehicles of other states providing for exchanges of license plates of regular series for vehicles maintained for and used by investigators of the law enforcement agencies enumerated in paragraph ~~{(d)}~~ (e) of subsection 2, subject to all of the requirements imposed by that paragraph, except that the fee required by that paragraph must not be charged.

4. Applications for the licenses must be made through the head of the department, board, bureau, commission, school district or irrigation district, or through the chairman of the board of county commissioners of the county or town or through the mayor of the city, owning or controlling the vehicles, and no plate or plates may be issued until a certificate has been filed with the Department showing that the name of the department, board, bureau, commission, county, city, town, school district or irrigation district, as the case may be, and the words "For Official Use Only" have been permanently and legibly affixed to each side of the vehicle, except those vehicles enumerated in subsection 2.

5. As used in this section, "exempt vehicle" means a vehicle exempt from the governmental services tax, except a vehicle owned by the United States.

6. The Department shall adopt regulations governing the use of all license plates provided for in this section. Upon a finding by the Department of any violation of its regulations, it may revoke the violator's privilege of registering vehicles pursuant to this section.

Sec. 1.7. NRS 482.379375 is hereby amended to read as follows:

482.379375 1. Except as otherwise provided in this subsection, the Department, in cooperation with the Reno Recreation and Parks Commission or its successor, shall design, prepare and issue license plates for the support and enhancement of parks, recreation facilities and programs in the City of Reno, using any colors and designs that the Department deems appropriate. The Department shall not design, prepare or issue the license plates unless:

(a) The Commission on Special License Plates approves the design, preparation and issuance of those plates as described in NRS 482.367004; and

(b) The Department receives at least 1,000 applications for the issuance of those plates. ~~{within 2 years after the effective date of this act.}~~

2. If the Commission on Special License Plates approves the design, preparation and issuance of license plates for the support and enhancement of parks, recreation facilities and programs in the City of Reno pursuant to subsection 1, and the Department receives at least 1,000 applications for the issuance of the license plates, the Department shall issue those plates for a passenger car or light commercial vehicle upon application by a person who is entitled to license plates pursuant to NRS 482.265 and who otherwise complies with the requirements for registration and licensing pursuant to this chapter. A person may request that personalized prestige license plates issued pursuant to NRS 482.3667 be combined with license plates for the support and enhancement of parks, recreation facilities and programs in the City of Reno if that person pays the fees for the personalized prestige license plates in addition to the fees for the license plates for the support and enhancement of parks, recreation facilities and programs in the City of Reno pursuant to subsections 3 and 4.

3. The fee for license plates for the support and enhancement of parks, recreation facilities and programs in the City of Reno is \$35, in addition to all other applicable registration and license fees and governmental services taxes. The license plates are renewable upon the payment of \$10.

4. In addition to all other applicable registration and license fees and governmental services taxes and the fee prescribed in subsection 3, a person who requests a set of license plates for the support and enhancement of parks, recreation facilities and programs in the City of Reno must pay for the initial issuance of the plates an additional fee of \$25 and for each renewal of the plates an additional fee of \$20 to be distributed pursuant to subsection 5.

5. The Department shall deposit the fees collected pursuant to subsection 4 with the State Treasurer for credit to the State General Fund. The State Treasurer shall, on a quarterly basis, distribute the fees deposited pursuant to this section to the City Treasurer of the City of Reno to be used to pay for the support and enhancement of parks, recreation facilities and programs in the City of Reno.

6. If, during a registration year, the holder of license plates issued pursuant to the provisions of this section disposes of the vehicle to which the plates are affixed, the holder shall:

(a) Retain the plates and affix them to another vehicle that meets the requirements of this section if the holder pays the fee for the transfer of the registration and any registration fee or governmental services tax due pursuant to NRS 482.399; or

(b) Within 30 days after removing the plates from the vehicle, return them to the Department.

Sec. 2. NRS 482.3824 is hereby amended to read as follows:

482.3824 1. Except as otherwise provided in NRS 482.38279, with respect to any special license plate that is issued pursuant to NRS 482.3667 to 482.3825, inclusive, and for which ~~an additional fee is~~ *additional fees*

are imposed for the issuance of the special license plate to generate financial support for a charitable organization:

(a) The Director shall, at the request of the charitable organization that is benefited by the particular special license plate:

(1) Order the design and preparation of souvenir license plates, the design of which must be substantially similar to the particular special license plate; and

(2) Issue such souvenir license plates, for a fee established pursuant to NRS 482.3825, only to the charitable organization that is benefited by the particular special license plate. The charitable organization may resell such souvenir license plates at a price determined by the charitable organization.

(b) The Department may, except as otherwise provided in this paragraph and after the particular special license plate is approved for issuance, issue the special license plate for a trailer, *motorcycle* or other type of vehicle that is not a passenger car or light commercial vehicle, excluding ~~motorcycles and~~ vehicles required to be registered with the Department pursuant to NRS 706.801 to 706.861, inclusive, upon application by a person who is entitled to license plates pursuant to NRS 482.265 or 482.272 and who otherwise complies with the requirements for registration and licensing pursuant to this chapter ~~or chapter 486 of NRS~~. The Department may not issue a special license plate for such other types of vehicles if the Department determines that the design or manufacture of the plate for those other types of vehicles would not be feasible. In addition, if the Department incurs additional costs to manufacture a special license plate for such other types of vehicles, including, without limitation, costs associated with the purchase, manufacture or modification of dies or other equipment necessary to manufacture the special license plate for such other types of vehicles, those additional costs must be paid from private sources without any expense to the State of Nevada.

2. *If, as authorized pursuant to paragraph (b) of subsection 1, the Department issues a special license plate for a trailer, motorcycle or other type of vehicle that is not a passenger car or light commercial vehicle, the Department shall charge and collect for the issuance and renewal of such a plate the same fees that the Department would charge and collect if the other type of vehicle was a passenger car or light commercial vehicle. As used in this subsection, "fees" does not include any applicable registration or license fees or governmental services taxes.*

3. As used in this section ~~["charitable"]~~:

(a) *"Additional fees" has the meaning ascribed to it in NRS 482.38273.*

(b) *"Charitable organization" means a particular cause, charity or other entity that receives money from the imposition of ~~an additional fee~~ additional fees in connection with the issuance of a special license plate pursuant to NRS 482.3667 to 482.3825, inclusive. The term includes the successor, if any, of a charitable organization.*

Sec. 3. NRS 482.38274 is hereby amended to read as follows:

482.38274 "Charitable organization" has the meaning ascribed to it in ~~subsection 2 of~~ NRS 482.3824.

Sec. 4. 1. This section and ~~section~~ *sections 1 and 1.7 of this act become effective upon passage and approval.*

~~2.~~ *Section 1.3* of this act ~~become~~ *becomes* effective on July 1, 2009.

~~2.~~ ~~3.~~ Sections 2 and 3 of this act become effective on July 1, 2010.

Senator Schneider moved the adoption of the amendment.

Remarks by Senators Schneider and Carlton.

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

SENATOR SCHNEIDER:

This amendment removes the requirement in existing law that before the Department of Motor Vehicles can issue a special license plate for the support of the City of Reno Parks and Recreation Programs, the DMV must receive at least 1,000 applications for the special plates by May 29, 2009.

SENATOR CARLTON:

Thank you, Mr. President. My concern with this amendment is that it seems to circumvent the Commission and the procedures that have been set up for people to be able to obtain a special license plate. There are a number of people waiting. To be able to get your own license plate is a sought after position. This one has been presented to the Commission several times, and I know the former Chair of the Commission is in this body. I voted against the Commission when it was here, but they still put me on it. I have concerns about this amendment, and it is circumventing a policy and a procedure we have in place to deal with special license plates.

Motion carried on a division of the house.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 112.

Bill read third time.

Roll call on Assembly Bill No. 112:

YEAS—21.

NAYS—None.

Assembly Bill No. 112 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 122.

Bill read third time.

Roll call on Assembly Bill No. 122:

YEAS—21.

NAYS—None.

Assembly Bill No. 122 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 168.

Bill read third time.

Roll call on Assembly Bill No. 168:

YEAS—21.

NAYS—None.

Assembly Bill No. 168 having received a constitutional majority,
Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 174.

Bill read third time.

Roll call on Assembly Bill No. 174:

YEAS—21.

NAYS—None.

Assembly Bill No. 174 having received a constitutional majority,
Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 176.

Bill read third time.

Roll call on Assembly Bill No. 176:

YEAS—21.

NAYS—None.

Assembly Bill No. 176 having received a constitutional majority,
Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 177.

Bill read third time.

Roll call on Assembly Bill No. 177:

YEAS—19.

NAYS—Care, Carlton—2.

Assembly Bill No. 177 having received a constitutional majority,
Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 194.

Bill read third time.

Roll call on Assembly Bill No. 194:

YEAS—21.

NAYS—None.

Assembly Bill No. 194 having received a constitutional majority,
Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 196.

Bill read third time.

Roll call on Assembly Bill No. 196:

YEAS—21.

NAYS—None.

Assembly Bill No. 196 having received a constitutional majority,
Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 209.

Bill read third time.

Roll call on Assembly Bill No. 209:

YEAS—21.

NAYS—None.

Assembly Bill No. 209 having received a constitutional majority,
Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 213.

Bill read third time.

Roll call on Assembly Bill No. 213:

YEAS—21.

NAYS—None.

Assembly Bill No. 213 having received a constitutional majority,
Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 219.

Bill read third time.

Roll call on Assembly Bill No. 219:

YEAS—21.

NAYS—None.

Assembly Bill No. 219 having received a constitutional majority,
Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 231.

Bill read third time.

Roll call on Assembly Bill No. 231:

YEAS—21.

NAYS—None.

Assembly Bill No. 231 having received a constitutional majority,
Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 232.

Bill read third time.

Roll call on Assembly Bill No. 232:

YEAS—21.

NAYS—None.

Assembly Bill No. 232 having received a constitutional majority,
Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 242.

Bill read third time.

Roll call on Assembly Bill No. 242:

YEAS—21.

NAYS—None.

Assembly Bill No. 242 having received a constitutional majority,
Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 248.

Bill read third time.

Roll call on Assembly Bill No. 248:

YEAS—21.

NAYS—None.

Assembly Bill No. 248 having received a constitutional majority,
Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 257.

Bill read third time.

Remarks by Senators Carlton, Care, Cegavske and Wiener.

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

SENATOR CARLTON:

What is the public policy reason for why we are addressing this bill?

SENATOR CARE:

These are known as rack publications. On the Strip, you will find these publications. They are free, and people can take as many as they wish. It costs money to publish these, and there has been a problem in the past with people who do not like the existence of one or who is a competitor and has taken all of them from the rack. This bill is modeled after a California statute. The bill states, "more than ten." There would be problems with enforcement because the police have better things to do, but it does put this on the books to make it illegal to take more than ten of these free publications.

SENATOR CEGAVSKE:

Does this apply to the material that is supplied for everyone on the Strip?

SENATOR CARE:

Several people supply material on the Strip. These would be confined to the news rack as is suggested in the bill, not the handouts or the bundles on the sidewalk.

SENATOR CEGAVSKE:

I am referring to the smut that is found on the Strip. I have no objections to anyone taking a truckload off the Strip. I would not want this bill to prohibit that.

SENATOR CARE:

Those publications would fall within the penumbra of this bill.

SENATOR WIENER:

One of the major witnesses for this legislation is the owner of a senior-citizen publication. Often these are taken in large numbers and hoarded, which results in there not being enough for the senior citizens. The concern in bringing the measure was that there are business competitors who raid the racks so that the newspapers are not available to the customers the providers serve. These are often neighborhood papers. These takings affect their advertising revenue. According to the witness in committee, the taking of these publications is often done for malicious purposes. This is why the measure was introduced. The bill is not intended to go after people who want the publications for commemorative purposes or who want to send them to their families. Certainly, takings for other, less noble purposes are difficult cases to prove, but the supporters of this measure need this tool.

Roll call on Assembly Bill No. 257:

YEAS—19.

NAYS—Carlton.

NOT VOTING—Mathews.

Assembly Bill No. 257 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 259.

Bill read third time.

Remarks by Senator Carlton.

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

This bill allows a house arrest to be used for a Category B felon as to be decided by the Department of Corrections. Category B felonies are not to be taken lightly. These people could have been convicted of trafficking in persons or of assault. NRS 200.471 is a Category B felony. Battery under NRS 200.481 can be a Category B felony. I have concerns that we are allowing someone at this level to be put into residential confinement. I am not certain how we will address them plea-bargaining down from a Category A. What type of people are we going to allow to not be placed into jail? There comes a time when someone needs to be placed in a cell with the door closed behind him or her. I am not comfortable with this level of felony being allowed into our neighborhoods.

Roll call on Assembly Bill No. 259:

YEAS—19.

NAYS—Carlton, Lee—2.

Assembly Bill No. 259 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 274.

Bill read third time.

The following amendment was proposed by Senator Amodei:

Amendment No. 596.

"SUMMARY—Makes various changes regarding retail installment sales. (BDR 8-819)"

"AN ACT relating to retail installment sales; defining certain terms and revising certain definitions relating to retail installment sales; requiring that certain disclosures be made to a retail buyer; requiring that certain provisions relating to default be included in credit applications or contracts for the sale of vehicles; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law contains various provisions governing retail installment sales, including sales of motor vehicles. (Chapter 97 of NRS) This bill incorporates into Nevada law certain provisions of the federal Truth in Lending Act of 1968. (15 U.S.C. §§1601, et seq.)

Sections 1, 3 and 4 of this bill: (1) add a new definition of the term "credit"; (2) revise the existing definition of the term "retail installment transaction" to include an installment sale which does not provide for a finance charge; and (3) revise the definition of the terms "retail seller" or "seller" to include a person, *other than a financial institution*, who engages in a transaction which may be payable in more than four installments. (NRS 97.115, 97.125)

Existing law requires a retail installment contract to be delivered or mailed to the buyer before the date of the first installment. (NRS 97.175) Section 5 of this bill requires the seller to make certain disclosures in accordance with the federal Act before any credit is extended. Section 6 of this bill requires forms for the application of credit and contracts to be used in the sale of vehicles to contain a provision, patterned after §5.109 of the Uniform Consumer Credit Code, relating to default on the part of the buyer. (NRS 97.299)

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

Section 1. Chapter 97 of NRS is hereby amended by adding thereto a new section to read as follows:

"Credit" means the right granted by a seller to a buyer to defer payment of debt or to incur debt and defer its payment.

Sec. 2. NRS 97.015 is hereby amended to read as follows:

97.015 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 97.017 to 97.145, inclusive, and section 1 of this act have the meanings ascribed to them in those sections.

Sec. 3. NRS 97.115 is hereby amended to read as follows:

97.115 "Retail installment transaction" means a transaction in which a retail buyer purchases goods or services from a retail seller pursuant to a retail installment contract or a retail charge agreement which ~~provides~~ *may provide* for a finance charge and under which the buyer agrees to pay the total of payments in one or more installments.

Sec. 4. NRS 97.125 is hereby amended to read as follows:

97.125 *1.* "Retail seller" or "seller" means:

~~1.1~~ (a) A person engaged in the business of selling or leasing goods or services to retail buyers or a licensee, franchisee, assignee or corporate affiliate or subsidiary of such a person; ~~or~~

~~1.2~~ (b) A person, other than a financial institution, who enters into agreements prescribing the terms for the extension of credit pursuant to which the person may, with the buyer's consent, purchase or acquire one or more obligations of the buyer to a retail seller if the purchase, lease, loan or other obligation to be paid in accordance with the agreement is evidenced by a sales slip or memorandum ~~or~~; or

~~1.3~~ (c) A person, other than a financial institution, who regularly extends, whether in connection with sales or leases of goods or services, credit which is payable by agreement in more than four installments or for which the payment of a finance charge may be required.

2. As used in this section, "financial institution" means:

(a) A bank, credit union, savings institution or trust company organized under, or supervised pursuant to, the laws of the United States or of any state, or any affiliate or subsidiary thereof; or

(b) A person licensed pursuant to chapter 675 of NRS.

Sec. 5. NRS 97.175 is hereby amended to read as follows:

97.175 ~~{The retail seller shall deliver to the retail buyer, or mail to him at his address shown on the retail installment contract, a copy of the contract as accepted by the seller, prior to the due date of the first installment.}~~

1. Before any credit is extended, the retail seller shall provide to the retail buyer any disclosures required to be made by a creditor pursuant to 15 U.S.C. § 1638.

2. Until the seller ~~does so~~ provides the required disclosures pursuant to subsection 1, the buyer ~~shall be~~ is obligated to pay only the cash sales price.

3. Any acknowledgment by the buyer of delivery of a copy of the contract ~~shall~~ must be in a size equal to at least 10-point bold type and, if contained in the contract, ~~shall~~ must appear directly above the buyer's signature.

Sec. 6. NRS 97.299 is hereby amended to read as follows:

97.299 1. The Commissioner of Financial Institutions shall prescribe, by regulation, forms for the application for credit and contracts to be used in the sale of vehicles if:

(a) The sale involves the taking of a security interest to secure all or a part of the purchase price of the vehicle;

(b) The application for credit is made to or through the seller of the vehicle;

(c) The seller is a dealer; and

(d) The sale is not a commercial transaction.

2. The forms prescribed pursuant to subsection 1 must meet the requirements of NRS 97.165, must be accepted and acted upon by any lender to whom the application for credit is made and, in addition to the information

required in NRS 97.185 and required to be disclosed in such a transaction by federal law, must:

(a) Identify and itemize the items embodied in the cash sale price, including the amount charged for a contract to service the vehicle after it is purchased.

(b) In specifying the amount of the buyer's down payment, identify the amounts paid in money and allowed for property given in trade and the amount of any manufacturer's rebate applied to the down payment.

(c) Contain a description of any property given in trade as part of the down payment.

(d) Contain a description of the method for calculating the unearned portion of the finance charge upon prepayment in full of the unpaid total of payments as prescribed in NRS 97.225.

(e) *Contain a provision that default on the part of the buyer is only enforceable to the extent that:*

(1) The buyer fails to make a payment as required by the agreement; or

(2) The prospect of payment, performance or realization of collateral is significantly impaired. The burden of establishing the prospect of significant impairment is on the seller.

(f) Include the following notice in at least 10-point bold type:

NOTICE TO BUYER

Do not sign this agreement before you read it or if it contains any blank spaces. You are entitled to a completed copy of this agreement. If you pay the amount due before the scheduled date of maturity of the indebtedness and you are not in default in the terms of the contract for more than 2 months, you are entitled to a refund of the unearned portion of the finance charge. If you fail to perform your obligations under this agreement, the vehicle may be repossessed and you may be liable for the unpaid indebtedness evidenced by this agreement.

3. The Commissioner shall arrange for or otherwise cause the translation into Spanish of the forms prescribed pursuant to subsection 1.

4. If a change in state or federal law requires the Commissioner to amend the forms prescribed pursuant to subsection 1, the Commissioner need not comply with the provisions of chapter 233B of NRS when making those amendments.

5. As used in this section:

(a) "Commercial transaction" means any sale of a vehicle to a buyer who purchases the vehicle solely or primarily for commercial use or resale.

(b) "Dealer" has the meaning ascribed to it in NRS 482.020.

Sec. 7. 1. This section and sections 1 to 5, inclusive, of this act become effective upon passage and approval.

2. Section 6 of this act becomes effective on October 1, 2009.

Senator Amodei moved the adoption of the amendment.

Remarks by Senator Amodei.

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

Assembly Bill No. 274 has to do with retail installment sales. After we processed that in the Judiciary Committee, I received an inquiry from Harley Davidson Financial Services whose national headquarters are located in the Capital Senate District. They had concerns about unintended consequences of the bill.

The amendment defines financial institutions as defined elsewhere in statutes and exempts them from the provisions of this bill because their activities are covered in other states statutes and in federal statutes regarding interest rates and their practices for their loans. The amendment has been coordinated with both the Chair of the Judiciary Committee and the primary sponsor from the Assembly and both are supportive.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 289.

Bill read third time.

Roll call on Assembly Bill No. 289:

YEAS—21.

NAYS—None.

Assembly Bill No. 289 having received a constitutional majority,
Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 301.

Bill read third time.

Roll call on Assembly Bill No. 301:

YEAS—21.

NAYS—None.

Assembly Bill No. 301 having received a constitutional majority,
Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 305.

Bill read third time.

Roll call on Assembly Bill No. 305:

YEAS—21.

NAYS—None.

Assembly Bill No. 305 having received a constitutional majority,
Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 306.

Bill read third time.

Roll call on Assembly Bill No. 306:

YEAS—21.

NAYS—None.

Assembly Bill No. 306 having received a constitutional majority,
Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 311.

Bill read third time.

Roll call on Assembly Bill No. 311:

YEAS—21.

NAYS—None.

Assembly Bill No. 311 having received a constitutional majority,
Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 352.

Bill read third time.

Roll call on Assembly Bill No. 352:

YEAS—19.

NAYS—Carlton, Cegavske—2.

Assembly Bill No. 352 having received a constitutional majority,
Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 353.

Bill read third time.

Roll call on Assembly Bill No. 353:

YEAS—21.

NAYS—None.

Assembly Bill No. 353 having received a constitutional majority,
Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 362.

Bill read third time.

Roll call on Assembly Bill No. 362:

YEAS—21.

NAYS—None.

Assembly Bill No. 362 having received a constitutional majority,
Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 364.

Bill read third time.

Roll call on Assembly Bill No. 364:

YEAS—21.

NAYS—None.

Assembly Bill No. 364 having received a constitutional majority,
Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 372.

Bill read third time.

Roll call on Assembly Bill No. 372:

YEAS—21.

NAYS—None.

Assembly Bill No. 372 having received a constitutional majority,
Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 377.

Bill read third time.

Roll call on Assembly Bill No. 377:

YEAS—21.

NAYS—None.

Assembly Bill No. 377 having received a constitutional majority,
Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 389.

Bill read third time.

Roll call on Assembly Bill No. 389:

YEAS—21.

NAYS—None.

Assembly Bill No. 389 having received a constitutional majority,
Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 410.

Bill read third time.

Roll call on Assembly Bill No. 410:

YEAS—21.

NAYS—None.

Assembly Bill No. 410 having received a constitutional majority,
Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 415.

Bill read third time.

Roll call on Assembly Bill No. 415:

YEAS—21.

NAYS—None.

Assembly Bill No. 415 having received a constitutional majority,
Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 425.

Bill read third time.

Roll call on Assembly Bill No. 425:

YEAS—21.

NAYS—None.

Assembly Bill No. 425 having received a constitutional majority,
Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 428.

Bill read third time.

Roll call on Assembly Bill No. 428:

YEAS—21.

NAYS—None.

Assembly Bill No. 428 having received a constitutional majority,
Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 429.

Bill read third time.

Roll call on Assembly Bill No. 429:

YEAS—21.

NAYS—None.

Assembly Bill No. 429 having received a constitutional majority,
Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 432.

Bill read third time.

Roll call on Assembly Bill No. 432:

YEAS—20.

NAYS—None.

NOT VOTING—Horsford.

Assembly Bill No. 432 having received a constitutional majority,
Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 441.

Bill read third time.

Roll call on Assembly Bill No. 441:

YEAS—21.

NAYS—None.

Assembly Bill No. 441 having received a constitutional majority,
Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 455.

Bill read third time.

Roll call on Assembly Bill No. 455:

YEAS—21.

NAYS—None.

Assembly Bill No. 455 having received a constitutional majority,
Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 459.

Bill read third time.

Roll call on Assembly Bill No. 459:

YEAS—21.

NAYS—None.

Assembly Bill No. 459 having received a constitutional majority,
Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 472.

Bill read third time.

Roll call on Assembly Bill No. 472:

YEAS—21.

NAYS—None.

Assembly Bill No. 472 having received a constitutional majority,
Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 475.

Bill read third time.

Roll call on Assembly Bill No. 475:

YEAS—21.

NAYS—None.

Assembly Bill No. 475 having received a constitutional majority,
Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 480.

Bill read third time.

Roll call on Assembly Bill No. 480:

YEAS—21.

NAYS—None.

Assembly Bill No. 480 having received a two-thirds majority,
Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 481.

Bill read third time.

Roll call on Assembly Bill No. 481:

YEAS—21.

NAYS—None.

Assembly Bill No. 481 having received a constitutional majority,
Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 499.

Bill read third time.

Roll call on Assembly Bill No. 499:

YEAS—21.

NAYS—None.

Assembly Bill No. 499 having received a constitutional majority,
Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 512.

Bill read third time.

Conflict of interest declared by Senator Care.

Roll call on Assembly Bill No. 512:

YEAS—20.

NAYS—None.

NOT VOTING—Care.

Assembly Bill No. 512 having received a constitutional majority,
Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 516.

Bill read third time.

Roll call on Assembly Bill No. 516:

YEAS—21.

NAYS—None.

Assembly Bill No. 516 having received a constitutional majority,
Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Joint Resolution No. 10.

Resolution read third time.

Roll call on Assembly Joint Resolution No. 10:

YEAS—21.

NAYS—None.

Assembly Joint Resolution No. 10 having received a constitutional majority, Mr. President declared it passed.

Resolution ordered transmitted to the Assembly.

UNFINISHED BUSINESS
CONSIDERATION OF ASSEMBLY AMENDMENTS

Senate Bill No. 142.

The following Assembly amendment was read:

Amendment No. 589.

"SUMMARY—Establishes the crime of criminal gang recruitment. (BDR 15-723)"

"AN ACT relating to crimes; establishing the crime of criminal gang recruitment; providing a penalty; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Section 2 of this bill establishes the crime of criminal gang recruitment, which is committed when an adult uses or threatens to use physical violence against a child or against another person, or causes or threatens to cause damage to the property of the child or the property of another person, with the specific intent to coerce, induce or solicit the child: (1) to become a member of a criminal gang; (2) to remain a member of a criminal gang and not withdraw or disassociate himself from the criminal gang; or (3) to rejoin a criminal gang of which he is no longer a member or from which he has withdrawn or disassociated himself. The provisions of section 2 are patterned after similar statutory provisions in other states, such as Alaska, Arizona, Illinois, Indiana, Kansas, Kentucky, Maryland, Montana, South Carolina, Texas, Virginia and Washington.

Section 1 of this bill provides that a person who commits the crime of criminal gang recruitment is not subject to the additional penalty under existing law for crimes committed for the benefit of, at the direction of, or in affiliation with, a criminal gang, with the specific intent to promote, further or assist the activities of the criminal gang. (NRS 193.168)

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

Section 1. NRS 193.168 is hereby amended to read as follows:

193.168 1. Except as otherwise provided in *subsection 5 and* NRS 193.169, any person who is convicted of a felony committed knowingly for the benefit of, at the direction of, or in affiliation with, a criminal gang, with the specific intent to promote, further or assist the activities of the criminal gang, shall, in addition to the term of imprisonment prescribed by statute for the crime, be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 20 years. In determining the length of the additional penalty imposed, the court shall consider the following information:

(a) The facts and circumstances of the crime;

- (b) The criminal history of the person;
- (c) The impact of the crime on any victim;
- (d) Any mitigating factors presented by the person; and
- (e) Any other relevant information.

↪ The court shall state on the record that it has considered the information described in paragraphs (a) to (e), inclusive, in determining the length of the additional penalty imposed.

2. The sentence prescribed by this section:

- (a) Must not exceed the sentence imposed for the crime; and
- (b) Runs consecutively with the sentence prescribed by statute for the crime.

3. This section does not create any separate offense but provides an additional penalty for the primary offense, whose imposition is contingent upon the finding of the prescribed fact.

4. The court shall not impose an additional penalty pursuant to this section unless:

(a) The indictment or information charging the defendant with the primary offense alleges that the primary offense was committed knowingly for the benefit of, at the direction of, or in affiliation with, a criminal gang, with the specific intent to promote, further or assist the activities of the criminal gang; and

(b) The trier of fact finds that allegation to be true beyond a reasonable doubt.

5. *The court shall not impose an additional penalty pursuant to this section if the primary offense is a violation of section 2 of this act.*

6. Except as otherwise provided in this subsection, the court shall not grant probation to or suspend the sentence of any person convicted of a felony committed for the benefit of, at the direction of, or in affiliation with , a criminal gang if an additional term of imprisonment may be imposed for that primary offense pursuant to this section. The court may, upon the receipt of an appropriate motion, reduce or suspend the sentence imposed for the primary offense if it finds that the defendant rendered substantial assistance in the arrest or conviction of any other principals, accomplices, accessories or coconspirators to the crime, or of any other persons involved in the commission of a felony which was committed for the benefit of, at the direction of, or in affiliation with , a criminal gang. The agency which arrested the defendant must be given an opportunity to support or oppose such a motion before it is granted or denied. If good cause is shown, the motion may be heard in camera.

~~6.~~ 7. In any proceeding to determine whether an additional penalty may be imposed pursuant to this section, expert testimony is admissible to show particular conduct, status and customs indicative of criminal gangs, including, but not limited to:

- (a) Characteristics of persons who are members of criminal gangs;
- (b) Specific rivalries between criminal gangs;

- (c) Common practices and operations of criminal gangs and the members of those gangs;
- (d) Social customs and behavior of members of criminal gangs;
- (e) Terminology used by members of criminal gangs;
- (f) Codes of conduct, including criminal conduct, of particular criminal gangs; and
- (g) The types of crimes that are likely to be committed by a particular criminal gang or by criminal gangs in general.

~~7~~ 8. As used in this section, "criminal gang" means any combination of persons, organized formally or informally, so constructed that the organization will continue its operation even if individual members enter or leave the organization, which:

- (a) Has a common name or identifying symbol;
- (b) Has particular conduct, status and customs indicative of it; and
- (c) Has as one of its common activities engaging in criminal activity punishable as a felony, other than the conduct which constitutes the primary offense.

Sec. 2. Chapter 201 of NRS is hereby amended by adding thereto a new section to read as follows:

1. *An adult commits the crime of criminal gang recruitment if the adult uses or threatens to use physical violence against a child or against another person, or causes or threatens to cause damage to the property of the child or the property of another person, with the specific intent to coerce, induce or solicit the child:*

- (a) *To become a member of a criminal gang;*
- (b) *To remain a member of a criminal gang and not withdraw or disassociate himself from the criminal gang; or*
- (c) *To rejoin a criminal gang of which he is no longer a member or from which he has withdrawn or disassociated himself.*

2. *An adult who commits the crime of criminal gang recruitment is guilty of a category ~~D~~ E felony and shall be punished as provided in NRS 193.130.*

3. *As used in this section:*

- (a) *"Adult" means a person who is 18 years of age or older.*
- (b) *"Child" means a person who is less than 18 years of age.*
- (c) *"Criminal gang" has the meaning ascribed to it in NRS 193.168.*

Senator Care moved that the Senate concur in the Assembly amendment to Senate Bill No. 142.

Remarks by Senator Care.

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

Thank you, Mr. President. This bill creates the crime of criminal gang recruitment. The only change made by the Assembly was to amend the level of the crime from a Class D felony to a Class E felony. Both the committee and the bill sponsor are in concurrence with that change.

Motion carried by a constitutional majority.

Bill ordered enrolled.

Senate Bill No. 45.

The following Assembly amendment was read:

Amendment No. 587.

"SUMMARY—Revises provisions relating to certain criminal cases involving older persons and vulnerable persons. (BDR 14-262)"

"AN ACT relating to crimes; allowing a prospective witness who is an older person or a vulnerable person to have his deposition taken for use at a trial or hearing under certain circumstances; ~~providing for a civil penalty against a person convicted of certain crimes against an older person;~~ and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law allows a prospective witness who may be unable to attend or may be prevented from attending a trial or hearing to have his deposition taken, if his testimony is material, in order to prevent a failure of justice. (NRS 174.175) At a trial or hearing, a part or all of a deposition may be used if it appears that: (1) the witness is dead; (2) the witness is out of the State of Nevada; (3) the witness is sick; (4) the witness has become of unsound mind; or (5) the party offering the deposition could not procure the attendance of the witness by subpoena. (NRS 174.215) ~~[Section 1 of this]~~ *This* bill expands the list of prospective witnesses who may have their deposition taken to include older persons and vulnerable persons. (NRS 174.175) ~~[Section 1]~~ *This bill* also provides that a court may order the deposition of an older person or a vulnerable person only upon good cause shown to the court.

~~Existing law provides for the imposition of a civil penalty in addition to any criminal penalty against a person who is found guilty of abuse, neglect, exploitation or isolation of an older person. Section 2 of this bill expands the imposition of the civil penalty to any person who is found guilty of committing certain crimes such as murder, assault, battery and robbery against an older person. (NRS 228.280)~~

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

Section 1. NRS 174.175 is hereby amended to read as follows:

174.175 1. If it appears that a prospective witness *is an older person or a vulnerable person or* may be unable to attend or prevented from attending a trial or hearing, that his testimony is material and that it is necessary to take his deposition in order to prevent a failure of justice, the court at any time after the filing of an indictment, information or complaint may , upon motion of a defendant or of the State and notice to the parties , order that his testimony be taken by deposition and that any designated books, papers, documents or tangible objects, not privileged, be produced at the same time and place. *If the motion is for the deposition of an older person or a vulnerable person, the court may enter an order to take the deposition only upon good cause shown to the court.* If the deposition is taken upon motion of the State, the court shall order that it be taken under such conditions as

will afford to each defendant the opportunity to confront the witnesses against him.

2. If a witness is committed for failure to give bail to appear to testify at a trial or hearing, the court, on written motion of the witness and upon notice to the parties, may direct that his deposition be taken. After the deposition has been subscribed, the court may discharge the witness.

3. This section does not apply to the prosecutor, or to an accomplice in the commission of the offense charged.

4. *As used in this section:*

(a) "Older person" means a person who is 70 years of age or older.

(b) "Vulnerable person" has the meaning ascribed to it in subsection 7 of NRS 200.5092.

Sec. 2. ~~NRS 228.280 is hereby amended to read as follows:~~

~~228.280 1. In addition to any criminal penalty, a person who is found guilty of abuse, neglect, exploitation or isolation of an older person pursuant to NRS 200.5099 or 200.50995 or found guilty of a crime against an older person pursuant to subsection 1 of NRS 193.167 is liable for a civil penalty to be recovered by the Attorney General in a civil action brought in the name of the State of Nevada:~~

~~(a) For the first offense, in an amount which is not less than \$5,000 and not more than \$20,000;~~

~~(b) For a second or subsequent offense, in an amount which is not less than \$10,000 and not more than \$30,000;~~

~~2. The Attorney General shall deposit any money collected for civil penalties pursuant to subsection 1 in equal amounts to:~~

~~(a) A separate account in the Fund for the Compensation of Victims of Crime created pursuant to NRS 217.260 to provide compensation to older persons who are abused, neglected, exploited or isolated in violation of NRS 200.5099 and 200.50995 [;] or to provide compensation to an older person who is a victim of a crime pursuant to subsection 1 of NRS 193.167; and~~

~~(b) The Account for the Unit for the Investigation and Prosecution of Crimes Against Older Persons created pursuant to NRS 228.285. (*Deleted by amendment.*)~~

Sec. 3. This act becomes effective upon passage and approval.

Senator Care moved that the Senate do not concur in the Assembly amendment to Senate Bill No. 45.

Remarks by Senator Care.

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

This bill revises provisions relating to certain criminal cases involving older persons and vulnerable persons. The Assembly deleted existing law, which imposes a fine in addition to criminal sanctions for a crime against an older person. We do not agree to that, and it is the recommendation of the Committee that we do not concur.

Motion carried.

Bill ordered transmitted to the Assembly.

SIGNING OF BILLS AND RESOLUTIONS

There being no objections, the President and Secretary signed Senate Concurrent Resolutions Nos. 3, 16, 33, 34.

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, chaperones and teachers from the Fritsch Elementary School: Charlie Adams, Katie Anstedt, Jayson Artz, Kelsey Bradley, Nathaniel Braun, Alexis Dye, Devon Frazier, Skylar Glock, Alexis Grove, Mark Huckabay, Shelby Kuhlman, Tylor LaGier, Kacey Lopes, Allison Lopez, Jessica Mathiesen, Elizabeth McGill, Jayden Meyer, Christian Okamoto, Keelin Pilgrim, Jake Roman, Nia Romero, Branden Schenkhuizen, Devin Skelley, Soralla Vargas, Kathleen Villegas, Robert White, Brenson Whorley, Jessyca Apodaca, Nicholas Bowler, Anthony Burgess, Jacob Cartwright, Taylor Dixon, Megan Dunkel, Roxette Fourie, Jade Fulmer, Spencer Lang, Eddie Leon, Aneet Mand, Connor McRae, Angela Miller, Armando Olivia, Dylan Outlaw, Noah Poole, Jaycie Roberts, Allan Rodriguez, John Rowe, Aubreana Ruiz, Corree Smith, Henry Sturm, Viviana Suarez, Rachel Tran, Darleth Vazquez, Bailey Wolf; chaperones: Carrie Schenkhuizen, Bryan McGill, Emily Howarth, Tobiah Pilgrim, Branden Mathiesen, Linda Mathiesen; teachers: Shelly Monroe and Heidi Lerud.

On request of Senator Cegavske, the privilege of the floor of the Senate Chamber for this day was extended to Larmaya C. Kilgore.

On request of Senator Wiener, the privilege of the floor of the Senate Chamber for this day was extended to Eric Horn and Dennis Horn.

On request of Senator Woodhouse, the privilege of the floor of the Senate Chamber for this day was extended to the following students and chaperones from the Roger Gehring Elementary School: Colton Carter, Isabella Elrod, Dakota Kevish-Martin, Devan Moilanen, Veronica Rodriguez, Ameenah Zapata, Kristiana Redding, Hailey Whalen, Breanna Bliss, Mikayla Jackson, Dylan O'Keefe, Sauvignon Baker, Anastasia Rogers, Matthew Hoffman, Grace O'Malley-Perez, Angelina Contreras, Chase Jenkins, Sydney Mohler, Wellington Coello, Zamaria Clemente, Blair Rush, Jennifer Le, Samantha Barnard, Paige Kidd, Savannah Costella, Jordan Koressel, Ryan Djino, Bailey Kamai, Samantha Gianantonio, Jonathan Webb, Elijah DiMaggio, Raymond Tabio, Allison Staggs, Conner Murphy, Sydney Jenkins, Megan Gilbert, Leah Galier, Bailey Doctolero, Vanessa Marroquin, Madisyn Reis, Calvin Doan, Ryan Tran, Kourtney Allen, Jordanne Santos, Nathaniel Sison, Raymond Abaganyan, Kristine Bartolome, Joel Weathers, Tyler Suey, Rylee Santillian, Manny Chavez, Talia Sapp, Kelsy Neill, Sydney Taylor, Kaylo Po, Zoe Kenney, Alec Goree, Bianca Reveles, Dawson O'Keefe, Christian Palma, Taylor Gunterman; chaperones: Babs Mercer, Julie Elrod, Korri Martin-Ditillo, Maria Moilanen, Leticia Rodriguez, Jasmine Gonzales,

Yasmine Redding, Beth Whalen, Lori Bliss, Rhonda Baker, Frenchie Amie, Adrian Hoffman, Sheila Perez, Diana Contreras, Christine Jenkins, Erin Mohler, Laura Taylor and Sandra Palma.

Senator Horsford moved that the Senate adjourn until Friday, May 15, 2009, at 10:30 a.m.

Motion carried.

Senate adjourned at 1:07 p.m.

Approved:

BRIAN K. KROLICKI
President of the Senate

Attest: CLAIRE J. CLIFT
Secretary of the Senate