

**THE ONE HUNDRED AND THIRD DAY**

---

CARSON CITY (Friday), May 15, 2009

Senate called to order at 12:50 p.m.

President Krolicki presiding.

Roll called.

All present except Senator Townsend, who was excused.

Prayer by David Goodheart, Sergeant at Arms.

Dear Lord, please grant these Senators the wisdom and guidance and courage to do what is best for the great State of Nevada. May their difficult decisions lead to years of prosperity for our State.

AMEN.

Pledge of Allegiance to the Flag.

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

Motion carried.

REPORTS OF COMMITTEES

*Mr. President:*

Your Committee on Commerce and Labor, to which were referred Assembly Bills Nos. 173, 521, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

MAGGIE CARLTON, *Chair*

*Mr. President:*

Your Committee on Energy, Infrastructure and Transportation, to which were referred Assembly Bills Nos. 25, 333, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

MICHAEL A. SCHNEIDER, *Chair*

*Mr. President:*

Your Committee on Finance, to which was referred Assembly Bill No. 528, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

Also, your Committee on Finance, to which was rereferred Senate Bill No. 52, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

Also, your Committee on Finance, to which was referred Senate Bill No. 416, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

BERNICE MATHEWS, *Cochair*

*Mr. President:*

Your Committee on Government Affairs, to which were referred Assembly Bills Nos. 119, 508, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

JOHN J. LEE, *Chair*

*Mr. President:*

Your Committee on Health and Education, to which were referred Assembly Bills Nos. 20, 40, 123, 206, 327, 393, 538, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

Also, your Committee on Health and Education, to which were referred Assembly Bills Nos. 100, 154, 348, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

VALERIE WIENER, *Chair*

*Mr. President:*

Your Committee on Judiciary, to which were referred Assembly Bills Nos. 63, 116, 117, 239, 271, 335, 380, 473, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

Also, your Committee on Judiciary, to which were referred Assembly Bills Nos. 46, 129, 204, 207, 233, 251, 262, 313, 471, 474, 496, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

TERRY CARE, *Chair*

*Mr. President:*

Your Committee on Legislative Operations and Elections, to which were referred Senate Bill No. 371; Senate Joint Resolution No. 10, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

Also, your Committee on Legislative Operations and Elections, to which was rereferred Senate Bill No. 294, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass as amended.

Also, your Committee on Legislative Operations and Elections, to which was referred Assembly Bill No. 395, has had the same under consideration, and begs leave to report the same back with the recommendation: Without recommendation and rerefer to the Committee on Government Affairs.

Also, your Committee on Legislative Operations and Elections, to which was referred Assembly Concurrent Resolution No. 19, has had the same under consideration, and begs leave to report the same back with the recommendation: Be adopted.

JOYCE WOODHOUSE, *Chair*

*Mr. President:*

Your Committee on Natural Resources, to which were referred Assembly Bills Nos. 75, 416, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

DAVID R. PARKS, *Chair*

*Mr. President:*

Your Committee on Taxation, to which were referred Assembly Bills Nos. 329, 369, 403, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

Also, your Committee on Taxation, to which were referred Assembly Bills Nos. 193, 307, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

Also, your Committee on Taxation, to which was referred Senate Concurrent Resolution No. 35, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and be adopted as amended.

BOB COFFIN, *Chair*

#### MESSAGES FROM THE ASSEMBLY

ASSEMBLY CHAMBER, Carson City, May 12, 2009

*To the Honorable the Senate:*

I have the honor to inform your honorable body that the Assembly on this day passed Senate Bills Nos. 23, 59, 61, 76, 139, 144; Assembly Bill No. 494.

Also, I have the honor to inform your honorable body that the Assembly on this day passed, as amended, Assembly Bills Nos. 3, 99, 223, 283, 349, 458, 482, 488.

Also, I have the honor to inform your honorable body that the Assembly amended, and on this day passed, as amended, Senate Bill No. 256, Amendment No. 608, and respectfully requests your honorable body to concur in said amendment.

Also, I have the honor to inform your honorable body that the Assembly on this day adopted, as amended, Senate Concurrent Resolution No. 5, Amendment No. 570, and respectfully requests your honorable body to concur in said amendment.

DIANE M. KEETCH  
*Assistant Chief Clerk of the Assembly*

ASSEMBLY CHAMBER, Carson City, May 13, 2009

*To the Honorable the Senate:*

I have the honor to inform your honorable body that the Assembly on this day passed Senate Bills Nos. 4, 37, 44, 105, 106, 111, 130, 147.

Also, I have the honor to inform your honorable body that the Assembly on this day passed, as amended, Assembly Bills Nos. 279, 359, 461.

Also, I have the honor to inform your honorable body that the Assembly amended, and on this day passed, as amended, Senate Bill No. 35, Amendment No. 624; Senate Bill No. 54, Amendment No. 647; Senate Bill No. 77, Amendment No. 614; Senate Bill No. 100, Amendment No. 633; Senate Bill No. 101, Amendment No. 625; Senate Bill No. 163, Amendment No. 613, and respectfully requests your honorable body to concur in said amendments.

Also, I have the honor to inform your honorable body that the Assembly on this day adopted Assembly Concurrent Resolution No. 2.

Also, I have the honor to inform your honorable body that the Assembly on this day concurred in the Senate Amendment No. 607 to Assembly Bill No. 41; Senate Amendment No. 584 to Assembly Bill No. 97; Senate Amendment No. 597 to Assembly Bill No. 107; Senate Amendment No. 602 to Assembly Bill No. 432.

DIANE M. KEETCH  
*Assistant Chief Clerk of the Assembly*

#### MOTIONS, RESOLUTIONS AND NOTICES

Assembly Concurrent Resolution No. 2.

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

Motion carried.

Senator Woodhouse moved that Assembly Bill No. 395 be rereferred to the Committee on Government Affairs.

Motion carried.

Senator Horsford moved that the following person be accepted as an accredited press representative, and that he be assigned space at the press table and allowed the use of appropriate media facilities: REVERED MOMENTS: Robert Jones.

Motion carried.

#### INTRODUCTION, FIRST READING AND REFERENCE

By the Committee on Finance:

Senate Bill No. 426—AN ACT relating to insurance; creating the Fund for Insurance Administration and Enforcement and new fees to provide money for the Fund; eliminating certain restrictions on out-of-state insurers;

requiring certain insurers to comply with newly enacted federal acts; revising provisions related to the Federal Deposit Insurance Corporation; requiring certain health care plans and policies of insurance to provide continued coverage for certain prescription drugs related to transplanted organs; and providing other matters properly relating thereto.

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

Motion carried.

Assembly Bill No. 3.

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

Motion carried.

Assembly Bill No. 99.

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

Motion carried.

Assembly Bill No. 223.

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

Motion carried.

Assembly Bill No. 279.

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

Motion carried.

Assembly Bill No. 283.

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

Motion carried.

Assembly Bill No. 349.

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

Motion carried.

Assembly Bill No. 359.

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

Motion carried.

Assembly Bill No. 458.

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

Motion carried.

Assembly Bill No. 461.

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

Motion carried.

Assembly Bill No. 482.

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

Motion carried.

Assembly Bill No. 488.

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

Motion carried.

Assembly Bill No. 494.

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

Motion carried.

#### SECOND READING AND AMENDMENT

Assembly Bill No. 76.

Bill read second time and ordered to third reading.

Assembly Bill No. 139.

Bill read second time and ordered to third reading.

Assembly Bill No. 192.

Bill read second time.

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

Amendment No. 652.

"SUMMARY—Revises provisions governing certain performance contracts for operating cost-savings measures. (BDR 27-245)"

"AN ACT relating to local government purchasing; making various changes to the provisions governing performance contracts entered into by local governments for operating cost-savings measures; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law authorizes and sets forth the requirements for local governments to enter into performance contracts for the purchase and installation of operating cost-savings measures to reduce costs related to such matters as energy, water and the disposal of waste, and related labor costs. (NRS 332.300-332.440) Existing law sets forth the procedures by which a local government will compile a list of the qualified service companies that it determines have a record of established projects or have demonstrated technical, operational, financial and managerial capabilities to design and carry out operating cost-savings measures. Under existing law, the local

government must solicit proposals for a performance contract from such companies. (NRS 332.350, 332.360) Sections 2-5, 11 and 12 of this bill provide that a company must apply to the local government, meet certain qualifications and be preapproved by a local government before it may submit a proposal for a performance contract.

Section 6 of this bill requires that performance contracts for operating cost-savings measures identify the specific dollar amount and units or percentages of consumption that will be eliminated or avoided as a result of the operating cost-savings measures.

Section 6.5 of this bill requires a local government that enters into a performance contract for operating cost-savings measures to submit a report annually to the Legislature or, when the Legislature is not in session, the Interim Finance Committee.

Section 8 of this bill amends the definition of "building" to provide that performance contracts apply only to existing buildings. (NRS 332.310)

Section 9 of this bill adds ground source systems of heating and cooling to the list of operating cost-savings measures that may be included in a performance contract. (NRS 332.330)

Section 13 of this bill eliminates the option for a performance contract to be structured as a shared-savings contract. (NRS 332.370)

Section 14 of this bill provides that the bonding requirements set forth in the provisions of chapter 339 of NRS apply to performance contracts that exceed \$100,000. (NRS 332.390)

Existing law authorizes a local government to reinvest any savings realized under a performance contract into operating cost-savings measures. (NRS 332.410) Section 15 of this bill requires that such reinvestment comply with the provisions of NRS 332.300-332.440 and sections 2-6.5 of this bill.

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

Section 1. Chapter 332 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 6.5, inclusive, of this act.

Sec. 2. 1. *Except as otherwise provided in section 5 of this act, a person who wishes to qualify as a qualified service company and submit a proposal for a performance contract with a local government must file an application with the local government.*

2. *Upon receipt of an application pursuant to subsection 1, the local government shall:*

*(a) Investigate the applicant to determine whether he is qualified to bid on a performance contract; and*

*(b) After conducting the investigation, determine whether the applicant is qualified to bid on a performance contract.*

3. *The local government shall notify each applicant in writing of its determination.*

4. *The local government may determine an applicant is qualified to bid:*

*(a) On a specific project; or*

(b) *On more than one project over a period of time to be determined by the local government.*

5. *Except as otherwise provided in section 5 of this act, the local government shall use only the criteria described in section 3 of this act in determining whether to approve or deny an application.*

6. *Except as otherwise provided in NRS 239.0115, financial information and other data pertaining to the net worth of an applicant which is gathered by or provided to a local government to determine the financial ability of an applicant to perform a contract is confidential and not open to public inspection.*

Sec. 3. 1. *Except as otherwise provided in section 5 of this act, a local government shall use the following criteria for determining whether a person satisfies the requirements to be a qualified service company pursuant to NRS 332.360:*

(a) *The financial ability of the applicant to perform the work required by the local government;*

(b) *Whether the applicant possesses a business license issued pursuant to NRS 360.780;*

~~(b)~~ (c) *Whether the applicant possesses a valid contractor's license issued pursuant to chapter 624 of NRS of a class corresponding to the work required by the local government and, if engineering work is required, whether the applicant possesses a valid license as a professional engineer issued pursuant to chapter 625 of NRS;*

~~(c)~~ (d) *Whether the applicant has the ability to obtain the necessary bonding for the work required by the local government;*

~~(d)~~ (e) *Whether the applicant has successfully completed an appropriate number of projects as determined by the local government, but not to exceed five projects, during the 5 years immediately preceding the date of application of similar size, scope or type as the work required by the local government;*

~~(e)~~ (f) *Whether the principal personnel employed by the applicant have the necessary professional qualifications and experience for the work required by the local government;*

~~(f)~~ (g) *Whether the applicant has breached any contracts with a public agency or person in this State or any other state during the 5 years immediately preceding the date of application;*

~~(g)~~ (h) *Whether the applicant has been disqualified from being awarded a contract by any governing body in the State of Nevada;*

~~(h)~~ (i) *Whether the applicant has been convicted of a violation for discrimination in employment during the 2 years immediately preceding the date of application;*

~~(i)~~ (j) *Whether the applicant has the ability to obtain and maintain insurance coverage for public liability and property damage within limits sufficient to protect the applicant and all the subcontractors of the applicant*

from claims for personal injury, accidental death and damage to property that may arise in connection with the work required by the local government;

~~##~~ (k) Whether the applicant has established a safety program that complies with the requirements of chapter 618 of NRS;

~~##~~ (l) Whether the applicant has been disciplined or fined by the State Contractors' Board or another state or federal agency for conduct that relates to the ability of the applicant to perform the work required by the local government;

~~##~~ (m) Whether, during the 5 years immediately preceding the date of application, the applicant has filed as a debtor under the provisions of the United States Bankruptcy Code;

~~##~~ (n) Whether the application is truthful and complete; and

~~##~~ (o) Whether, during the 5 years immediately preceding the date of the application, the applicant has, as a result of causes within the control of the applicant or a subcontractor or supplier of the applicant, failed to perform any contract:

(1) In the manner specified by the contract and any change orders initiated or approved by the person or governmental entity that awarded the contract or its authorized representative;

(2) Within the time specified by the contract unless extended by the person or governmental entity that awarded the contract or its authorized representative; or

(3) For the amount of money specified in the contract or as modified by any change orders initiated or approved by the person or governmental entity that awarded the contract or its authorized representative.

➤ Evidence of the failures described in this subsection may include, without limitation, the assessment of liquidated damages against the applicant, the forfeiture of any bonds posted by the applicant, an arbitration award granted against the applicant or a decision by a court of law against the applicant.

2. Except as otherwise provided in section 5 of this act, in addition to the criteria described in subsection 1, the local government may use any other relevant criteria that are necessary to determine whether a person satisfies the requirements to be a qualified service company pursuant to NRS 332.360.

Sec. 4. (Deleted by amendment.)

Sec. 5. Notwithstanding the provisions of section 3 of this act, a governing body may deem a person a qualified service company if the person has been determined by:

1. The State Public Works Board or a local government pursuant to NRS 338.1379 to be qualified to bid on a public work; or

2. Another local government pursuant to section 2 of this act to be qualified as a qualified service company.

Sec. 6. A performance contract that guarantees operating cost savings must identify the specific dollar amount and units or percentages of consumption that the qualified service company anticipates will be



*eliminated or avoided on a long-term basis as a result of the operating cost-savings measures that the local government is implementing.*

Sec. 6.5. 1. *Each local government that enters into a performance contract pursuant to NRS 332.300 to 332.440, inclusive, and sections 2 to 6.5, inclusive, of this act, shall, on or before February 1 of each year, prepare and submit a report to the Director of the Legislative Counsel Bureau for transmittal to the Legislature if the Legislature is in session, or to the Interim Finance Committee if the Legislature is not in session.*

2. *The report required pursuant to subsection 1 must include, without limitation:*

*(a) The status of the construction and financing of the operating cost-savings measures described in the performance contract.*

*(b) The cumulative amount of operating cost-savings that have resulted from the operating cost-savings measures.*

*(c) The amount of operating cost-savings that are projected for the future.*

*(d) Any other information required by the Legislature or Interim Finance Committee.*

Sec. 7. NRS 332.300 is hereby amended to read as follows:

332.300 As used in NRS 332.300 to 332.440, inclusive, and sections 2 to 6.5, inclusive, of this act, unless the context otherwise requires, the words and terms defined in NRS 332.310 to 332.350, inclusive, have the meanings ascribed to them in those sections.

Sec. 8. NRS 332.310 is hereby amended to read as follows:

332.310 "Building" means any *existing* structure, building or facility, including any equipment, furnishings or appliances within the *existing* structure, building or facility, that is owned or operated by a local government. The term includes, without limitation, occupied and unoccupied *existing* structures, buildings and facilities, and any other *existing* improvements owned or operated by a local government that incur operating costs.

Sec. 9. NRS 332.330 is hereby amended to read as follows:

332.330 "Operating cost-savings measure" ~~means~~ :

1. *Means* any improvement, repair or alteration to a building, or any equipment, fixture or furnishing to be added or used in a building that is designed to reduce operating costs, including , *without limitation*, those costs related to electrical energy and demand, thermal energy, water consumption, waste disposal and contract-labor costs, and increase the operating efficiency of the building for the appointed functions that are cost-effective. ~~{The term includes.}~~

2. *Includes*, without limitation:

~~1. Procurement of low cost energy supplies, including electricity and natural gas.~~

~~2. Procurement of cost savings as a result of outsourcing energy needs for electrical power, heating and cooling.~~

~~3.~~ (a) Operational or maintenance labor savings resulting from reduced costs for maintenance contracts as provided through reduction of required maintenance or operating tasks, including, without limitation, replacement of filters and lighting products, and equipment failures.

~~4.~~ (b) Investment in equipment, products and materials, and strategies for building operation, or any combination thereof, designed to reduce energy and other utility expenses, including, without limitation:

~~(a)~~ (1) Costs for materials and labor required to replace old equipment with new, more efficient equipment.

~~(b)~~ (2) Storm windows or doors, caulking or weather stripping, multiglazed windows or doors, heat-absorbing or heat-reflective glazed or coated windows or doors, reductions in glass area, and other modifications to windows and doors that will reduce energy consumption.

~~(c)~~ (3) Automated or computerized energy control systems.

~~(d)~~ (4) Replacement of, or modifications to, heating, ventilation or air-conditioning systems.

~~(e)~~ (5) Replacement of, or modifications to, lighting fixtures.

~~(f)~~ (6) Improvements to the indoor air quality of a building that conform to all requirements of an applicable building code.

~~(g)~~ (7) Energy recovery systems.

~~(h)~~ (8) Systems for combined cooling, heating and power that produce steam or other forms of energy, for use primarily within the building or a complex of buildings.

~~(i)~~ (9) Installation of, or modifications to, existing systems for daylighting, including lighting control systems.

~~(j)~~ (10) Installation of, or modification to, technologies that use renewable or alternative energy sources.

~~(k)~~ (11) Programs relating to building operation that reduce operating costs, including, without limitation, computerized programs, training and other similar activities.

~~(l)~~ (12) Programs for improvement of steam traps to reduce operating costs.

~~(m)~~ (13) Devices that reduce water consumption in buildings, for lawns and for other irrigation applications.

~~(n)~~ (14) Any additional improvements to building infrastructures that produce energy and operating cost savings, significantly reduce energy consumption or increase the operating efficiency of the buildings for their appointed functions, provided that such improvements comply with applicable building codes.

~~(o)~~ (15) Trash compaction and waste minimization.

~~5.~~ (16) *Ground source systems for heating and cooling.*

(c) Investment in educational programs relating to ~~occupational behavior that are designed to reduce the consumption of energy or water, or both, and the generation of waste.~~ *the operation and maintenance of any equipment installed to reduce operating costs.*

3. Does not include the construction of a new building or any addition to a building that increases the square footage of the building.

Sec. 10. NRS 332.340 is hereby amended to read as follows:

332.340 "Performance contract" means a *written* contract between a local government and a qualified service company for the evaluation, recommendation and implementation of one or more operating cost-savings measures.

Sec. 11. NRS 332.350 is hereby amended to read as follows:

332.350 "Qualified service company" means a person ~~{with a record of established projects or a person with demonstrated technical, operational, financial and managerial capabilities to design and carry out operating cost-savings measures and other similar building improvements, and who has the ability to secure necessary financial measures to ensure related guarantees for operating cost-savings.}~~ *who is qualified to bid on a performance contract pursuant to section 2 or 5 of this act.*

Sec. 12. NRS 332.360 is hereby amended to read as follows:

332.360 1. Notwithstanding any provision of this chapter and chapter 338 of NRS to the contrary, a local government may enter into a performance contract with a qualified service company for the purchase and installation of an operating cost-savings measure to reduce costs related to energy, water and the disposal of waste, and related labor costs. Such a performance contract may be in the form of an installment payment contract or a lease-purchase contract. Any operating cost-savings measures put into place as a result of a performance contract must comply with all applicable building codes.

2. ~~{The local government shall determine those companies that satisfy the requirements of qualified service companies for the purposes of NRS 332.300 to 332.440, inclusive. The local government shall prepare and issue a request for qualifications to not less than three potential qualified service companies.~~

3. ~~In sending out a request for qualifications, the local government:~~

~~(a) Shall attempt to identify at least one potential qualified service company located within this state; and~~

~~(b) May consider whether and to what extent the companies to which the request for qualifications will be sent will use local contractors.~~

4. ~~The local government shall use objective criteria to determine those companies that satisfy the requirements of qualified service companies. The objective criteria for evaluation must include the following areas as substantive factors to assess the capability of such companies:~~

~~(a) Design;~~

~~(b) Engineering;~~

~~(c) Installation;~~

~~(d) Maintenance and repairs associated with performance contracts;~~

~~(e) Experience in conversions to different sources of energy or fuel and other services related to operating cost-savings measures provided that is~~

done in association with a comprehensive energy, water or waste disposal cost-savings retrofit;

- ~~(f) Monitoring projects after the projects are installed;~~
- ~~(g) Data collection and reporting of savings;~~
- ~~(h) Overall project experience and qualifications;~~
- ~~(i) Management capability;~~
- ~~(j) Ability to access long-term financing;~~
- ~~(k) Experience with projects of similar size and scope; and~~
- ~~(l) Such other factors determined by the local government to be relevant and appropriate to the ability of a company to perform the project.~~

~~↪ In determining whether a company satisfies the requirements of a qualified service company, the local government shall also consider the financial health of the company as evidenced by its financial statements and ratings and whether the company holds the appropriate licenses required for the design, engineering and construction to be completed.~~

~~5. The local government shall compile a list of those companies that it determines satisfy the requirements of qualified service companies.] If [the] a local government is interested in entering into a performance contract, the local government shall notify each appropriate qualified service company and coordinate an opportunity for each such qualified service company to:~~

~~(a) Perform a preliminary and comprehensive audit and assessment of all potential operating cost-savings measures that might be implemented within the buildings of the local government, including any operating cost-savings measures specifically requested by the local government; and~~

~~(b) Submit a proposal and make a related presentation to the local government for all such operating cost-savings measures that the qualified service company determines would be practicable to implement.~~

~~{6.} 3. The local government shall:~~

~~(a) Evaluate the proposals and presentations made pursuant to subsection {5;} 2; and~~

~~(b) Select a qualified service company, ↪ pursuant to the provisions of [this chapter for evaluating and awarding contracts.]~~

~~{7.} NRS 332.300 to 332.440, inclusive, and sections 2 to 6.5, inclusive, of this act.~~

~~4. The local government may retain the professional services of a third-party consultant with the requisite technical expertise to assist the local government in evaluating the proposals and presentations pursuant to subsection 3. Such a third-party consultant must possess a business license issued pursuant to NRS 360.780 and any other applicable licenses issued by a licensing board in this State in the same discipline in which the consultant will be advising the local government.~~

~~5. The qualified service company selected by the local government pursuant to subsection {6} 3 shall prepare a financial-grade operational audit. Except as otherwise provided in this subsection, the audit prepared by the~~

qualified service company becomes, upon acceptance, a part of the final performance contract and the costs incurred by the qualified service company in preparing the audit shall be deemed to be part of the performance contract. If, after the audit is prepared, the local government decides not to execute the performance contract, the local government shall pay the qualified service company that prepared the audit the costs incurred by the qualified service company in preparing the audit if the local government has specifically appropriated money for that purpose.

~~{8.}~~ 6. The local government shall retain the professional services of a third-party consultant with the requisite technical expertise to assist the local government in reviewing the operating cost-savings measures proposed by the qualified service company and may procure sufficient funding from the qualified service company, through negotiation, to pay for the third-party consultant. Such a third-party consultant must be *licensed pursuant to chapter 625 of NRS and certified by the Association of Energy Engineers as a "Certified Energy Manager" or hold similar credentials from a comparable nationally recognized organization.* A third-party consultant retained pursuant to this subsection shall work on behalf *and for the benefit* of the local government in coordination with the qualified service company.

Sec. 13. NRS 332.370 is hereby amended to read as follows:

332.370 1. A performance contract may be financed through a person other than the qualified service company.

2. A performance contract ~~{may}~~ *must* be structured ~~{as:~~

~~{(a) A performance contract that guarantees}~~ *to guarantee* operating cost savings, which includes, without limitation, the design and installation of equipment, the operation and maintenance, if applicable, of any of the operating cost-savings measures and the guaranteed annual savings which must meet or exceed the total annual contract payments to be made by the local government, including any financing charges to be incurred by the local government over the life of the performance contract. The local government may require that these savings be verified annually or over a sufficient period that demonstrates savings.

~~{(b) A shared-savings contract which includes provisions mutually agreed upon by the local government and qualified service company as to the negotiated rate of payments based upon operating cost savings and a stipulated maximum consumption level of energy or water, or both energy and water, over the life of the contract.}~~

Sec. 14. NRS 332.390 is hereby amended to read as follows:

332.390 1. If a performance contract entered into pursuant to NRS 332.300 to 332.440, inclusive, *and sections 2 to 6.5, inclusive, of this act* requires the employment of skilled mechanics, skilled workmen, semiskilled mechanics, semiskilled workmen or unskilled labor to perform the performance contract, the performance contract must include a provision relating to the prevailing wage as required pursuant to NRS 338.020 to 338.090, inclusive.

2. *Before a qualified service company enters into a performance contract pursuant to NRS 332.300 to 332.440, inclusive, and sections 2 to 6.5, inclusive, of this act, that exceeds \$100,000, the qualified service company must furnish to the contracting body any bonds required pursuant to NRS 339.025. The provisions of chapter 339 of NRS apply to any performance contract described in this subsection.*

Sec. 15. NRS 332.410 is hereby amended to read as follows:

332.410 A local government may reinvest any savings realized under a performance contract whenever practical into *other* operating cost-savings measures provided the local government ~~is~~ :

1. *Is* satisfying all its other obligations under the performance contract ~~is~~; and

2. *Complies with the requirements of NRS 332.300 to 332.440, inclusive, and sections 2 to 6.5, inclusive, of this act, when reinvesting the savings into other operating cost-savings measures.*

Sec. 16. (Deleted by amendment.)

Sec. 17. This act becomes effective on July 1, 2009.

Senator Lee moved the adoption of the amendment.

Remarks by Senator Lee.

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

This amendment adds the "financial ability of the applicant to perform the work required by the local government" to the list of factors a local government may use in determining which companies may be deemed a "qualified service company" to design and carry out cost-saving measures.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Assembly Bill No. 236.

Bill read second time and ordered to third reading.

Assembly Bill No. 503.

Bill read second time.

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

Amendment No. 639.

"SUMMARY—Creates an advisory committee to develop recommendations for the funding of highways in this State. (BDR S-954)"

"AN ACT relating to transportation; creating an advisory committee to develop recommendations relating to the funding of the construction and maintenance of highways in this State; providing for the membership, compensation and duties of the advisory committee; authorizing the advisory committee to place advisory questions regarding its recommendations on the ballot for the general election to be held in 2010; requiring the Secretary of State to appoint committees to prepare arguments for and against approval of the recommendation proposed in any such advisory question placed on the ballot; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

This bill creates an advisory committee to develop recommendations for increasing funding for highways in this State. The committee consists of ~~six~~ eight members, three appointed by the Majority Leader of the Senate, ~~and~~ three appointed by the Speaker of the Assembly, ~~and~~ one appointed by the Minority Leader of the Senate and one appointed by the Minority Leader of the Assembly. Not more than one member of the committee may be a member of the Senate, who must be appointed by the Majority Leader of the Senate, and not more than one member may be a member of the Assembly ~~and~~ who must be appointed by the Speaker of the Assembly. To the extent practicable, the members of the advisory committee must reflect the geographic diversity of this State. The advisory committee: (1) is charged with developing recommendations relating to the funding of the construction and maintenance of highways in this State; and (2) is authorized to ask the voters of the State for their advice on those recommendations by placing advisory questions on the ballot for the general election to be held in 2010. If the advisory committee places an advisory question on the ballot, the Secretary of State must appoint committees to prepare arguments for and against approval of the recommendation proposed in the advisory question.

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

Section 1. As used in this act, "advisory committee" means the advisory committee created by subsection 1 of section 2 of this act.

Sec. 2. 1. There is hereby created an advisory committee to develop recommendations for increasing the funding of highways in this State.

2. The advisory committee consists of ~~six~~ eight members appointed as follows:

- (a) Three members appointed by the Majority Leader of the Senate; ~~and~~
- (b) Three members appointed by the Speaker of the Assembly ~~and~~;
- (c) One member appointed by the Minority Leader of the Senate; and
- (d) One member appointed by the Minority Leader of the Assembly.

3. Not more than one member of the advisory committee may be a member of the Senate, who must be appointed by the Majority Leader of the Senate, and not more than one member of the advisory committee may be a member of the Assembly ~~and~~ who must be appointed by the Speaker of the Assembly.

4. The Majority and Minority Leaders of the Senate and the Speaker and Minority Leader of the Assembly shall, to the extent practicable, ensure that the members appointed to the advisory committee reflect the geographic diversity of this State.

5. The term of each member of the advisory committee commences on July 1, 2009, and expires on June 30, 2011.

~~5~~ 6. Members of the advisory committee serve without compensation, except that while engaged in the business of the advisory committee, each member is entitled to the per diem allowance and travel expenses provided

for state officers and employees generally, to be paid from the Legislative Fund.

~~6~~ 7. The advisory committee shall ~~meet~~:

(a) Meet at least once every 3 months ~~;~~ and

(b) To the extent practicable, conduct its meetings via video conference.

~~7~~ 8. At its first meeting, the advisory committee shall elect a Chairman and a Vice Chairman from among its members.

~~8~~ 9. A vacancy in the membership of the advisory committee must be filled in the same manner as the original appointment.

Sec. 3. 1. The advisory committee shall develop recommendations relating to increasing the funding of the construction and maintenance of highways in this State.

2. When developing recommendations pursuant to the provisions of subsection 1, the advisory committee shall consider, without limitation, the most recent, if any, transportation project lists developed by the Department of Transportation and the regional transportation commission of any county whose population is 100,000 or more.

Sec. 4. 1. The advisory committee may, at the general election held in 2010, ask the advice of the registered voters of the State on any question regarding the recommendations developed by the committee pursuant to section 3 of this act.

2. To place an advisory question on the ballot at the general election held in 2010, the advisory committee shall, not less than 120 days before the general election, submit to the Secretary of State a resolution that:

(a) Sets forth:

(1) Each question, in language indicating clearly that the question is advisory only;

(2) An explanation of the question; and

(3) A description of the anticipated financial effect on the State; and

(b) Provides that the result of the voting on the question does not impose any legal requirement on the Legislature, any member of the Legislature or any other officer of the State.

3. If the advisory committee places an advisory question on the ballot pursuant to this section, on the sample ballot for the election, the advisory question must appear:

(a) With a title in substantially the following form: "Advisory Ballot Question No."; and

(b) With its explanation, arguments and description of the anticipated financial effect.

Sec. 5. 1. For each advisory question to be placed on the ballot pursuant to the provisions of section 4 of this act, the Secretary of State shall, pursuant to subsection 4, appoint two committees. Except as otherwise provided in subsection 2, one committee must be composed of three persons who favor approval by the voters of the recommendation proposed in the advisory question and the other committee must be composed of



three persons who oppose approval by the voters of the recommendation proposed in the advisory question.

2. If the Secretary of State is unable to appoint three persons who are willing to serve on a committee, he may appoint fewer than three persons to that committee, but he must appoint at least one person to each committee appointed pursuant to this section.

3. With respect to a committee appointed pursuant to this section:

(a) A person may not serve simultaneously on the committee that favors approval by the voters of the recommendation proposed in the advisory question and the committee that opposes approval by the voters of the recommendation proposed in the advisory question.

(b) Members of the committee serve without compensation.

(c) The term of office for each member commences upon appointment and expires upon the publication of the sample ballot containing the advisory question.

4. The Secretary of State shall consider appointing to a committee pursuant to this section:

(a) Any person who has expressed an interest in serving on the committee; and

(b) A person who is a member of an organization that has expressed an interest in having a member of the organization serve on the committee.

5. A committee appointed pursuant to this section:

(a) Shall elect a chairman for the committee;

(b) Shall meet and conduct its affairs as necessary to fulfill the requirements of this section;

(c) May seek and consider comments from the general public;

(d) Shall, based on whether the members were appointed to advocate or oppose approval by the voters of the recommendation proposed in the advisory question, prepare an argument either advocating or opposing approval by the voters of the recommendation proposed in the advisory question;

(e) Shall prepare a rebuttal to the argument prepared by the other committee appointed pursuant to this section;

(f) Shall address in the argument and rebuttal prepared pursuant to paragraphs (d) and (e):

(1) The fiscal impact of the recommendation proposed in the advisory question;

(2) The environmental impact of the recommendation proposed in the advisory question; and

(3) The impact of the recommendation proposed in the advisory question on the public health, safety and welfare; and

(g) Shall submit the argument and rebuttal prepared pursuant to paragraphs (d), (e) and (f) to the Secretary of State not later than the date prescribed by the Secretary of State pursuant to subsection 6.

6. The Secretary of State shall provide, by rule or regulation:

(a) The maximum permissible length of an argument and rebuttal prepared pursuant to this section; and

(b) The date by which an argument and rebuttal prepared pursuant to this section must be submitted by a committee to the Secretary of State.

7. Upon receipt of an argument or rebuttal prepared pursuant to this section, the Secretary of State:

(a) May consult with persons who are generally recognized by a national or statewide organization as having expertise regarding transportation and transportation-related issues; and

(b) Shall reject each statement in the argument or rebuttal that he believes is libelous or factually inaccurate.

↪ The decision of the Secretary of State to reject a statement pursuant to this subsection is a final decision for the purposes of judicial review. Not later than 5 days after the Secretary of State rejects a statement pursuant to this subsection, the committee that prepared the statement may appeal that rejection by filing a complaint in the First Judicial District Court. The Court shall set the matter for hearing not later than 3 working days after the complaint is filed and shall give priority to such a complaint over all other matters pending before the court, except for criminal proceedings.

8. The Secretary of State may revise the language submitted by a committee pursuant to this section so that it is clear, concise and suitable for incorporation in the sample ballot, but shall not alter the meaning or effect of the language without the consent of the committee.

Sec. 6. This act becomes effective upon passage and approval.

Senator Schneider moved the adoption of the amendment.

Remarks by Senator Schneider.

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

Amendment No. 639 to Assembly Bill No. 503 provides for the appointment of two additional members of the Advisory Committee to Develop Recommendations for Increasing the Funding of Highways in this State. The two additional members are to be appointed by the Minority Leaders of each House. Additionally, the committee is required, to the extent practicable, to meet via videoconferencing to keep expenses down. All appointees, to the extent practicable, shall be selected to reflect the geographical diversity of the State.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

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

Motion carried.

Senate in recess at 1:04 p.m.

#### SENATE IN SESSION

At 1:10 p.m.

President Krolicki presiding.

Quorum present.

## MOTIONS, RESOLUTIONS AND NOTICES

Senator Schneider moved that Assembly Bill No. 25 be taken from the Second Reading File and rereferred to the Committee on Energy, Infrastructure and Transportation.

Motion carried.

Senator Care moved that Senate Bills Nos. 146, 409; Assembly Bills Nos. 16, 52, 79, 109, 121, 191, 230, 243, 274, 486, 510 be taken from the General File and placed on the General File for the next legislative day.

Motion carried.

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

Motion carried.

Senate in recess at 1:19 p.m.

## SENATE IN SESSION

At 1:43 p.m.

President Krolicki presiding.

Quorum present.

## UNFINISHED BUSINESS

## CONSIDERATION OF ASSEMBLY AMENDMENTS

Senate Bill No. 164.

The following Assembly amendment was read:

Amendment No. 586.

"SUMMARY—Revises provisions governing charter schools and university schools for profoundly gifted pupils. (BDR 34-298)"

"AN ACT relating to education; revising provisions governing the renewal of a written charter for a charter school; revising provisions regarding the membership of a governing body of a charter school; revising provisions governing reimbursement to sponsors of charter schools for certain administrative costs; revising provisions governing the regional training programs for the professional development of teachers and administrators; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Section 1 of this bill revises the time by which a charter school must submit an application for the renewal of the written charter from not less than 90 days before the expiration of the charter to not less than 120 days before the expiration of the charter. (NRS 386.530)

Existing law prescribes the membership of a governing body of a charter school. (NRS 386.549) Section 2 of this bill authorizes the sponsor of the charter school ~~[, upon the request of the governing body, to nominate]~~ *to appoint* one additional member to the governing body.

Existing law authorizes the sponsor of a charter school to request, upon completion of each school year, reimbursement from the governing body of the charter school for the administrative costs associated with sponsorship.

(NRS 386.570) Section 3 of this bill revises the payments for reimbursement of administrative costs from yearly to quarterly.

Existing law creates four regional training programs for the professional development of teachers and administrators. Each regional training program is required to provide certain services to the school districts within the primary jurisdiction of the program. (NRS 391.512) Sections 4-7 of this bill require each regional training program to also provide services to each charter school located within the primary jurisdiction of the regional training program, regardless of the sponsor of the charter school, and each university school for profoundly gifted pupils located within the primary jurisdiction of the regional training program.

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

Section 1. NRS 386.530 is hereby amended to read as follows:

386.530 1. Except as otherwise provided in subsection 2, an application for renewal of a written charter may be submitted to the sponsor of the charter school not less than ~~90~~ 120 days before the expiration of the charter. The application must include the information prescribed by the regulations of the Department. The sponsor shall conduct an intensive review and evaluation of the charter school in accordance with the regulations of the Department. The sponsor shall renew the charter unless it finds the existence of any ground for revocation set forth in NRS 386.535. The sponsor shall provide written notice of its determination not fewer than 30 days before the expiration of the charter. If the sponsor intends not to renew the charter, the written notice must:

(a) Include a statement of the deficiencies or reasons upon which the action of the sponsor is based; and

(b) Prescribe a period of not less than 30 days during which the charter school may correct any such deficiencies.

➔ If the charter school corrects the deficiencies to the satisfaction of the sponsor within the time prescribed in paragraph (b), the sponsor shall renew the charter of the charter school.

2. A charter school may submit an application for renewal of its initial charter after 3 years of operation of the charter school. The application must include the information prescribed by the regulations of the Department. The sponsor shall conduct an intensive review and evaluation of the charter school in accordance with the regulations of the Department. The sponsor shall renew the charter unless it finds the existence of any ground for revocation set forth in NRS 386.535. The sponsor shall provide written notice of its determination. If the sponsor intends not to renew the charter, the written notice must:

(a) Include a statement of the deficiencies or reasons upon which the action of the sponsor is based; and

(b) Prescribe a period of not less than 30 days during which the charter school may correct any such deficiencies.

↪ If the charter school corrects the deficiencies to the satisfaction of the sponsor within the time prescribed in paragraph (b), the sponsor shall renew the charter of the charter school.

Sec. 2. NRS 386.549 is hereby amended to read as follows:

386.549 1. The governing body of a charter school ~~is~~:

~~(a) Must~~ must consist of:

~~{(1)}~~ (a) At least three teachers, as defined in subsection ~~{5.} 10~~; or

~~{(2)}~~ (b) Two teachers, as defined in subsection ~~{5.} 10~~, and one person who previously held a license to teach issued pursuant to chapter 391 of NRS as long as his license was held in good standing, including, without limitation, a retired teacher.

~~{(b) May consist of,}~~

2. *The governing body of a charter school may include, without limitation, parents and representatives of nonprofit organizations and businesses.*

~~{→}~~

3. ~~*After the formation of the governing body of a charter school, the governing body may request that the sponsor nominate one person to serve on the governing body.*~~ *The sponsor of a charter school may appoint one additional member to serve on the governing body of the charter school.*

4. Not more than two persons who serve on the governing body of a charter school may represent the same organization or business or otherwise represent the interests of the same organization or business.

5. A majority of the members of the governing body must reside in this State.

6. If the membership of the governing body changes, the governing body shall provide written notice to the sponsor of the charter school within 10 working days after such change.

~~{2.}~~ 7. A person may serve on the governing body only if he submits an affidavit to the Department indicating that the person:

(a) Has not been convicted of a felony relating to serving on the governing body of a charter school or any offense involving moral turpitude.

(b) Has read and understands material concerning the roles and responsibilities of members of governing bodies of charter schools and other material designed to assist the governing bodies of charter schools, if such material is provided to the person by the Department.

~~{3.}~~ 8. The governing body of a charter school is a public body. It is hereby given such reasonable and necessary powers, not conflicting with the Constitution and the laws of the State of Nevada, as may be requisite to attain the ends for which the charter school is established and to promote the welfare of pupils who are enrolled in the charter school.

~~{4.}~~ 9. The governing body of a charter school shall, during each calendar quarter, hold at least one regularly scheduled public meeting in the county in which the charter school is located.

~~{5.}~~ 10. As used in subsection 1, "teacher" means a person who:

(a) Holds a current license to teach issued pursuant to chapter 391 of NRS; and

(b) Has at least 2 years of experience as an employed teacher.

↪ The term does not include a person who is employed as a substitute teacher.

Sec. 3. NRS 386.570 is hereby amended to read as follows:

386.570 1. Each pupil who is enrolled in a charter school, including, without limitation, a pupil who is enrolled in a program of special education in a charter school, must be included in the count of pupils in the school district for the purposes of apportionments and allowances from the State Distributive School Account pursuant to NRS 387.121 to 387.126, inclusive, unless the pupil is exempt from compulsory attendance pursuant to NRS 392.070. A charter school is entitled to receive its proportionate share of any other money available from federal, state or local sources that the school or the pupils who are enrolled in the school are eligible to receive. If a charter school receives special education program units directly from this State, the amount of money for special education that the school district pays to the charter school may be reduced proportionately by the amount of money the charter school received from this State for that purpose.

2. All money received by the charter school from this State or from the board of trustees of a school district must be deposited in a bank, credit union or other financial institution in this State. The governing body of a charter school may negotiate with the board of trustees of the school district and the State Board for additional money to pay for services which the governing body wishes to offer.

3. Upon completion of ~~each~~ school ~~year,~~ *quarter*, the sponsor of a charter school may request reimbursement from the governing body of the charter school for the administrative costs associated with sponsorship for that school ~~year~~ *quarter* if the sponsor provided administrative services during that school ~~year~~ *quarter*. The request must include an itemized list of those costs. Upon receipt of such a request, the governing body shall pay the reimbursement to the board of trustees of the school district if the board of trustees sponsors the charter school, to the Department if the State Board sponsors the charter school or to the college or university within the Nevada System of Higher Education if that institution sponsors the charter school. If a governing body fails to pay the reimbursement, the charter school shall be deemed to have violated its written charter and the sponsor may take such action to revoke the written charter pursuant to NRS 386.535 as it deems necessary. If the board of trustees of a school district is the sponsor of a charter school, the amount of money that may be paid to the sponsor pursuant to this subsection for administrative expenses in 1 school year must not exceed:

(a) For the first year of operation of the charter school, 2 percent of the total amount of money apportioned to the charter school during the year

pursuant to NRS 387.124 ~~+~~ , *as adjusted by the final computation of apportionment pursuant to subsection 4 of NRS 387.1243.*

(b) For any year after the first year of operation of the charter school, 1 percent of the total amount of money apportioned to the charter school during the year pursuant to NRS 387.124 ~~+~~ , *as adjusted by the final computation of apportionment pursuant to subsection 4 of NRS 387.1243.*

4. If the State Board or a college or university within the Nevada System of Higher Education is the sponsor of a charter school, the amount of money that may be paid to the Department or to the institution, as applicable, pursuant to subsection 3 for administrative expenses in 1 school year must not exceed:

(a) For the first year of operation of the charter school, 2 percent of the total amount of money apportioned to the charter school during the year pursuant to NRS 387.124 ~~+~~ , *as adjusted by the final computation of apportionment pursuant to subsection 4 of NRS 387.1243.*

(b) For any year after the first year of operation of the charter school, 1.5 percent of the total amount of money apportioned to the charter school during the year pursuant to NRS 387.124 ~~+~~ , *as adjusted by the final computation of apportionment pursuant to subsection 4 of NRS 387.1243.*

5. To determine the amount of money for distribution to a charter school in its first year of operation, the count of pupils who are enrolled in the charter school must initially be determined 30 days before the beginning of the school year of the school district, based on the number of pupils whose applications for enrollment have been approved by the charter school. The count of pupils who are enrolled in the charter school must be revised on the last day of the first school month of the school district in which the charter school is located for the school year, based on the actual number of pupils who are enrolled in the charter school. Pursuant to subsection 5 of NRS 387.124, the governing body of a charter school may request that the apportionments made to the charter school in its first year of operation be paid to the charter school 30 days before the apportionments are otherwise required to be made.

6. If a charter school ceases to operate as a charter school during a school year, the remaining apportionments that would have been made to the charter school pursuant to NRS 387.124 for that year must be paid on a proportionate basis to the school districts where the pupils who were enrolled in the charter school reside.

7. The governing body of a charter school may solicit and accept donations, money, grants, property, loans, personal services or other assistance for purposes relating to education from members of the general public, corporations or agencies. The governing body may comply with applicable federal laws and regulations governing the provision of federal grants for charter schools. The State Board may assist a charter school that operates exclusively for the enrollment of pupils who receive special education in identifying sources of money that may be available from the

Federal Government or this State for the provision of educational programs and services to such pupils.

8. If a charter school uses money received from this State to purchase real property, buildings, equipment or facilities, the governing body of the charter school shall assign a security interest in the property, buildings, equipment and facilities to the State of Nevada.

Sec. 4. NRS 391.512 is hereby amended to read as follows:

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

(a) Regional training program for the professional development of teachers and administrators.

(b) Nevada Early Literacy Intervention Program through the regional training program established pursuant to paragraph (a).

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

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

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

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

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

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



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

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

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

7. The board of trustees of the:

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

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

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

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

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

Sec. 5. NRS 391.520 is hereby amended to read as follows:

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

2. The Statewide Council shall:

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

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

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

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

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

3. The Statewide Council may:

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

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

Sec. 6. NRS 391.540 is hereby amended to read as follows:

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

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

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

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

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

(1) An assessment of the training needs of teachers and administrators who are employed by the school districts , *charter schools, regardless of the*

*sponsor, and university schools for profoundly gifted pupils* within the primary jurisdiction of the regional training program; and

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

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

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

- (a) *Provide* training ~~[-, participate]~~ ;
- (b) *Participate* in a program ; or ~~[otherwise]~~
- (c) *Otherwise* perform a service ,

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

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

4. The governing body of a regional training program may, but is not required to, grant a request pursuant to ~~[this subsection.]~~ *subsection 2.*

Sec. 7. NRS 391.544 is hereby amended to read as follows:

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

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

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

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

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

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

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

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

2. The training required pursuant to subsection 1 must:

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

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

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

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

(2) Pupils who are limited English proficient.

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

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

(b) Fundamental reading skills; and

(c) Other training listed in subsection 1.

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

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

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

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

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

Sec. 8. This act becomes effective on July 1, 2009.

Senator Wiener moved that the Senate do not concur in the Assembly amendment to Senate Bill No. 164.

Remarks by Senator Wiener.

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

This is a measure that deals with charter schools. The Assembly changed the language from the Senate Health and Education Committee's vote related to the appointment process of an additional member to the governing body of the charter school.

Motion carried.

Bill ordered transmitted to the Assembly.

#### APPOINTMENT OF CONFERENCE COMMITTEES

President Krolicki appointed Senators Parks, Copening and Rhoads as a Conference Committee to meet with a like committee of the Assembly for the further consideration of Senate Bill No. 109.

#### SIGNING OF BILLS AND RESOLUTIONS

There being no objections, the President and Secretary signed Senate Bill No. 142; Assembly Bills Nos. 6, 14, 29, 41, 47, 48, 49, 71, 73, 85, 97, 107, 112, 122, 168, 174, 176, 194, 196, 209, 213, 219, 231, 232, 242, 257, 289, 301, 305, 306, 311, 352, 353, 362, 364, 372, 377, 428, 429, 432, 441, 455, 459, 472, 475, 480, 481, 499, 512, 516; Assembly Joint Resolution No. 10; Assembly Concurrent Resolution No. 32.

#### 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 Joy Amodei, Rynne Amodei, Erin Amodei, Lyla Mill and the following students from the Zephyr Cove Elementary School: Hayden Armstrong, Luke Borchers, JD Buchholz, Drue Chapman, Marijane Rodriguez, Gigi Stetler, Elijah Wothe, Samuel Berry, Cameron Ceglia, George Chakmakis, Alison Copsy, Marcos Flores Rojas, Cal Feller, Samantha Forvilly, Alayna Guysler, Scott Harrison, Isaac Hernandez, Anna Jidko, Fabiola Juarez, Aspen Kidd, Caroline Krolicki, Jakob La Rossa, Tahpainga Landavazo, Kristian Landing, Trevyn Larson, Pierce Manchester, Zamora Martinez, Chandler Nash-Elliott, Jackson Oleson, Kaven Peck, Michelle Rodriguez, Jalen Sigel and Cole Snyder.

On request of Senator Mathews, the privilege of the floor of the Senate Chamber for this day was extended to the following students from Our Lady of the Snows School: Adrian Alejo, Nicolas Bottger, Allan Briggs, Michael Bruno, Glenn Bydalek, Emily Cantlon, Joe Ferraro, Hank Gansert, Jack Guthrie, Logan Hartshorn, Naomi Hicks, Emi Higgins, Haden Hoel, Sophia

Kahl, Allison Kulikowski, Annelise Laughlin, Molly Marshall, Ellie McQuillan, Harrison Murray, Tom Porter, Garrett Recob, Alli Reviglio, Ryan Kyle Ruiz, Mason Stone, Billy Swope, Katie Turner, Emma Rose White, Connor Wittman, Melanie Blair, Samual Brewster, Karla Burcham, Sean Crum, Julianna Curry, Adam Deming, Sophia Deming, Ian Duke, Aaliyah Earl, Brian Festa, Iris Flores, James Jacobus, Adam Kairn, Leilani Kilroy, Kelly Klippenstein, Audrianna Lovitt, Victoria Maged, Cameron Martin, Noah Martinez, Quintin Mills, Abigail Ocampo, Sarah Osborne, Madison Pane, Angel Rosario, Carson Scott, Colton Shaff, Madeline Situmeang, Emelie Small, Sierra Starbuck, Madison Stewart, Megan Sullivan, Julia Wenzel and Marin Zaccheo.

On request of Senator Washington, the privilege of the floor of the Senate Chamber for this day was extended to Lucille Higgs and Cheryl McClellan.

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 David M. Cox Elementary School: Alex Milewski, Alex Hernandez, Anna White, Anthony Baumgartner, Anthony Rock, Baylee Blackburn, Brittany Whitt, Byron Mitchell, Carly Trost, Chan Lim, Chasyn Royce, Erica Hardy, Jacob Griffiths, Joia White, Kainoa Gonzales, Kayvon Heravi, Lucas Wagner-DeMann, Madison Farbod, Marren Abernathy, Michael Janosik, Nate Cromwell, Phoenix Frey, Ryan Baldwin, Sophia Leventis, Troi Pryor, Ashley Abad, Kiara Ackerman, Tristan Beavers, Darius Brown, Cooper Burgess, Taylor Cronic, Michael DiAsio, Ryan Garlick, Jacob Horowitz, Mychaela Jordan-Hill, William Kemp, Mary Kramp, Samuel Makowski, Chad McCracken, Lynnette Michels, Adam Kathrein, Roy Morley, Alexis Mosley, Amanda Pemberton, Jeanea Perez, Emma Shepard, Gage Walker; chaperones: Anissa Cole, James Orth and Tanya Steele.

Senator Horsford moved that the Senate adjourn until Saturday, May 16, 2009, at 10 a.m.

Motion carried.

Senate adjourned at 1:47 p.m.

Approved:

BRIAN K. KROLICKI  
*President of the Senate*

Attest: CLAIRE J. CLIFT  
*Secretary of the Senate*