

## THE ONE HUNDRED AND EIGHTEENTH DAY

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CARSON CITY (Saturday), May 30, 2009

Senate called to order at 12:15 p.m.

President Krolicki presiding.

Roll called.

All present.

Prayer by Senator Wiener.

Please join me in prayer. And, in so doing, let us close our eyes and take in a deep breath, inhaling the pure potential of this time and place, graced with the love and light of God.

Let us begin our moment of prayer with the truth that the ultimate identity of us in not, "I am this" or "I am that." Rather, simply and profoundly, "I am."

Today, in this moment, right here and right now, we come together to celebrate the splendid opportunities we have to demonstrate public service in so many ways. As Senators and legislative staff, we serve individually and collectively to help the people of this great State.

As we begin the 118th day of the seventy-fifth regular Session of the Nevada State Legislature, we remain vigilant in performing our oath and our duties. We are constantly reminded that each imprint we make on this process demonstrates who we are both humanly and spiritually.

In this awareness, I invite us to seek the joy in our work. Let us always remember that the One Perpetual Source, our Highest Power, illuminates us with an infinite supply of love and enlightenment. This magnificence is ours for the claiming.

Often, in the hurry and scurry of our legislative activities, here and at home, we might be inclined to experience moments of stress. At these times, I encourage each of us to take a few deep breaths and reflect on our eternal connection with God at all times in all places. It is essential for us to remember that we are loved for all that we do and more importantly for all that we are.

I know that, in these final days, we might not describe our work as being infused with joy. However, the words of one of my favorite authors, Eckhart Tolle, capture an insightful understanding of joy. He says, "Joy does not come from what you do. It flows into what you do and thus into the world from deep within you. The joy of being is not defined by what we possess or achieve or by other persons, events or activities in our lives. Real joy cannot come to us. Its source is within each of us."

In my faith practice, my favorite word of greeting is *Namaste*. This special exchange expresses the love, acceptance and respect we have for ourselves and in the same way how we extend this same love, acceptance and respect to each person we meet.

So, to each of you, my friends and colleagues, I say, "Namaste." And, in the name of the One and Only Source of Love and Light, I express my profound gratitude for all that we are and all that we are becoming.

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.

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

Senate in recess at 12:21 p.m.

#### SENATE IN SESSION

At 12:39 p.m.

President Krolicki presiding.

Quorum present.

#### REPORTS OF COMMITTEES

*Mr. President:*

Your Committee on Finance, to which were referred Assembly Bills Nos. 214, 546, 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 Assembly Bill No. 503, 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 Finance, to which was rereferred Senate Bill No. 330, 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 Judiciary, to which was referred Assembly Bill No. 385, 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 was referred Assembly Bill No. 9, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

JOYCE WOODHOUSE, *Chair*

#### MESSAGES FROM THE ASSEMBLY

ASSEMBLY CHAMBER, Carson City, May 29, 2009

*To the Honorable the Senate:*

I have the honor to inform your honorable body that the Assembly on this day adopted Senate Concurrent Resolution No. 36.

Also, I have the honor to inform your honorable body that the Assembly on this day respectfully refused to concur in the Senate Amendment No. 690 to Assembly Bill No. 88.

Also, I have the honor to inform your honorable body that the Assembly on this day receded from its action on Senate Bill No. 84, Assembly Amendment No. 723.

Also, I have the honor to inform your honorable body that the Assembly on this day respectfully refused to recede from its action on Senate Bill No. 35, Assembly Amendment No. 624, and requests a conference, and appointed Assemblymen Anderson, Home and Carpenter as a Conference Committee to meet with a like committee of the Senate.

Also, I have the honor to inform your honorable body that the Assembly on this day respectfully refused to recede from its action on Senate Bill No. 411, Assembly Amendment No. 840, and requests a conference, and appointed Assemblymen Claborn, Segerblom and Goicoechea as a Conference Committee to meet with a like committee of the Senate.

Also, I have the honor to inform your honorable body that the Assembly on this day adopted the reports of the Conference Committees concerning Senate Bills Nos. 17, 45, 101; Assembly Bill No. 46.

DIANE M. KEETCH

*Assistant Chief Clerk of the Assembly*

MOTIONS, RESOLUTIONS AND NOTICES

Senator Care moved that Senate Bill No. 354 be taken from Unfinished Business and placed on Unfinished Business for the next legislative day.

Motion carried.

Senator Care moved that Assembly Bill No. 355 be taken from the General File and placed on the Secretary's desk.

Remarks by Senator Care.

Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 521.

Bill read third time.

Roll call on Assembly Bill No. 521:

YEAS—21.

NAYS—None.

Assembly Bill No. 521 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 561.

Bill read third time.

Roll call on Assembly Bill No. 561:

YEAS—20.

NAYS—Coffin.

Assembly Bill No. 561 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

REMARKS FROM THE FLOOR

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

The title on Assembly Bill No. 561 says, "eliminates the Consumer Affairs Division." The amendment that was adopted says, "suspends it." I would like the record to reflect that. The action that was taken in the budget process was to suspend the functions for two years.

UNFINISHED BUSINESS

CONSIDERATION OF ASSEMBLY AMENDMENTS

Senate Bill No. 293.

The following Assembly amendment was read:

Amendment No. 712.

~~"SUMMARY—[Establishes procedures for authorizing the administration of certain medication for children in the custody of certain agencies.] *Makes various changes concerning the protection of children.* (BDR 38-701)"~~

~~"AN ACT relating to children; [prescribing procedures for authorizing the administration of] *making various changes to provisions governing the court-ordered admission of a child to a locked facility; requiring a court to provide a hearing to determine whether to include rights to visitation of siblings in a*~~

*decree of adoption; requiring the development of policies concerning certain psychotropic medications given to children who are in the custody of agencies which provide child welfare services; and providing other matters properly relating thereto."*

Legislative Counsel's Digest:

~~Existing law sets forth the circumstances under which a child may be removed from the physical custody of his parent or legal guardian and requires agencies which provide child welfare services to carry out certain duties relating to the protection of those children. (Chapter 432B of NRS) Section 1 of this bill prescribes procedures for an agency which provides child welfare services to obtain the consent of a parent or guardian of a child in the custody of an agency which provides child welfare services before authorizing the administration of a psychotropic medication to that child. Section 1 also provides that an agency which provides child welfare services may, under certain circumstances, obtain approval of a court of competent jurisdiction if the agency believes that a psychotropic medication must be administered to the child and the parent or legal guardian denies a request for consent.~~

~~Section 2 of this bill requires the Division of Child and Family Services of the Department of Health and Human Services to review the policies and procedures relating to the prescription and administration of psychotropic medication to children in the custody of agencies which provide child welfare services in this State and to report its findings to the Legislative Committee on Health Care and the mental health consortiums.]~~

*Existing law sets forth the procedure for petitioning a court to order the admission of certain children with emotional disturbances to a locked facility for treatment. (NRS 432B.607-432B.6085) Section 2.5 of this bill clarifies that as used in those provisions, "court-ordered admission of a child" includes a child for whom a petition is filed to continue placement after an emergency admission. Section 2.7 of this bill requires each agency which provides child welfare services to establish appropriate policies to ensure that children in the custody of the agency have timely access to clinically appropriate psychotropic medication. Section 11 of this bill requires the Division of Child and Family Services of the Department of Health and Human Services to adopt consistent policies with respect to access to such medication by children in division facilities.*

*Section 4 of this bill requires a petition for the court-ordered admission of a child with an emotional disturbance into a locked facility to be filed within 5 days after an emergency admission or the child must be released. (NRS 432B.6075) Section 5 of this bill clarifies that the court proceeding for the court-ordered admission of a child who is alleged to be a child with an emotional disturbance must include an evidentiary hearing. (NRS 432B.6076) Section 6 of this bill expands the manner in which a person is allowed to oppose a petition for the court-ordered admission of a child into a locked facility to include an opposition stated verbally in court.*

*(NRS 432B.6077) Section 7 of this bill provides that if a court authorizes a second evaluation team to examine a child who is subject to a court-ordered admission to a locked facility, the second examination must be conducted within 5 business days by a team that is not affiliated with, employed by or otherwise connected to the facility where the child has been admitted. (NRS 432B.6078) Section 8 of this bill requires a court to apply the same standards in considering a petition to renew a court-ordered admission of a child as were applied to the original petition. (NRS 432B.608) Section 9 of this bill extends the time for developing a plan for the care, treatment and training of a child subject to a court-ordered admission to a locked facility from 5 to 10 days after the child is admitted to the facility, and removes the requirement that the plan include certain criteria which the child must satisfy before discharge. (NRS 432B.6081)*

*Section 10 of this bill requires a court to conduct a hearing to determine whether to grant visitation rights to a sibling as part of an adoption decree when the adoption is of a child in the custody of an agency which provides child welfare services. Section 11 further requires the agency which provides child welfare services to provide the court that is conducting the adoption proceedings with a copy of any existing order for visitation with a sibling of the child and allows certain interested parties to petition to participate in the determination as to whether to include visitation rights in the adoption decree.*

*Section 12 of this bill requires the Legislative Committee on Health Care to study issues relating to the use of psychotropic medications by children in the custody of agencies which provide child welfare services.*

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

Section 1. [Chapter 432B of NRS is hereby amended by adding thereto a new section to read as follows:

~~1. Except as otherwise provided in this section and NRS 432B.607 to 432B.6085, inclusive, or by order of a court pursuant to chapter 433B of NRS, an agency which provides child welfare services may authorize the administration of a psychotropic medication to a child who is in the custody of the agency if the parent or legal guardian of the child who has the authority to make medical decisions for the child has given consent to the prescription and administration of the psychotropic medication. An agency which provides child welfare services shall provide to the parent or legal guardian of a child before obtaining consent for the administration of a psychotropic medication the following information:~~

- ~~(a) A description of the diagnosis and symptoms for which the psychotropic medication is sought to be prescribed;~~
- ~~(b) An estimate or a range of the dosage and frequency for the administration of the psychotropic medication;~~
- ~~(c) The expected results of the psychotropic medication;~~

~~(d) The anticipated consequences of not administering the psychotropic medication to the child; and~~

~~(e) A statement of all other medications currently administered to the child, the dosage of each medication and the justification for the continued use of each medication.~~

~~2. If the parent or legal guardian of a child does not respond to a request for consent pursuant to subsection 1 to administer a psychotropic medication to a child who is in the custody of an agency which provides child welfare services within 5 days after the request was made, the agency may authorize the administration of a psychotropic medication to the child.~~

~~3. If the parent or legal guardian of a child who has the authority to make medical decisions for the child denies a request for consent pursuant to subsection 1, an agency which provides child welfare services may authorize the administration of a psychotropic medication to that child unless:~~

~~(a) The child is under 6 years of age; or~~

~~(b) The child is being prescribed for more than five psychotropic medications.~~

~~4. Notwithstanding the provisions of subsections 1, 2 and 3, if an agency which provides child welfare services believes that a psychotropic medication must be administered to a child, the agency may, on behalf of the child, file a petition with a court of competent jurisdiction for an order authorizing the administration of the psychotropic medication to the child. The petition must include:~~

~~(a) The name and age of the child;~~

~~(b) A description of the diagnosis and symptoms for which the psychotropic medication is sought to be prescribed;~~

~~(c) An estimate or a range of the dosage and frequency for the administration of the psychotropic medication;~~

~~(d) The expected results of the psychotropic medication;~~

~~(e) A statement of all other medications currently administered to the child, the dosage of each medication and the justification for the continued use of each medication; and~~

~~(f) The anticipated consequences of not administering the psychotropic medication to the child.~~

~~5. If a petition is filed pursuant to subsection 4, the court shall, within 7 judicial days after receiving the petition:~~

~~(a) Approve the petition;~~

~~(b) Deny the petition;~~

~~(c) Upon request of the parent, legal guardian or attorney of the child, set a time and date for a hearing on the petition; or~~

~~(d) If the court determines appropriate, authorize the parent or legal guardian of the child to make a decision concerning the prescription of the psychotropic medications.~~

~~6. A foster parent, or other person responsible for the care of a child who is in the custody of an agency which provides child welfare services,~~

~~either than the parent or legal guardian who has the authority to make medical decisions for the child, who obtains a prescription for a psychotropic medication for the child shall obtain authorization from the agency before administering the medication to the child if the child is:~~

~~(a) Under 6 years of age; or~~

~~(b) Being prescribed for more than five psychotropic medications.~~

~~7. A person who administers a psychotropic medication to a child who is in the custody of an agency which provides child welfare services shall comply with the protocol concerning the use of the medication as indicated by the prescribing physician and, if applicable, the order of a court issued pursuant to subsection 5.~~

~~8. A child who is in the custody of an agency which provides child welfare services who is admitted to a public or private mental health facility under conditions of an emergency may be prescribed and administered a psychotropic medication, and such medication is not subject to review pursuant to the provisions of this section for 21 days after the child is admitted. Within 21 days after a child is admitted to a mental health facility under conditions of an emergency, the agency which provides child welfare shall:~~

~~(a) Authorize the continued administration of the medication in accordance with the provisions of subsections 1, 2 and 3; or~~

~~(b) If appropriate, file a petition on behalf of the child pursuant to subsection 4 to continue the administration of a psychotropic medication.~~

~~9. A child who is prescribed a psychotropic medication before the child enters the custody of an agency which provides child welfare services shall continue to take such medication and such medication is not subject to review pursuant to the provisions of this section. The provisions of this subsection do not apply to any changes in the prescription or additional prescriptions given to the child after he enters the custody of the agency which provides child welfare services.~~

~~10. The Division, in consultation with an agency which provides child welfare services located in a county whose population is 100,000 or more, shall adopt regulations to carry out the provisions of this section.~~

~~11. As used in this section, "psychotropic medication" means any medication which affects the central nervous system to treat psychiatric disorders or illness, including, without limitation, antipsychotic medications, mood stabilizers, antidepressants, antipanic agents, antiobsessive agents, antianxiety agents and psychostimulants. (Deleted by amendment.)~~

Sec. 2. [1. The Division of Child and Family Services of the Department of Health and Human Services, in consultation with agencies which provide child welfare services, officers and employees of the district courts in this State and mental health professionals who provide services to children shall review the policies and procedures relating to the prescription and administration of psychotropic medications to children in the custody of agencies which provide child welfare services in this State.

2. On or before July 1, 2010, the Division of Child and Family Services shall submit a report relating to the review conducted pursuant to subsection 1, the regulations adopted pursuant to section 1 of this act and any recommendations for legislation to:

~~(a) The Legislative Committee on Health Care; and~~  
~~(b) Each mental health consortium established pursuant to NRS 433B.333. (Deleted by amendment.)~~

Sec. 2.3. Chapter 432B of NRS is hereby amended by adding thereto the provisions set forth as sections 2.5 and 2.7 of this act.

Sec. 2.5. "Court-ordered admission of a child" includes, without limitation:

1. A child who is in the custody of an agency which provides child welfare services and who is not in a facility whom the court orders to be admitted to a facility; and

2. A child who has been placed in a facility under an emergency admission and whom the court orders to be admitted for the purpose of continuing the placement.

Sec. 2.7. Each agency which provides child welfare services shall establish appropriate policies to ensure that children in the custody of the agency have timely access to clinically appropriate psychotropic medication. The policies must include, without limitation, policies concerning:

1. The use of psychotropic medication in a manner that has not been tested or approved by the United States Food and Drug Administration, including, without limitation, the use of such medication for a child who is of an age that has not been tested or approved or who has a condition for which the use of the medication has not been tested or approved;

2. Prescribing any psychotropic medication for use by a child who is less than 4 years of age;

3. The concurrent use by a child of three or more classes of psychotropic medication; and

4. The concurrent use by a child of two psychotropic medications of the same class.

Sec. 3. NRS 432B.607 is hereby amended to read as follows:

432B.607 As used in NRS 432B.607 to 432B.6085, inclusive, and section 2.5 of this act, unless the context otherwise requires, the words and terms defined in NRS 432B.6071 to 432B.6074, inclusive, and section 2.5 of this act have the meanings ascribed to them in those sections.

Sec. 4. NRS 432B.6075 is hereby amended to read as follows:

432B.6075 1. A proceeding for a court-ordered admission of a child alleged to be a child with an emotional disturbance who is in the custody of an agency which provides child welfare services to a facility may be commenced by the filing of a petition with the clerk of the court which has jurisdiction in proceedings concerning the child. The petition may be filed by the agency which provides child welfare services without the consent of a parent of the child. The petition must be accompanied:



~~11~~ (a) By a certificate of a physician, psychiatrist or licensed psychologist stating that he has examined the child alleged to be a child with an emotional disturbance and has concluded that the child has an emotional disturbance and, because of that condition, is likely to harm himself or others if allowed his liberty; or

~~12~~ (b) By a sworn written statement by the petitioner that:

~~13~~ (1) The petitioner has, based upon his personal observation of the child alleged to be a child with an emotional disturbance, probable cause to believe that the child has an emotional disturbance and, because of that condition, is likely to harm himself or others if allowed his liberty; and

~~14~~ (2) The child alleged to be a child with an emotional disturbance has refused to submit to examination or treatment by a physician, psychiatrist or licensed psychologist.

2. If a petition filed pursuant to this section is to continue the placement of the child after an emergency admission, the petition must be filed not later than 5 days after the emergency admission or the child must be released.

Sec. 5. NRS 432B.6076 is hereby amended to read as follows:

432B.6076 1. Except as otherwise provided in NRS 432B.6077, if the court finds, after proceedings for the court-ordered admission of a child alleged to be a child with an emotional disturbance who is in the custody of an agency which provides child welfare services to a facility ~~15~~, including, without limitation, an evidentiary hearing:

(a) That there is not clear and convincing evidence that the child with respect to whom the hearing was held exhibits observable behavior such that he is likely to harm himself or others if allowed his liberty, the court shall enter its finding to that effect and the child must not be admitted to a facility.

(b) That there is clear and convincing evidence that the child with respect to whom the hearing was held is in need of treatment in a facility and is likely to harm himself or others if allowed his liberty, the court may order the admission of the child for the most appropriate course of treatment. The order of the court must be interlocutory and must not become final if, within 30 days after the admission, the child is unconditionally released from the facility pursuant to NRS 432B.6084.

2. Before issuing an order for admission or a renewal thereof, the court shall explore other alternative courses of treatment within the least restrictive appropriate environment as suggested by the evaluation team who evaluated the child, or other persons professionally qualified in the field of psychiatric mental health, which the court believes may be in the best interests of the child.

Sec. 6. NRS 432B.6077 is hereby amended to read as follows:

432B.6077 1. An agency which provides child welfare services shall not place a child who is in the custody of the agency in a facility, other than under an emergency admission, unless the agency has petitioned the court for the court-ordered admission of the child to a facility pursuant to NRS 432B.6075.

2. If a petition for the court-ordered admission of a child filed pursuant to NRS 432B.6075 is accompanied by the information described in paragraph (b) of subsection ~~4~~ 1 of NRS 432B.6075, the court shall order a psychological evaluation of the child.

3. If a court which receives a petition filed pursuant to NRS 432B.6075 for the court-ordered admission to a facility of a child who is in the custody of an agency which provides child welfare services determines pursuant to subsection 2 of NRS 432B.6076 that the child could be treated effectively in a less restrictive appropriate environment than a facility, the court must order the placement of the child in a less restrictive appropriate environment. In making such a determination, the court may consider any information provided to the court, including, without limitation:

(a) Any information provided pursuant to subsection 4;

(b) Any suggestions of psychologists, psychiatrists or other physicians who have evaluated the child concerning the appropriate environment for the child; and

(c) Any suggestions of licensed clinical social workers or other professionals or any adult caretakers who have interacted with the child and have information concerning the appropriate environment for the child.

4. If a petition for the court-ordered admission of a child who is in the custody of an agency which provides child welfare services is filed pursuant to NRS 432B.6075:

(a) Any person, including, without limitation, the child, may oppose the petition for the court-ordered admission of the child by filing a written opposition with the court ~~or~~ or stating the opposition in court; and

(b) The agency which provides child welfare services must present information to the court concerning whether:

(1) A facility is the appropriate environment to provide treatment to the child; or

(2) A less restrictive appropriate environment would serve the needs of the child.

*Sec. 7. NRS 432B.6078 is hereby amended to read as follows:*

432B.6078 1. Not later than 5 days after a child who is in the custody of an agency which provides child welfare services has been admitted to a facility pursuant to NRS 432B.6076, the agency which provides child welfare services shall inform the child of his legal rights and the provisions of NRS 432B.607 to 432B.6085, inclusive, and section 2.5 of this act, 433.456 to 433.543, inclusive, and 433.545 to 433.551, inclusive, and chapters 433A and 433B of NRS and, if the child or the child's attorney desires, assist the child in requesting the court to authorize a second examination by an evaluation team that includes a physician, psychiatrist or licensed psychologist who are not employed by, connected to or otherwise affiliated with the facility other than a physician, psychiatrist or licensed psychologist who performed an original examination which authorized the court to order the admission of the child to the facility. A second examination must be

conducted not later than 5 business days after the court authorizes the examination.

2. If the court authorizes a second examination of the child, the examination must:

(a) Include, without limitation, an evaluation concerning whether the child should remain in the facility and a recommendation concerning the appropriate placement of the child which must be provided to the facility; and

(b) Be paid for by the governmental entity that is responsible for the agency which provides child welfare services, if such payment is not otherwise provided by the State Plan for Medicaid.

*Sec. 8. NRS 432B.608 is hereby amended to read as follows:*

432B.608 1. If the court issues an order for the admission to a facility of a child who is in the custody of an agency which provides child welfare services pursuant to NRS 432B.6076, the admission automatically expires at the end of 90 days if not terminated previously by the facility as provided for in subsection 2 of NRS 432B.6084.

2. At the end of the court-ordered period of treatment, the agency which provides child welfare services, the Division of Child and Family Services or any facility may petition to renew the admission of the child for additional periods not to exceed 60 days each.

3. For each renewal, the petition must set forth the specific reasons why further treatment in the facility would be in the best interests of the child ~~and~~ and the court shall apply the same standards when considering a petition to renew the admission of the child as were applied for the original petition for the court-ordered admission of the child.

*Sec. 9. NRS 432B.6081 is hereby amended to read as follows:*

432B.6081 A facility which provides care, treatment or training to a child who is in the custody of an agency which provides child welfare services and who is admitted to the facility pursuant to NRS 432B.6076 shall develop a plan, in consultation with the child, for the continued care, treatment and training of the child upon discharge from the facility. The plan must:

1. Be developed not later than ~~5~~ 10 days after the child is admitted to the facility;

2. Be submitted to the court after each period of admission ordered by the court pursuant to NRS 432B.6076 in the manner set forth in NRS 432B.608; and

3. Include, without limitation:

(a) The anticipated date of discharge of the child from the facility;

(b) ~~The criteria which must be satisfied before the child is discharged from the facility, as determined by the medical professional responsible for the care, treatment and training of the child in the facility;~~

~~(e)~~ The name of any psychiatrist or psychologist who will provide care, treatment or training to the child after the child is discharged from the facility, if appropriate;

~~(d)~~ (c) A plan for any appropriate care, treatment or training for the child for at least 30 days after the child is discharged from the facility; and

~~(e)~~ (d) The suggested placement of the child after the child is discharged from the facility.

*Sec. 10. Chapter 127 of NRS is hereby amended by adding thereto a new section to read as follows:*

*1. If a child who is in the custody of an agency which provides child welfare services is placed for adoption, the agency must provide the court which is conducting the adoption proceedings with a copy of any order for visitation with a sibling of the child that was issued pursuant to NRS 432B.580 and the court must conduct a hearing to determine whether to include an order for visitation with a sibling in the decree of adoption.*

*2. Any interested party in the adoption, including, without limitation, the adoptive parent, the adoptive child, a sibling of the adoptive child, the agency which provides child welfare services or a licensed child-placing agency may petition the court to participate in the determination of whether to include an order of visitation with a sibling in the decree of adoption.*

*3. The sole consideration of the court in making a determination concerning visitation with a sibling pursuant to this section is the best interest of the child.*

*Sec. 11. NRS 433B.130 is hereby amended to read as follows:*

433B.130 1. The Administrator shall:

(a) Administer, in accordance with the policies established by the Commission, the programs of the Division for the mental health of children.

(b) Appoint the administrative personnel necessary to operate the programs of the Division for the mental health of children. The Commission must approve the credentials, training and experience of deputy administrators and administrative officers appointed for this purpose.

(c) Delegate to the administrative officers the power to appoint medical, technical, clerical and operational staff necessary for the operation of any division facilities.

*(d) Establish appropriate policies to ensure that children in division facilities have timely access to clinically appropriate psychotropic medication that are consistent with the policies established pursuant to section 2.7 of this act.*

2. If the Administrator finds that it is necessary or desirable that any employee reside at a facility operated by the Division or receive meals at such a facility, perquisites granted or charges for services rendered to that person are at the discretion of the Governor.

3. The Administrator may accept children referred to the Division for treatment pursuant to the provisions of NRS 458.290 to 458.350, inclusive.

4. The Administrator may enter into agreements with the Administrator of the Division of Mental Health and Developmental Services of the Department for the care and treatment of clients of the Division of Child and Family Services at any facility operated by the Division of Mental Health and Developmental Services.

*Sec. 12. During the 2009-2011 interim, the Legislative Committee on Health Care shall study the policies adopted pursuant to section 2.7 of this act and NRS 433B.130, as amended by section 11 of this act, and the use of psychotropic medication by children in the custody of agencies which provide child welfare services, including, without limitation, children in the custody of a facility operated by the Division of Child and Family Services of the Department of Health and Human Services. The study must include, without limitation, issues concerning:*

*1. The use of psychotropic medication in a manner that has not been tested or approved by the United States Food and Drug Administration, including, without limitation, the use of such medication for a child who is of an age that has not been tested or approved or who has a condition for which the use of the medication has not been tested or approved;*

*2. Prescribing any psychotropic medication for use by a child who is less than 4 years of age;*

*3. The concurrent use by a child of three or more classes of psychotropic medication;*

*4. Whether children in the custody of agencies which provide child welfare services have timely access to clinically appropriate psychotropic medication; and*

*5. The concurrent use by a child of two psychotropic medications of the same class.*

*Sec. 13. This act becomes effective on July 1, 2009.*

Amendment No. 949.

"SUMMARY—Makes various changes concerning the protection of children. (BDR 38-701)"

"AN ACT relating to children; making various changes to provisions governing the court-ordered admission of a child to a locked facility; *revising provisions governing proceedings on a petition alleging that a child is in need of protection*; requiring a court to provide a hearing to determine whether to include rights to visitation of siblings in a decree of adoption; requiring the development of policies concerning certain psychotropic medications given to children who are in the custody of agencies which provide child welfare services; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law sets forth the procedure for petitioning a court to order the admission of certain children with emotional disturbances to a locked facility for treatment. (NRS 432B.607-432B.6085) Section 2.5 of this bill clarifies that as used in those provisions, "court-ordered admission of a child"

includes a child for whom a petition is filed to continue placement after an emergency admission. Section 2.7 of this bill requires each agency which provides child welfare services to establish appropriate policies to ensure that children in the custody of the agency have timely access to clinically appropriate psychotropic medication. Section 11 of this bill requires the Division of Child and Family Services of the Department of Health and Human Services to adopt consistent policies with respect to access to such medication by children in division facilities.

Existing law governs the requirements for a petition alleging that a child is in need of protection and provides that the district attorney shall countersign each such petition and represent the interests of the public in all subsequent proceedings. (NRS 432B.510) Section 2.9 of this bill requires an agency which provides child welfare services to represent the best interests of the child in all proceedings and revises the provisions governing the district attorney to require that the district attorney represent the interests of the agency which provides child welfare services in all subsequent proceedings.

Section 4 of this bill requires a petition for the court-ordered admission of a child with an emotional disturbance into a locked facility to be filed within 5 days after an emergency admission or the child must be released. (NRS 432B.6075) Section 5 of this bill clarifies that the court proceeding for the court-ordered admission of a child who is alleged to be a child with an emotional disturbance must include an evidentiary hearing. (NRS 432B.6076) Section 6 of this bill expands the manner in which a person is allowed to oppose a petition for the court-ordered admission of a child into a locked facility to include an opposition stated verbally in court. (NRS 432B.6077) Section 7 of this bill provides that if a court authorizes a second evaluation team to examine a child who is subject to a court-ordered admission to a locked facility, the second examination must be conducted within 5 business days by a team that is not affiliated with, employed by or otherwise connected to the facility where the child has been admitted. (NRS 432B.6078) Section 8 of this bill requires a court to apply the same standards in considering a petition to renew a court-ordered admission of a child as were applied to the original petition. (NRS 432B.608) Section 9 of this bill extends the time for developing a plan for the care, treatment and training of a child subject to a court-ordered admission to a locked facility from 5 to 10 days after the child is admitted to the facility, and removes the requirement that the plan include certain criteria which the child must satisfy before discharge. (NRS 432B.6081)

Section 10 of this bill requires a court to conduct a hearing to determine whether to grant visitation rights to a sibling as part of an adoption decree when the adoption is of a child in the custody of an agency which provides child welfare services. Section 11 further requires the agency which provides child welfare services to provide the court that is conducting the adoption proceedings with a copy of any existing order for visitation with a sibling of the child and allows certain interested parties to petition to participate in the

determination as to whether to include visitation rights in the adoption decree.

Section 12 of this bill requires the Legislative Committee on Health Care to study issues relating to the use of psychotropic medications by children in the custody of agencies which provide child welfare services.

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

Section 1. (Deleted by amendment.)

Sec. 2. (Deleted by amendment.)

Sec. 2.3. Chapter 432B of NRS is hereby amended by adding thereto the provisions set forth as sections 2.5 and 2.7 of this act.

Sec. 2.5. *"Court-ordered admission of a child" includes, without limitation:*

1. *A child who is in the custody of an agency which provides child welfare services and who is not in a facility whom the court orders to be admitted to a facility; and*

2. *A child who has been placed in a facility under an emergency admission and whom the court orders to be admitted for the purpose of continuing the placement.*

Sec. 2.7. *Each agency which provides child welfare services shall establish appropriate policies to ensure that children in the custody of the agency have timely access to clinically appropriate psychotropic medication. The policies must include, without limitation, policies concerning:*

1. *The use of psychotropic medication in a manner that has not been tested or approved by the United States Food and Drug Administration, including, without limitation, the use of such medication for a child who is of an age that has not been tested or approved or who has a condition for which the use of the medication has not been tested or approved;*

2. *Prescribing any psychotropic medication for use by a child who is less than 4 years of age;*

3. *The concurrent use by a child of three or more classes of psychotropic medication; and*

4. *The concurrent use by a child of two psychotropic medications of the same class.*

Sec. 2.9. NRS 432B.510 is hereby amended to read as follows:

432B.510 1. A petition alleging that a child is in need of protection may be signed only by:

- (a) A representative of an agency which provides child welfare services;
- (b) A law enforcement officer or probation officer; or
- (c) The district attorney.

2. An agency which provides child welfare services shall represent the best interests of the child in all proceedings. The district attorney shall countersign every petition alleging need of protection, and shall represent the interests of the ~~public~~ child welfare agency in all proceedings. If the district attorney fails or refuses to countersign the petition, the petitioner may seek a

review by the Attorney General. If the Attorney General determines that a petition should be filed, he shall countersign the petition and shall represent the interests of the ~~public~~ child welfare agency in all subsequent proceedings.

3. Every petition must be entitled "In the Matter of ....., a child," and must be verified by the person who signs it.

4. Every petition must set forth specifically:

(a) The facts which bring the child within the jurisdiction of the court as indicated in NRS 432B.410.

(b) The name, date of birth and address of the residence of the child.

(c) The names and addresses of the residences of his parents and any other person responsible for the child's welfare, and spouse if any. If his parents or other person responsible for his welfare do not reside in this State or cannot be found within the State, or if their addresses are unknown, the petition must state the name of any known adult relative residing within the State or, if there is none, the known adult relative residing nearest to the court.

(d) Whether the child is in protective custody and, if so:

(1) The agency responsible for placing the child in protective custody and the reasons therefor; and

(2) Whether the child has been placed in a home or facility in compliance with the provisions of NRS 432B.3905. If the placement does not comply with the provisions of NRS 432B.3905, the petition must include a plan for transferring the child to a placement which complies with the provisions of NRS 432B.3905.

5. When any of the facts required by subsection 4 are not known, the petition must so state.

Sec. 3. NRS 432B.607 is hereby amended to read as follows:

432B.607 As used in NRS 432B.607 to 432B.6085, inclusive, *and section 2.5 of this act*, unless the context otherwise requires, the words and terms defined in NRS 432B.6071 to 432B.6074, inclusive, *and section 2.5 of this act* have the meanings ascribed to them in those sections.

Sec. 4. NRS 432B.6075 is hereby amended to read as follows:

432B.6075 1. A proceeding for a court-ordered admission of a child alleged to be a child with an emotional disturbance who is in the custody of an agency which provides child welfare services to a facility may be commenced by the filing of a petition with the clerk of the court which has jurisdiction in proceedings concerning the child. The petition may be filed by the agency which provides child welfare services without the consent of a parent of the child. The petition must be accompanied:

~~1.~~ (a) By a certificate of a physician, psychiatrist or licensed psychologist stating that he has examined the child alleged to be a child with an emotional disturbance and has concluded that the child has an emotional disturbance and, because of that condition, is likely to harm himself or others if allowed his liberty; or

~~2.~~ (b) By a sworn written statement by the petitioner that:



~~[(a)]~~ (1) The petitioner has, based upon his personal observation of the child alleged to be a child with an emotional disturbance, probable cause to believe that the child has an emotional disturbance and, because of that condition, is likely to harm himself or others if allowed his liberty; and

~~[(b)]~~ (2) The child alleged to be a child with an emotional disturbance has refused to submit to examination or treatment by a physician, psychiatrist or licensed psychologist.

2. *If a petition filed pursuant to this section is to continue the placement of the child after an emergency admission, the petition must be filed not later than 5 days after the emergency admission or the child must be released.*

Sec. 5. NRS 432B.6076 is hereby amended to read as follows:

432B.6076 1. Except as otherwise provided in NRS 432B.6077, if the court finds, after proceedings for the court-ordered admission of a child alleged to be a child with an emotional disturbance who is in the custody of an agency which provides child welfare services to a facility ~~[-]~~, *including, without limitation, an evidentiary hearing:*

(a) That there is not clear and convincing evidence that the child with respect to whom the hearing was held exhibits observable behavior such that he is likely to harm himself or others if allowed his liberty, the court shall enter its finding to that effect and the child must not be admitted to a facility.

(b) That there is clear and convincing evidence that the child with respect to whom the hearing was held is in need of treatment in a facility and is likely to harm himself or others if allowed his liberty, the court may order the admission of the child for the most appropriate course of treatment. The order of the court must be interlocutory and must not become final if, within 30 days after the admission, the child is unconditionally released from the facility pursuant to NRS 432B.6084.

2. Before issuing an order for admission or a renewal thereof, the court shall explore other alternative courses of treatment within the least restrictive appropriate environment as suggested by the evaluation team who evaluated the child, or other persons professionally qualified in the field of psychiatric mental health, which the court believes may be in the best interests of the child.

Sec. 6. NRS 432B.6077 is hereby amended to read as follows:

432B.6077 1. An agency which provides child welfare services shall not place a child who is in the custody of the agency in a facility, other than under an emergency admission, unless the agency has petitioned the court for the court-ordered admission of the child to a facility pursuant to NRS 432B.6075.

2. If a petition for the court-ordered admission of a child filed pursuant to NRS 432B.6075 is accompanied by the information described in *paragraph (b) of subsection ~~[-]~~ 1 of NRS 432B.6075*, the court shall order a psychological evaluation of the child.

3. If a court which receives a petition filed pursuant to NRS 432B.6075 for the court-ordered admission to a facility of a child who is in the custody

of an agency which provides child welfare services determines pursuant to subsection 2 of NRS 432B.6076 that the child could be treated effectively in a less restrictive appropriate environment than a facility, the court must order the placement of the child in a less restrictive appropriate environment. In making such a determination, the court may consider any information provided to the court, including, without limitation:

- (a) Any information provided pursuant to subsection 4;
- (b) Any suggestions of psychologists, psychiatrists or other physicians who have evaluated the child concerning the appropriate environment for the child; and
- (c) Any suggestions of licensed clinical social workers or other professionals or any adult caretakers who have interacted with the child and have information concerning the appropriate environment for the child.

4. If a petition for the court-ordered admission of a child who is in the custody of an agency which provides child welfare services is filed pursuant to NRS 432B.6075:

(a) Any person, including, without limitation, the child, may oppose the petition for the court-ordered admission of the child by filing a written opposition with the court ~~or~~ *or stating the opposition in court*; and

(b) The agency which provides child welfare services must present information to the court concerning whether:

(1) A facility is the appropriate environment to provide treatment to the child; or

(2) A less restrictive appropriate environment would serve the needs of the child.

Sec. 7. NRS 432B.6078 is hereby amended to read as follows:

432B.6078 1. Not later than 5 days after a child who is in the custody of an agency which provides child welfare services has been admitted to a facility pursuant to NRS 432B.6076, the agency which provides child welfare services shall inform the child of his legal rights and the provisions of NRS 432B.607 to 432B.6085, inclusive, *and section 2.5 of this act*, 433.456 to 433.543, inclusive, and 433.545 to 433.551, inclusive, and chapters 433A and 433B of NRS and, if the child or the child's attorney desires, assist the child in requesting the court to authorize a second examination by an evaluation team that includes a physician, psychiatrist or licensed psychologist *who are not employed by, connected to or otherwise affiliated with the facility* other than a physician, psychiatrist or licensed psychologist who performed an original examination which authorized the court to order the admission of the child to the facility. *A second examination must be conducted not later than 5 business days after the court authorizes the examination.*

2. If the court authorizes a second examination of the child, the examination must:

(a) Include, without limitation, an evaluation concerning whether the child should remain in the facility and a recommendation concerning the

appropriate placement of the child which must be provided to the facility;  
and

(b) Be paid for by the governmental entity that is responsible for the agency which provides child welfare services, if such payment is not otherwise provided by the State Plan for Medicaid.

Sec. 8. NRS 432B.608 is hereby amended to read as follows:

432B.608 1. If the court issues an order for the admission to a facility of a child who is in the custody of an agency which provides child welfare services pursuant to NRS 432B.6076, the admission automatically expires at the end of 90 days if not terminated previously by the facility as provided for in subsection 2 of NRS 432B.6084.

2. At the end of the court-ordered period of treatment, the agency which provides child welfare services, the Division of Child and Family Services or any facility may petition to renew the admission of the child for additional periods not to exceed 60 days each.

3. For each renewal, the petition must set forth the specific reasons why further treatment in the facility would be in the best interests of the child ~~and~~ *and the court shall apply the same standards when considering a petition to renew the admission of the child as were applied for the original petition for the court-ordered admission of the child.*

Sec. 9. NRS 432B.6081 is hereby amended to read as follows:

432B.6081 A facility which provides care, treatment or training to a child who is in the custody of an agency which provides child welfare services and who is admitted to the facility pursuant to NRS 432B.6076 shall develop a plan, in consultation with the child, for the continued care, treatment and training of the child upon discharge from the facility. The plan must:

1. Be developed not later than ~~5~~ 10 days after the child is admitted to the facility;

2. Be submitted to the court after each period of admission ordered by the court pursuant to NRS 432B.6076 in the manner set forth in NRS 432B.608; and

3. Include, without limitation:

(a) The anticipated date of discharge of the child from the facility;

(b) ~~The criteria which must be satisfied before the child is discharged from the facility, as determined by the medical professional responsible for the care, treatment and training of the child in the facility;~~

~~(c)~~ The name of any psychiatrist or psychologist who will provide care, treatment or training to the child after the child is discharged from the facility, if appropriate;

~~(d)~~ (c) A plan for any appropriate care, treatment or training for the child for at least 30 days after the child is discharged from the facility; and

~~(e)~~ (d) The suggested placement of the child after the child is discharged from the facility.

Sec. 10. Chapter 127 of NRS is hereby amended by adding thereto a new section to read as follows:

1. *If a child who is in the custody of an agency which provides child welfare services is placed for adoption, the agency must provide the court which is conducting the adoption proceedings with a copy of any order for visitation with a sibling of the child that was issued pursuant to NRS 432B.580 and the court must conduct a hearing to determine whether to include an order for visitation with a sibling in the decree of adoption.*

2. *Any interested party in the adoption, including, without limitation, the adoptive parent, the adoptive child, a sibling of the adoptive child, the agency which provides child welfare services or a licensed child-placing agency may petition the court to participate in the determination of whether to include an order of visitation with a sibling in the decree of adoption.*

3. *The sole consideration of the court in making a determination concerning visitation with a sibling pursuant to this section is the best interest of the child.*

Sec. 11. NRS 433B.130 is hereby amended to read as follows:

433B.130 1. The Administrator shall:

(a) Administer, in accordance with the policies established by the Commission, the programs of the Division for the mental health of children.

(b) Appoint the administrative personnel necessary to operate the programs of the Division for the mental health of children. The Commission must approve the credentials, training and experience of deputy administrators and administrative officers appointed for this purpose.

(c) Delegate to the administrative officers the power to appoint medical, technical, clerical and operational staff necessary for the operation of any division facilities.

(d) *Establish appropriate policies to ensure that children in division facilities have timely access to clinically appropriate psychotropic medication that are consistent with the policies established pursuant to section 2.7 of this act.*

2. If the Administrator finds that it is necessary or desirable that any employee reside at a facility operated by the Division or receive meals at such a facility, perquisites granted or charges for services rendered to that person are at the discretion of the Governor.

3. The Administrator may accept children referred to the Division for treatment pursuant to the provisions of NRS 458.290 to 458.350, inclusive.

4. The Administrator may enter into agreements with the Administrator of the Division of Mental Health and Developmental Services of the Department for the care and treatment of clients of the Division of Child and Family Services at any facility operated by the Division of Mental Health and Developmental Services.

Sec. 12. During the 2009-2011 interim, the Legislative Committee on Health Care shall study the policies adopted pursuant to section 2.7 of this act and NRS 433B.130, as amended by section 11 of this act, and the use of

psychotropic medication by children in the custody of agencies which provide child welfare services, including, without limitation, children in the custody of a facility operated by the Division of Child and Family Services of the Department of Health and Human Services. The study must include, without limitation, issues concerning:

1. The use of psychotropic medication in a manner that has not been tested or approved by the United States Food and Drug Administration, including, without limitation, the use of such medication for a child who is of an age that has not been tested or approved or who has a condition for which the use of the medication has not been tested or approved;

2. Prescribing any psychotropic medication for use by a child who is less than 4 years of age;

3. The concurrent use by a child of three or more classes of psychotropic medication;

4. Whether children in the custody of agencies which provide child welfare services have timely access to clinically appropriate psychotropic medication; and

5. The concurrent use by a child of two psychotropic medications of the same class.

Sec. 13. This act becomes effective on July 1, 2009.

Senator Wiener moved to concur in Amendment No. 712 and to not concur in Assembly Amendment No. 949 to Senate Bill No. 293.

Remarks by Senator Wiener.

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

The second amendment addresses a proposal we did not hear in our committee. Therefore, we want to have a conversation with the Assembly members about this proposal.

Motion carried.

Bill ordered transmitted to the Assembly.

#### APPOINTMENT OF CONFERENCE COMMITTEES

President Krolicki appointed Senators Care, Washington and Wiener as a Conference Committee to meet with a like committee of the Assembly for the further consideration of Senate Bill No. 68.

President Krolicki appointed Senators Care, Parks and McGinness as a Conference Committee to meet with a like committee of the Assembly for the further consideration of Senate Bill No. 183.

Senator Horsford moved that the Senate recess until 3 p.m.

Motion carried.

Senate in recess at 12:47 p.m.

#### SENATE IN SESSION

At 3:42 p.m.

President Krolicki presiding.

Quorum present.

## REPORTS OF COMMITTEES

*Mr. President:*

Your Committee on Legislative Operations and Elections, to which were referred Senate Bill No. 316; Assembly Bill No. 494, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

JOYCE WOODHOUSE, *Chair*

## MESSAGES FROM THE ASSEMBLY

ASSEMBLY CHAMBER, Carson City, May 30, 2009

*To the Honorable the Senate:*

I have the honor to inform your honorable body that the Assembly on this day passed, as amended, Assembly Bill No. 317.

Also, I have the honor to inform your honorable body that the Assembly on this day concurred in the Senate Amendment No. 961 to Assembly Bill No. 65; Senate Amendment No. 959 to Assembly Bill No. 148.

Also, I have the honor to inform your honorable body that the Assembly on this day respectfully refused to concur in the Senate Amendment No. 957 to Assembly Bill No. 523.

Also, I have the honor to inform your honorable body that the Assembly on this day respectfully refused to recede from its action on Senate Bill No. 182, Assembly Amendment No. 947, and requests a conference, and appointed Assemblymen Segerblom, Kihuen and Hambrick as a Conference Committee to meet with a like committee of the Senate.

Also, I have the honor to inform your honorable body that the Assembly on this day appointed Assemblymen Munford, Spiegel and Mastroluca as a Conference Committee concerning Assembly Bill No. 60.

Also, I have the honor to inform your honorable body that the Assembly on this day adopted the reports of the Conference Committees concerning Senate Bills Nos. 218, 389; Assembly Bill No. 130.

DIANE M. KEETCH

*Assistant Chief Clerk of the Assembly*

## INTRODUCTION, FIRST READING AND REFERENCE

Assembly Bill No. 317.

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

Motion carried.

## SECOND READING AND AMENDMENT

Senate Bill No. 316.

Bill read second time.

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

Amendment No. 985.

"SUMMARY—Directs the Legislative ~~Commission to provide for a study concerning~~ Committee on Health Care to consider the establishment of a health insurance exchange in Nevada. (BDR S-1108)"

"AN ACT relating to insurance; directing the Legislative ~~Commission to provide for a study concerning~~ Committee on Health Care to consider the establishment of a health insurance exchange in this State; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Section 1 of this bill requires the Legislative ~~Commission~~ Committee on Health Care to ~~provide for a study conducted by the staff of the Legislative~~

~~Counsel Bureau concerning~~ *consider* the establishment of a health insurance exchange in this State.

Section 2 of this bill requires the ~~staff of the~~ Legislative ~~Counsel Bureau to submit a report of the study and~~ *Committee on Health Care to provide to the Legislature* any recommendations for legislation ~~to the Legislative Commission not later than June 30, 2010. Section 2 also requires the Legislative Commission to submit the report and any recommendations for legislation to the 76th Session of the Nevada Legislature.~~ *as a result of its consideration.*

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

Section 1. 1. ~~The~~ *During the 2009-2011 interim, the* Legislative ~~Commission~~ *Committee on Health Care* shall ~~provide for a study conducted by the staff of the Legislative Counsel Bureau concerning~~ *consider* the establishment of a health insurance exchange that provides information on health insurance options and health care products. ~~f~~

~~2. The study must include, without limitation,~~ *including, to the extent practicable,* an examination of:

(a) Whether a health insurance exchange would provide persons in this State with greater access, choice, portability and affordability of health insurance coverage;

(b) The potential scope of a health insurance exchange;

(c) The potential powers and duties of a health insurance exchange;

(d) The benefits and value of a health insurance exchange to this State, including, without limitation, the extent to which the exchange may lower the cost of health care coverage;

(e) The use of a health insurance exchange to receive and process employee premiums on a pretax basis pursuant to 26 U.S.C. § 125;

(f) The eligibility criteria that a person or insurer must meet to participate in a health insurance exchange; *and*

(g) The types of health care plans that may be offered through a health insurance exchange and the extent to which each such health care plan should be available for purchase only through the exchange. ~~f~~

~~(h) The loss ratio requirements for health care plans offered through a health insurance exchange;~~

~~(i) The estimated administrative costs of operating a health insurance exchange and the methods for funding the administrative costs; and~~

~~(j) Any other issues relevant to the establishment, regulation and operation of a health insurance exchange.~~

~~3.~~ *2.* As used in this section:

(a) "Health care plan" means a policy, contract, certificate or agreement offered or issued to provide, deliver, arrange for, pay for or reimburse any of the costs of health care services.

(b) "Health insurance exchange" means a program that provides information concerning health care plans, including, without limitation,

information concerning costs, benefits, availability of and eligibility for health care plans.

~~[(c) "Loss ratio" means incurred losses divided by the sum of earned premiums.]~~

Sec. 2. ~~[Not later than June 30, 2010, the staff of the] *The* Legislative ~~[Counsel Bureau] *Committee on Health Care* shall [submit a report of the results of the study conducted pursuant to] *provide to the Legislature as a result of its consideration of any of the topics listed in* section 1 of this act ~~[and] any recommendations for legislation. [to the Legislative Commission. The Legislative Commission shall submit the report and any recommendations for legislation to the 76th Session of the Nevada Legislature.]~~~~~~

Senator Woodhouse moved the adoption of the amendment.

Remarks by Senators Woodhouse, Washington and Copenig.

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

SENATOR WOODHOUSE:

Amendment No. 985 deletes the requirement in the bill for the Legislative Counsel Bureau staff study and instead directs the Legislative Committee on Health Care, as part of its work program for the 2009-2010 interim period, to consider studying the establishment of a Health Insurance Exchange that provides information on health-insurance options and health-care products.

SENATOR WASHINGTON:

Does this take under consideration the Health Care Academy that has been established and the work that they are doing?

SENATOR WOODHOUSE:

That was not discussed during our hearing.

SENATOR COPENING:

Could you expand upon what you would like to see happen?

SENATOR WASHINGTON:

I am concerned that there might be some areas of duplication. The Health Care Academy considers health-care policies and forwards recommendations to the Legislative Health Care Committee in regard to policies and procedures that may need to be put in place. This looks like we are asking the Health Care Committee to provide recommendations for legislation. During the last few interims, we have set up this academy to help us develop recommendations and policies dealing with health-care issues. Is there duplication in the effort?

SENATOR WOODHOUSE:

I do not believe there would be duplication because there was a study in this bill that we cannot fund. We would like to send it to the Health Care Committee to look at these issues. None are mandated. It would be within their purview to decide which ones they could accomplish. We are trying to take one step forward in this area of the health exchange.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 385.

Bill read second time.



The following amendment was proposed by the Committee on Judiciary:

Amendment No. 975.

"SUMMARY—Makes various changes concerning ~~private~~ prisons. (BDR 16-523)"

"AN ACT relating to prisons; requiring the Board of State Prison Commissioners to adopt regulations pertaining to a facility or institution operated by a private organization; *requiring the monitoring of certain private facilities and institutions; providing for the development of minimum staffing levels for institutions and facilities of the Department of Corrections*; providing that certain provisions relating to a prisoner confined in a facility or institution also apply to a prisoner confined in a private facility or institution operated by a private organization; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law requires the Board of State Prison Commissioners to adopt regulations for carrying out the business of the Board and of the Department of Corrections. (NRS 209.111) Section ~~1.3~~ 1.4 of this bill requires the Board to adopt additional regulations, ~~1~~ 1 establishing the maximum number of prisoners that may be incarcerated in a private facility or institution, ~~1~~ 1 and ~~(2) requiring that a private facility or institution must meet or exceed the standards set forth in the inmate housing plan approved in the budget of the Department for the biennium, including, without limitation, any associated line item costs.~~ Those regulations must be based upon the standards adopted by the American Correctional Association.

Section 1.5 of this bill requires the Department to monitor private facilities or institutions which house prisoners incarcerated pursuant to the authority of another state to ensure that the care and custody of the prisoners comply with the Nevada Constitution and the United States Constitution. Section 1.6 of this bill provides that the provisions of this bill which relate to private facilities or institutions do not apply with respect to prisoners incarcerated in a private facility or institution pursuant to a contract with the Federal Government.

Section 1.67 of this bill revises the duties of the Director of the Department by requiring the Director to consult with representatives of the employees of the Department to develop a minimum staffing level which is necessary to ensure the safety of the public, the employees of the Department and the prisoners and which is within the limits of legislative appropriation.

Existing law makes it a crime for: (1) a prisoner to escape from prison or to manufacture or possess certain items used in an escape; (2) a person to aid a prisoner in escaping from prison; (3) a person who has custody of a prisoner to allow the prisoner to escape; and (4) a person to conceal an escaped prisoner. (NRS 212.080, 212.090, 212.093, 212.100-212.130) Existing law also provides certain procedures for issuing a warrant for the arrest of an escaped prisoner and the manner in which expenses for recapturing the prisoner must be paid. (NRS 212.030-212.080) Further,

existing law makes it a crime to: (1) provide certain items to a prisoner, including certain weapons, an intoxicant or a controlled substance and certain communications devices; or (2) engage in certain behavior concerning a prisoner, such as engaging in sexual conduct or certain unlawful acts relating to human excrement or bodily fluid. (NRS 212.160-212.189) Section 1.7 of this bill provides that those provisions also apply to a prisoner incarcerated in a private prison operated by a private organization as well as to certain other persons. Section 1.7 also provides that the private organization which operates a private facility or institution must: (1) reimburse the State for expenses incurred by the State in recapturing a prisoner who escapes from the private facility or institution; and (2) provide training to its employees that is equivalent to the training provided to a correctional officer in this State.

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

Section 1. (Deleted by amendment.)

Sec. 1.3. Chapter 209 of NRS is hereby amended by adding thereto ~~new section to read as follows:~~ the provisions set forth as sections 1.35 to 1.6, inclusive, of this act.

Sec. 1.35. "Private facility or institution" means a facility or institution operated by a private organization to house prisoners.

Sec. 1.4. 1. To ensure the safety of the residents of the State of Nevada, the Board shall adopt regulations ~~and~~

~~(a) Establishing~~ establishing the maximum number of prisoners who may be incarcerated in a private facility or institution. ~~and~~

~~(b) Requiring that a private facility or institution must meet or exceed the standards set forth in the inmate housing plan approved in the budget of the Department for the biennium, including, without limitation, any associated line item costs.~~ The regulations must be based upon the standards adopted by the American Correctional Association or its successor organization.

2. As used in this section ~~and~~

~~(a) "Prisoner";~~ "prisoner" has the meaning ascribed to it in section 1.7 of this act.

~~(b) "Private facility or institution" has the meaning ascribed to it in section 1.7 of this act.~~

Sec. 1.5. 1. The Department shall monitor each private facility or institution which houses prisoners who are incarcerated pursuant to the authority of another state to ensure that the custody and care of the prisoners comply with the requirements of the Nevada Constitution and the Constitution of the United States.

2. A private facility or institution which is monitored by the Department pursuant to subsection 1 shall reimburse the Department for the costs of such monitoring. The Department shall determine the cost of the monitoring required by subsection 1 on a per-prisoner basis.

Sec. 1.6. The provisions of sections 1.4, 1.5 and 1.7 of this act do not apply with respect to prisoners incarcerated in a private facility or institution pursuant to a contract with the Federal Government or an agency of the Federal Government.

Sec. 1.63. NRS 209.011 is hereby amended to read as follows:

209.011 As used in this chapter, unless the context otherwise requires, the terms defined in NRS 209.021 to 209.085, inclusive, and section 1.35 of this act have the meanings ascribed to them in those sections.

Sec. 1.67. NRS 209.131 is hereby amended to read as follows:

209.131 The Director shall:

1. Administer the Department under the direction of the Board.
  2. Supervise the administration of all institutions and facilities of the Department.
  3. Receive, retain and release, in accordance with law, offenders sentenced to imprisonment in the state prison.
  4. Be responsible for the supervision, custody, treatment, care, security and discipline of all offenders under his jurisdiction.
  5. Ensure that any person employed by the Department whose primary responsibilities are:
    - (a) The supervision, custody, security, discipline, safety and transportation of an offender;
    - (b) The security and safety of the staff; and
    - (c) The security and safety of an institution or facility of the Department,
- Ê is a correctional officer who has the powers of a peace officer pursuant to subsection 1 of NRS 289.220
6. Establish regulations with the approval of the Board and enforce all laws governing the administration of the Department and the custody, care and training of offenders.
  7. Take proper measures to protect the health and safety of the staff and offenders in the institutions and facilities of the Department.
  8. Cause to be placed from time to time in conspicuous places about each institution and facility copies of laws and regulations relating to visits and correspondence between offenders and others.
  9. Provide for the holding of religious services in the institutions and facilities and make available to the offenders copies of appropriate religious materials.

10. Consult with the representatives of the employees of the Department to develop the minimum level of staffing in the institutions and facilities of the Department which is necessary to ensure the safety of the public, the employees of the Department and offenders and which is within the limits of legislative appropriation. If the Director, or his designee, or a representative of the employees of the Department requests a meeting to review the minimum level of staffing developed pursuant to this subsection, the Director, or his designee, and the representatives of the employees shall meet to review the minimum level of staffing. At such a meeting, the minimum level

of staffing may be revised if the revision is agreed to by the Director, or his designee, and the representative of the employees and is within the limits of legislative appropriation.

Sec. 1.7. Chapter 212 of NRS is hereby amended by adding thereto a new section to read as follows:

1. *The provisions of this section and NRS 212.030 to 212.130, inclusive, and 212.160 to 212.189, inclusive, apply to:*

(a) *A person who has custody of a prisoner assigned to a private facility or institution in this State; and*

(b) *A prisoner assigned to a private facility or institution in this State, ~~E~~ to the same extent that those provisions would apply if the prisoner had been assigned to a facility or institution operated by the Department.*

2. *A private organization that operates a private facility or institution must provide training to any person employed by the private facility or institution to perform the duties of a correctional officer described in subsection 5 of NRS 209.131. The content of the training must be equivalent to the training provided to a correctional officer in this State. ~~It~~, but a person employed by a private facility or institution to perform the duties of a correctional officer is not required to be certified as a peace officer.*

3. *The private organization that operates a private facility or institution must reimburse the State for any expenses charged against the State or paid by the State pursuant to NRS 212.040, 212.050 or 212.070 concerning a prisoner who escapes from the private facility or institution.*

4. *As used in this section:*

(a) *"Prisoner" means any person who is:*

(1) *Convicted of a crime under the laws of this State and sentenced to imprisonment in the state prison; or*

(2) *Convicted of a crime under the laws of another jurisdiction and sentenced to imprisonment by that jurisdiction.*

(b) *"Private facility or institution" ~~means a facility or institution operated by a private organization to house prisoners.~~ has the meaning ascribed to it in section 1.35 of this act.*

Sec. 2. (Deleted by amendment.)

Sec. 3. (Deleted by amendment.)

Sec. 4. This act becomes effective on July 1, 2009.

Senator Care moved the adoption of the amendment.

Remarks by Senator Care.

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

The amendment changes the standards to which a private facility must comply to the American Correctional Association rather than a housing plan approved in the budget of the Department of Corrections.

It requires the Department of Corrections to monitor all private facilities that house prisoners; the expense of which will be reimbursed by the facility being monitored.

The amendment requires the Department to determine minimum staffing levels necessary to ensure the safety of the public, employees and prisoners, and it exempts correctional officers employed by private facilities from being certified as peace officers.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Assembly Bill No. 494.

Bill read second time.

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

Amendment No. 982.

"SUMMARY—Requires ~~the Legislative Commission to provide for a study conducted by the staff of the Legislative Counsel Bureau concerning the major expenditures of local governments in this State to allow the Legislature to consider consolidating services provided by local governments; requiring local governments to report their three largest categories of expenditure to the Legislative Commission in the manner prescribed by the Commission for the purposes of the study;~~ *certain local governmental entities to submit a report to the 76th Session of the Legislature concerning the consolidation or reorganization of certain functions.* (BDR S-1162)"

"AN ACT relating to ~~the Legislature; requiring the Legislative Commission to provide for a study conducted by the staff of the Legislative Counsel Bureau concerning the major expenditures of local governments in this State to allow the Legislature to consider consolidating services provided by local governments; requiring local governments to report their three largest categories of expenditure to the Legislative Commission in the manner prescribed by the Commission for the purposes of the study;~~ *governmental administration; requiring certain local governmental entities to submit a report to the 76th Session of the Legislature concerning the consolidation or reorganization of certain functions;* and providing other matters properly relating thereto."

Legislative Counsel's Digest:

This bill requires the ~~Legislative Commission to provide for a study conducted by the staff of the Legislative Counsel Bureau concerning the major expenditures of local governments in this State to allow the Legislature to consider consolidating services provided by local governments. Each local government is required to report its three largest categories of expenditure for the Fiscal Year 2008-2009 to the Legislative Commission in the manner prescribed by the Commission for the purposes of the study. The staff of the Legislative Counsel Bureau is required to compile and present the information submitted by the local governments in a manner that will allow~~ *Board of County Commissioners of Clark County, the Board of County Commissioners of Washoe County and the governing body of each city in those counties to submit a report to the 76th Session of the Nevada Legislature to review the information and consider the* ~~concerning the consolidation or reorganization of [services provided]~~ *certain functions performed by those* local governments.

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

Section 1. ~~1. The Legislative Commission shall provide for a study conducted by the staff of the Legislative Counsel Bureau concerning the major expenditures of local governments in this State to allow the~~

~~76th Session of the Nevada Legislature to consider the consolidation of services provided by local governments.~~

~~2. Each local government shall report to the Legislative Commission on or before January 1, 2010, its three largest categories of expenditure for the Fiscal Year 2008-2009. The Legislative Commission shall, on or before October 1, 2009, prescribe the manner in which the reports must be submitted and the detail required to ensure that the information is sufficient for the purposes of the study directed pursuant to this section.~~

~~3. The staff of the Legislative Counsel Bureau shall conduct a study of the information submitted pursuant to subsection 2 and report the results of the study to the Legislative Commission on or before June 30, 2010. The report must include:~~

~~(a) The compilation and presentation of the information submitted pursuant to subsection 2 in a manner that will allow the Legislature to review the information and consider the consolidation of services provided by local governments; and~~

~~(b) Such analysis of the information as the staff deems appropriate.~~

~~4. The Legislative Commission shall submit the report of the results of the study conducted pursuant to this section and any recommendations for legislation] On or before September 1, 2010, the Board of County Commissioners of Clark County, the Board of County Commissioners of Washoe County and the governing body of each city in those counties shall each submit a report to the Director of the Legislative Counsel Bureau for transmission to the 76th Session of the Nevada Legislature.]~~

~~5. As used in this section, "local government" has the meaning ascribed to it in NRS 354.474.]~~

~~that, with respect to the functions of public safety, public works and general government performed by those entities:~~

~~1. Identifies the aspects of those functions that are currently consolidated in whole or in part.~~

~~2. Identifies the aspects of those functions that have been or are being considered for consolidation or reorganization.~~

~~3. Identifies the aspects of those functions that are not consolidated and whether those aspects may be appropriate for consolidation or reorganization in the future.~~

~~4. Analyzes and makes recommendations regarding the consolidation or reorganization of one or more aspects of those functions.~~

~~5. Provides estimates of the costs of consolidation or reorganization of one or more aspects of those functions and a projection of any long-term cost savings, to the extent feasible.~~

~~6. Analyzes the benefits of the creation of a permanent committee of affected entities that would meet periodically to discuss and coordinate future efforts at consolidation or reorganization of those functions.~~

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

Senator Woodhouse moved the adoption of the amendment.

Remarks by Senator Woodhouse, Raggio and Carlton.

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

SENATOR WOODHOUSE:

Amendment No. 982 to Assembly Bill No. 494 changes the measure from a staff study by the Legislative Counsel Bureau to a study by the local governments within the two largest counties.

These entities must prepare a report for the 2011 Legislature concerning the past and potential actions regarding the consolidation of certain services.

Specifically, the amendment directs city and county governments in Clark County and Washoe County to review the functions of public safety, public works and general government and report to the 2011 Session concerning those functions that have already been consolidated, which of these functions have been or are currently under consideration for consolidation; which of these might be considered in the future and recommendations concerning those future consolidations, cost estimates including projected cost savings for future consolidation and recommendations, if any, for permanent committees composed of the affected entities to consider any future consolidation efforts. This amendment was requested by the local jurisdictions.

SENATOR RAGGIO:

This is an important amendment. I urge its support. We have long been mindful that there is a need for consolidation of many of the services that are performed by local governments. Cities used to be far apart, but now, they have grown closer together. There are major metropolitan areas in this State, and each of them operate as different governments. It is too much to expect that we will merge the local governments, but we should expect that every effort be put forth to consolidate the services that are performed in a uniform and efficient manner. This amendment will get cities to study this and to report. Time is running short on consolidation of services. They are costly to duplicate. A great deal of money would be saved if public safety, health and other services that effect general welfare in the metropolitan areas could be unified. I hope the local governments will recognize this could be the most cost-saving effort put forth by government at both the state and local level.

SENATOR CARLTON:

I understand the purpose of this. Was there a commitment by the local governments to do this? You are asking for a report, but you are not asking for a good one. I would like to make certain there is some type of commitment to follow through on this.

SENATOR WOODHOUSE:

Yes, the local jurisdictions did make a commitment that they are going to follow through with this. Washoe County indicated that they have already begun this kind of work. Their request was one of the reasons we changed it from a study being done by the LCB to a study being done by them. They felt it gives them the impetus to move forward. Senator Raggio's comments echo what we had been talking about.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

GENERAL FILE AND THIRD READING

Senate Bill No. 330.

Bill read third time.

The following amendment was proposed by the Committee on Finance:

Amendment No. 976.

"SUMMARY—Enacts the Initiative for a World-Class Education in Nevada. (BDR 34-171)"

"AN ACT relating to education; ~~revising provisions relating to the Superintendent of Public Instruction;~~ making various changes regarding the Department of Education, the State Board of Education and various councils and commissions related to the system of public education in this State; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law establishes the Department of Education, consisting of the State Board of Education, the State Board for Career and Technical Education and the Superintendent of Public Instruction, and creates the Commission on Educational Excellence, the Commission on Educational Technology ~~and~~ *and* the Council to Establish Academic Standards for Public Schools, ~~the Commission on Professional Standards in Education and the Statewide Council for the Coordination of the Regional Training Programs.~~ (NRS 385.010, 385.3784, 388.790, 389.510) ~~(, 391.011, 391.516)~~ This bill repeals provisions creating the Commission on Educational Excellence, the Commission on Educational Technology and the Council to Establish Academic Standards for Public Schools. This bill also transfers certain duties and responsibilities formerly assigned to those bodies to the State Board of Education and the Department of Education.

Section 8 of this bill revises the membership of the State Board of Education to eliminate the 10 districts from which members are elected and provides for the election of one member from each of the congressional districts (currently three) and the appointment of one member by the Governor, one member by the Board of Regents of the University of Nevada and two members by the Legislative Commission. (NRS 385.021) Section 8 also prescribes the requirements for the members.

Section 9 of this bill requires the State Board of Education to establish clear and well-defined goals for the education of pupils in this State, the improvement of the system of public education in this State and to meet other specific objectives relating to education. (NRS 385.075)

~~Under existing law, the Superintendent is appointed by the State Board. (NRS 385.150) This bill changes the name of the Superintendent of Public Instruction to the State Superintendent for Education. Section 11 of this bill requires the Governor to nominate and the Senate to confirm each appointment as State Superintendent. If the position is vacant at a time when the Legislature is not in session, the Legislative Commission has the authority to confirm such a nominee. (NRS 385.150)~~

~~Section 15 of this bill revises the Deputy Superintendent of Instructional, Research and Evaluative Services to be the Deputy Superintendent of Curriculum and Instruction. (NRS 385.290) Section 16 of this bill revises the Deputy Superintendent for Administrative and Fiscal Services to be the Deputy Superintendent of Operations, Fiscal Services and Technology.~~



~~(NRS 385.200) Section 3 of this bill requires the State Superintendent for Education to appoint a Director of Assessment and Accountability to oversee certain activities of the public schools and school districts in this State. Section 4 of this bill requires the State Superintendent for Education to appoint a Director of Innovation, Research and Professional Development to perform certain duties required by the State Superintendent.]~~

Section 5 of this bill requires the Department to adopt a model to measure and track the achievement and progress of pupils in this State and prescribes the requirements for that system.

Section 5.5 of this bill authorizes the board of trustees of a school district or the governing body of a charter school to submit an application to the Department for grants of money for certain educational programs and services, including, without limitation, ~~[programs for innovation and the prevention of remediation,]~~ programs for peer mediation, programs for career and technical education and programs for educational technology. To the extent money is available, the Department may award grants of money to school districts and charter schools whose applications are approved.

*Section 5.7 of this bill requires the establishment of a Statewide Advisory Council for the Support of Youth to ensure that the youth in this State receive an education which adequately prepares them for postsecondary education, a career and other future accomplishments.*

~~¶ Section 47 of this bill requires the Department to establish a program of performance pay for voluntary participation by educational personnel and other school personnel and prescribes the requirements for determining eligibility for receipt of the enhanced compensation. Existing law prescribes certain requirements concerning the salaries of teachers. (NRS 391.160) Section 47.5 of this bill creates the Endowment Fund for a Program of Performance Pay.]~~

*Section 69.3 of this bill requires the interim study committee created pursuant to Assembly Concurrent Resolution Number 2 of the 2009 Legislature, File No. 89, to study certain issues relating to a program of performance pay for licensed educational personnel and other school personnel.*

Section 70 of this bill requires the Legislative Commission to monitor the progress and effectiveness of the changes and reformations required by this bill.

WHEREAS, The Nevada Constitution requires the Legislature to provide for a system of public education in this State; and

WHEREAS, The pupils in this State are entitled to receive a world-class education which will ensure year-to-year progress and which will adequately prepare those pupils to enter postsecondary education and the workforce; and

WHEREAS, By enacting the Initiative for a World-Class Education in Nevada, the Legislature will ensure that each pupil receives an education that prepares him for higher education, a career and a lifetime of future success; and

WHEREAS, The Initiative for a World-Class Education in Nevada provides for systematic change to the educational structure of this State to facilitate progress toward attaining statewide goals and meeting measurable objectives to ensure the future success of the pupils enrolled in public schools in this State; and

WHEREAS, The future of this State is of the utmost importance to the members of the 75th Session of the Nevada Legislature, and educating pupils is vital to securing that future; now, therefore,

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

Section 1. Chapter 385 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to ~~5.5,~~ 5.7, inclusive, of this act.

Sec. 2. (Deleted by amendment.)

Sec. 3. ~~1. The State Superintendent for Education shall appoint a Director of Assessment and Accountability.~~

~~2. The Director of Assessment and Accountability must:~~

~~(a) Be a graduate of a 4 year accredited college or university;~~

~~(b) Have familiarity with the field of public education, as evidenced by:~~

~~(1) Sufficient college credits in education to qualify for a license to teach in a public school in this State; or~~

~~(2) Participation in recognized educational research and study;~~

~~3. The Director of Assessment and Accountability may perform any duty required by the State Superintendent for Education and The Department shall:~~

~~(a) 1. Monitor the public schools and school districts in this State to ensure compliance with all state and federal programs relating to education, with a primary focus on academic and fiscal accountability;~~

~~(b) 2. Review the budget submitted by each school district pursuant to NRS 387.303 and the quarterly publication of expenditures for each school district pursuant to NRS 387.320;~~

~~(c) 3. Review the budget of each charter school submitted pursuant to NRS 386.600;~~

~~(d) 4. Review the annual report of accountability prepared pursuant to NRS 385.3469;~~

~~(e) 5. Review the report of accountability prepared by each school district pursuant to NRS 385.347, the accountability information submitted by each university school for profoundly gifted pupils pursuant to NRS 392A.073 and any other report of data relating to the achievement of pupils; and~~

~~(f) 6. On or before July 1 of each year, submit to the Legislative Committee on Education a report of the activities of the ~~Director~~ Department and the results and findings of the monitoring and reviews carried out pursuant to this section. ~~f and~~~~

~~(g) Perform such work as the State Superintendent may direct under the laws of the State.~~

~~4. No person may be appointed to the position of Director of Assessment and Accountability unless he meets the qualifications set forth in subsection 2.~~

Sec. 4. ~~1. The State Superintendent for Education shall appoint a Director of Innovation, Research and Professional Development.~~

~~2. The Director of Innovation, Research and Professional Development must:~~

~~(a) Be a graduate of a 4-year accredited college or university;~~

~~(b) Have familiarity with the field of public education, as evidenced by:~~

~~(1) Sufficient college credits in education to qualify for a license to teach in a public school in this State; or~~

~~(2) Participation in recognized educational research and study;~~

~~(c) Have familiarity with the general field of public administration and personnel development, as evidenced by:~~

~~(1) College course work in public administration or personnel management; or~~

~~(2) Experience in the training and professional development of educational personnel.~~

~~3. The Director of Innovation, Research and Professional Development may perform any duty required by the State Superintendent for Education and shall do such work as the State Superintendent may direct under the laws of the State.~~

~~4. No person may be appointed to the position of Director of Innovation, Research and Professional Development unless he meets the qualifications set forth in subsection 2. (Deleted by amendment.)~~

Sec. 5. 1. The Department shall adopt a model to measure and track from year to year the achievement and progress made by each pupil, each group of pupils identified in paragraph (b) of subsection 1 of NRS 385.361, each public school, including, without limitation, each charter school, each school district and the State as a whole.

2. The Department shall identify the measures of progress for inclusion in the model which must include, without limitation, the results of pupils on the examinations administered pursuant to NRS 389.550 and the results of pupils on the high school proficiency examination administered pursuant to NRS 389.015. The model must include other measures of progress identified by the Department, including, without limitation, graduation and attendance rates.

3. The model must be designed in a manner which allows the Department to:

(a) Identify each program for which a grant of money is made from the Account for Programs for Innovation and the Prevention of Remediation or otherwise provided through the State and which is being used by a public school; and

(b) Determine, through results of evaluations, the programs which are used by public schools and which are making improvements in the

*achievement and progress of pupils and the programs which are used by public schools and which are not making the same level of improvements.*

*4. The Department may contract with a qualified and independent consultant to assist the Department in the development and maintenance of the model.*

*Sec. 5.5. 1. The board of trustees of a school district, based upon requests submitted by principals of the public schools located within the school district, or the governing body of a charter school may submit an application to the Department for a grant of money from the money available for any of the programs or assistance set forth in subsection 2. The application must be on a form prescribed by the Department and include, without limitation:*

*(a) A plan for the use of the money requested by the board of trustees or the governing body, which must:*

*(1) Be designed to support the plan to improve the achievement of pupils enrolled in the school district prepared by the board of trustees pursuant to NRS 385.348, if applicable, as well as the plan to improve the achievement of pupils prepared by each individual school within the school district or the charter school, as applicable, pursuant to NRS 385.357;*

*(2) Be based on practices and strategies that have proven effective in improving the academic achievement and proficiency of pupils; and*

*(3) Include one or more of the programs or assistance set forth in subsection 2.*

*(b) The amount of money requested by the board of trustees or governing body to carry out the educational programs or assistance, as applicable, that the school district or charter school intends to offer pursuant to this section.*

*(c) If a school district submitted the application, a prioritized list of the schools and programs or assistance, as applicable, for which the school district is requesting a grant of money and a description of how the money will be used to support the plan to improve the achievement of pupils prepared by each of those schools.*

*(d) If the governing body of a charter school submitted the application, a prioritized list of the programs or assistance, as applicable, for which the governing body is requesting a grant of money and a description of how the money will be used to support the plan to improve the achievement of pupils prepared by the charter school.*

*2. Money may be granted pursuant to this section for one or more of the following:*

*(a) Programs that incorporate educational technology in accordance with the plan established by the Department pursuant to NRS 388.795;*

*(b) Programs of peer mediation;*

*(c) The program used by the Geographic Alliance in Nevada;*

*(d) Programs for the certification of counselors offered in this State or offered by a national certification agency;*

(e) Assistance for the support teams established pursuant to NRS 385.3721 for non-Title I schools, including, without limitation, to pay for substitute teachers as necessary for the teachers at the school who serve on the support team to carry out the duties and responsibilities of the support team; and

(f) Programs of career and technical education, ~~and~~

~~(g) Programs for innovation and the prevention of remediation that use programs, practices and strategies that have been proven effective in improving the academic achievement and proficiency of pupils.~~

3. To the extent that money is available from legislative appropriation or otherwise for any program or assistance set forth in subsection 2, the Department shall provide grants of money to school districts and charter schools with approved applications based upon the amount of money that is necessary to carry out the educational programs or assistance, as set forth in the application of the school district or charter school. If an insufficient amount of money is available to pay for the total amount requested in each application, the available money must be distributed in a fair and equitable manner among the school districts and charter schools with approved applications based upon the prioritized list submitted by each school district and charter school pursuant to subsection 1.

4. The board of trustees of a school district or the governing body of a charter school that receives a grant of money pursuant to this section shall not use the money:

(a) For the construction or maintenance of buildings or facilities.

(b) To settle or arbitrate disputes or negotiate settlements between an organization that represents licensed employees of the school district or charter school and the school district or charter school, as applicable.

(c) To adjust the schedules of salaries and benefits of the employees of the school district or charter school, as applicable.

5. Money granted to a school district or charter school pursuant to the provisions of this section may only be committed for expenditure during the biennium in which it was granted, and any unused funds must be returned to the Department by the board of trustees or governing body on or before the deadline determined by the Department.

6. The board of trustees of a school district and the governing body of a charter school that receives a grant of money pursuant to this section shall, on or before February 1 of each odd-numbered year, submit a written report to the Department and to the Director of the Legislative Counsel Bureau for transmission to the next regular session of the Nevada Legislature. The report must include, without limitation:

(a) The name of each school that received a grant pursuant to this section and the amount of each grant;

(b) The programs and other assistance for which each school expended the money; and

*(c) An evaluation of the programs and other assistance for which each school expended the money, including, without limitation, the effectiveness of each program or assistance on the academic achievement and proficiency of pupils enrolled in the school.*

*Sec. 5.7. 1. The nonprofit corporation formed pursuant to NRS 385.091, in consultation with the Department of Education and the Department of Employment, Training and Rehabilitation, shall establish a Statewide Advisory Council for the Support of Youth, composed of not less than six members.*

*2. The nonprofit corporation shall appoint members to the Statewide Advisory Council who:*

*(a) Have knowledge and experience in education, youth development or human resources; and*

*(b) To the extent practicable, represent:*

*(1) The Department of Employment, Training and Rehabilitation;*

*(2) The Department of Education;*

*(3) The Department of Health and Human Services;*

*(4) The Office of the Attorney General;*

*(5) The Assembly;*

*(6) The Senate;*

*(7) The Governor's Workforce Investment Board of the Department of Employment, Training and Rehabilitation;*

*(8) The Nevada System of Higher Education;*

*(9) An Indian tribe;*

*(10) The nonprofit corporation; and*

*(11) Any other person deemed necessary by the nonprofit corporation.*

*3. Each member of the Statewide Advisory Council serves at the pleasure of the nonprofit corporation.*

*4. The Department of Education shall provide administrative support to the Statewide Advisory Council.*

*5. Unless money is appropriated for that purpose, the members of the Statewide Advisory Council serve without compensation and shall not receive a per diem allowance or travel expenses.*

*6. The Statewide Advisory Council shall:*

*(a) Facilitate statewide efforts to ensure that each youth in this State receives an education which adequately prepares the youth for postsecondary education or training, adequately prepares the youth for a career and ensures a lifetime of successful accomplishments;*

*(b) Collaborate with organizations which serve youth to provide advice and guidance to public agencies in this State to ensure that youth are engaged in postsecondary education or productive employment by 25 years of age; and*

*(c) Strengthen the coordination, communication and collaboration among public agencies and organizations which support at-risk youth in becoming successful adults.*

Sec. 6. NRS 385.010 is hereby amended to read as follows:

385.010 1. A Department of Education is hereby created.

2. The Department consists of the State Board of Education, the State Board for Career and Technical Education and the *State Superintendent [of Public Instruction.]for Education.*

3. The *State Superintendent [of Public Instruction] for Education, who is the chief educational officer for the State,* is the executive head of the Department.

Sec. 7. NRS 385.014 is hereby amended to read as follows:

385.014 When required, the Attorney General shall give his opinion in writing and without fee to the State Board, the *State Superintendent [of Public Instruction] for Education* and the Commission on Professional Standards in Education on matters relating to the powers and duties of the Department.

Sec. 8. NRS 385.021 is hereby amended to read as follows:

385.021 1. The State Board consists of ~~[10 members]~~ :

(a) *One member* elected by the registered voters within ~~[the districts]~~ *each congressional district* described in NRS ~~[385.0225 to 385.0265]~~ 304.060 to 304.120, inclusive ~~[ ]~~ ;

(b) *One member appointed by the Governor;*

(c) *Two members appointed by the Legislative Commission, who must not be Legislators; and*

(d) *One nonvoting member appointed by the Board of Regents of the University of Nevada.*

2. Each member of the State Board :

(a) *Elected pursuant to paragraph (a) of subsection 1* must be a resident of the district from which that member is elected.

~~[3. At the general election in 2002, and every 4 years thereafter, one member of the State Board must be elected for a term of 4 years from Districts Numbers 2, 5, 6 and 10.~~

~~4. At the general election in 2004, and every 4 years thereafter, one member of the State Board must be elected for a term of 4 years from Districts Numbers 1, 3, 4, 7, 8 and 9.~~

~~5.] (b) Appointed pursuant to paragraph (b) or (c) of subsection 1~~ *must be a resident of this State and:*

(1) *Have experience in prekindergarten, elementary, secondary or postsecondary education;*

(2) *Have experience in public policy or public administration; or*

(3) *Be active in the business community or industry of this State.*

*To the extent practicable, those members must be appointed from lists of nominations provided by associations and organizations in this State which are concerned with issues relating to public education, including, without limitation, associations representing educational personnel.*

(c) *Appointed pursuant to paragraph (d) of subsection 1* must have experience in postsecondary education and be a resident of this State.

3. *After the initial terms, each member serves a term of 4 years.*

4. *If a vacancy occurs on the State Board ~~to~~ during the term of a member who was:*

*(a) Elected pursuant to paragraph (a) of subsection 1, the Governor shall appoint a member to fill the vacancy until the next general election, at which election a member must be chosen for the balance of the unexpired term. The appointee must be a resident of the district where the vacancy occurs.*

*(b) Appointed pursuant to paragraph (b), (c) or (d) of subsection 1, the vacancy must be filled in the manner of the original appointment.*

~~6.~~ 5. *No member of the State Board may ~~be elected to the office~~ serve more than three ~~times~~ terms of office.*

Sec. 9. NRS 385.075 is hereby amended to read as follows:

385.075 The State Board shall ~~establish policies~~:

1. *Establish policies to govern the administration of all functions of the State relating to the supervision, management and control of public schools not conferred by law on some other agency.*

2. *Establish clearly defined goals and benchmarks for improving the achievement of pupils in this State, including, without limitation, goals for:*

*(a) Improving proficiency results in core academic subject areas;*

*(b) Increasing the number of pupils enrolled in middle schools and junior high schools in this State who enter high school with the skills necessary to succeed in high school;*

*(c) Improving the percentage of pupils who enroll in grade 9 in this State and who complete high school and obtain a standard diploma upon completion;*

*(d) Improving the performance of pupils in this State on standardized college entrance examinations;*

*(e) Increasing the percentage of pupils enrolled in high schools in this State who enter postsecondary educational institutions; and*

*(f) Reengaging disengaged youth who have dropped out of high school or who are at risk of dropping out of high school, including, without limitation, a mechanism for tracking and maintaining communication with those youth who have dropped out or who are at risk of doing so.*

3. *Establish a mechanism to measure the progress made toward meeting statewide educational goals, including, without limitation:*

*(a) Establishing measurable outcomes for the achievement of school districts and charter schools;*

*(b) Developing a system to track progress toward those measurable objectives, including data on the results of pupils on the examinations administered pursuant to NRS 389.550 and the high school proficiency examination; and*

*(c) Improving the capacity and maintenance of the automated system of accountability information for Nevada established pursuant to NRS 386.650.*

4. *Collaborate with the Department and the Nevada System of Higher Education to:*



(a) Align the academic standards and curriculum developed for pupils enrolled in elementary and secondary education with the academic standards and curriculum developed for students enrolled in postsecondary educational institutions in this State; and

(b) Provide professional development and training through the Nevada System of Higher Education to assist the Department in ensuring that educational personnel are properly trained and that educational personnel are exposed to various classroom methodologies.

Sec. 10. NRS 385.110 is hereby amended to read as follows:

385.110 1. Except as otherwise provided in subsections 2 and 3, the State Board shall prescribe and cause to be enforced the courses of study for the public schools of this State. The courses of study prescribed and enforced by the State Board must comply with the standards of content and performance established by the ~~[Council to Establish Academic Standards for Public Schools]~~ State Board pursuant to NRS 389.520.

2. For those courses of study prescribed by the State Board:

(a) High schools may have modified courses of study, subject to the approval of the State Board; and

(b) Any high school offering courses normally accredited as being beyond the level of the 12th grade shall, before offering such courses, have them approved by the State Board.

3. A charter school is not required to offer the courses of study prescribed by the State Board except for those courses of study which are required for promotion to the next grade or graduation from high school.

Sec. 11. ~~[NRS 385.150 is hereby amended to read as follows:]~~

~~385.150 1. The [State Board] Governor shall nominate and, upon confirmation in accordance with subsection 3, appoint the State Superintendent [of Public Instruction] for Education for a term of [3] 4 years [.] commencing on July 1. The [State Board] Governor may remove the State Superintendent [of Public Instruction] from office for inefficiency, neglect of duty, malfeasance in office or for other just cause. The State Board may provide to the Governor a list of not less than three names of persons that the State Board determines are qualified for appointment as State Superintendent for Education. The Governor shall, to the extent practicable, nominate the State Superintendent for Education from the list of names provided by the State Board.~~

~~2. A vacancy must be filled by the [State Board] Governor nominating and, upon confirmation in accordance with subsection 3, appointed for the remainder of the unexpired term.~~

~~3. On or before February 1, 2011, and on or before February 1 every 4 years thereafter, the Governor shall provide to the Director of the Legislative Counsel Bureau, for transmission to the Senate, the name of the person nominated as the State Superintendent for Education. The Senate shall, within the first 45 days of the next regularly scheduled session of the Legislature, consider the nominee and confirm or deny the nomination. If the~~

~~Senate denies a nomination, the Governor may nominate another person as the State Superintendent for Education and immediately transmit the name to the Senate. The Senate shall, within 30 days after receiving each subsequent nomination, consider the nominee and confirm or deny the nomination. If the position of State Superintendent for Education is not filled during the regular session of the Legislature or becomes vacant while the Legislature is not in session, the Legislative Commission shall, within 30 days after receiving a nomination from the Governor, consider the nominee and confirm or deny the nomination. The Governor may not nominate as State Superintendent for Education a person who has been previously denied by either the Senate or the Legislative Commission.~~

~~4. The State Superintendent [of Public Instruction] for Education is in the unclassified service of the State. (Deleted by amendment.)~~

Sec. 12. NRS 385.170 is hereby amended to read as follows:

385.170 The State Superintendent for Education shall not pursue any other business or occupation or hold any other office of profit . ~~[without the approval of the State Board of Education.]~~

Sec. 13. (Deleted by amendment.)

Sec. 14. ~~[NRS 385.190 is hereby amended to read as follows:~~

~~385.190 1. The State Superintendent [of Public Instruction] for Education, in consultation with the Director of Innovation, Research and Professional Development or a staff member designated by [him] the Director, shall:~~

~~(a) Convene teachers' conferences in the various sections of the State in such places and at such times as he deems advisable;~~

~~(b) Engage such conference lecturers and leaders as he deems advisable;~~

~~(c) Preside over and regulate the programs of all teachers' conferences;~~

~~2. No teachers' conference may continue more than 5 days.~~

~~3. The State Superintendent [of Public Instruction] for Education, in consultation with the Director of Innovation, Research and Professional Development or [his designated] a staff member designated by the Director, shall convene, in such places and at such times as he may designate, conferences of school administrators.~~

~~4. The expenses of holding teachers' and administrators' conferences must be paid from the State Distributive School Account in the State General Fund, but the amount must not exceed \$8,400 in any one biennium. The State Controller shall draw his warrants for such expenses upon the order of the State Superintendent [of Public Instruction] for Education. (Deleted by amendment.)~~

Sec. 15. NRS 385.290 is hereby amended to read as follows:

385.290 1. The State Superintendent ~~[of Public Instruction] for Education~~ may appoint a Deputy Superintendent of Instructional Research and Evaluative Services ~~[Curriculum and Instruction]~~ who:

(a) Holds a master's degree in school administration or a related subject from an accredited college or university.

(b) Has a minimum of 3 years of administrative experience which includes:

- (1) Supervision and evaluation of staff;
- (2) Development and administration of budgets; and
- (3) Development of curriculum.

2. The Deputy Superintendent of Instructional, Research and Evaluative Services ~~Curriculum and Instruction~~ may perform any duty required of the State Superintendent ~~of Public Instruction~~ for Education during the absence of the State Superintendent and shall do such work as the State Superintendent may direct under the laws of the State.

3. *No person may be appointed to the position of Deputy Superintendent of Instructional, Research and Evaluative Services unless he meets the qualifications set forth in subsection 1.*

Sec. 16. ~~NRS 385.300 is hereby amended to read as follows:  
385.300 1. The State Superintendent [of Public Instruction] for Education may appoint a Deputy Superintendent [for Administrative and] of Operations, Fiscal Services [.] and Technology.~~

~~2. The Deputy Superintendent [for Administrative and] of Operations, Fiscal Services and Technology must:~~

~~(a) Be a graduate of a 4-year accredited college or university;~~

~~(b) Have familiarity with the field of education, as evidenced by:~~

~~(1) Sufficient college credits in education to qualify for a license to teach in a high school in this state; or~~

~~(2) Participation in recognized educational research and study;~~

~~(c) Have familiarity with the general field of public administration and budgeting, as evidenced by:~~

~~(1) Sufficient college credits to qualify for a minor in public administration, government management or business management; or~~

~~(2) Experience in the preparation of governmental budgets or in governmental accounting or research.~~

~~3. No person may be appointed to the position of Deputy Superintendent [for Administrative and] of Operations, Fiscal Services and Technology unless he has the qualifications outlined in subsection 2. (Deleted by amendment.)~~

Sec. 17. ~~NRS 385.310 is hereby amended to read as follows:  
385.310 The Deputy Superintendent [for Administrative and] of Operations, Fiscal Services and Technology, under the direction of the State Superintendent [of Public Instruction,] for Education, shall:~~

~~1. Determine the apportionment of all state school money to schools of the State as prescribed by law.~~

~~2. Develop for public schools of the State a uniform system of budgeting and accounting. The system must provide for the separate reporting of expenditures for each:~~

~~(a) School district; and~~

~~(b) School within a school district.~~

~~2. Upon approval of the State Board, the system is mandatory for all public schools in this State and must be enforced as provided in subsection 2 of NRS 385.315.~~

~~3. Carry on a continuing study of school finance in the State, particularly the method by which schools are financed on the state level, and make such recommendations to the State Superintendent [of Public Instruction] for Education for submission to the State Board as he deems advisable.~~

~~4. Recommend to the State Superintendent [of Public Instruction] for Education for submission to the State Board such changes in budgetary and financial procedures as his studies may show to be advisable.~~

~~5. Perform such other statistical and financial duties pertaining to the administration and finances of the schools of the State as may be required by the State Superintendent [of Public Instruction.] for Education.~~

~~6. Prepare for the State Superintendent [of Public Instruction] for Education the biennial budgets of the Department for consideration by the State Board and submission to the Governor.] (Deleted by amendment.)~~

Sec. 18. NRS 385.315 is hereby amended to read as follows:

385.315 In addition to his other duties, the Deputy Superintendent for Administrative and ~~[of Operations,]~~ Fiscal Services ~~and Technology,~~ under the direction of the State Superintendent ~~[of Public Instruction,]~~ for Education, shall:

1. Investigate any claim against any school fund or separate account established under NRS 354.603 whenever a written protest against the drawing of a warrant, check or order in payment of the claim is filed with the county auditor. If, upon investigation, the Deputy Superintendent finds that any such claim is unearned, illegal or unreasonably excessive, he shall notify the county auditor and the clerk of the board of trustees who drew the order for the claim, stating the reasons in writing why the order is unearned, illegal or excessive. If so notified, the county auditor shall not draw his warrant in payment of the claim nor shall the board of trustees draw a check or order in payment of the claim from a separate account established under NRS 354.603. If the Deputy Superintendent finds that any protested claim is legal and actually due the claimant, he shall authorize the county auditor or the board of trustees to draw his warrant or its check or order on an account established under NRS 354.603 for the claim, and the county auditor or the board of trustees shall immediately draw his warrant or its check or order in payment of the claim.

2. Inspect *and, if he determines necessary, audit* the record books and accounts of boards of trustees, and enforce the uniform method of keeping the financial records and accounts of school districts.

3. Inspect *and, if he determines necessary, audit* the school fund accounts of the county auditors of the several counties, and report the condition of the funds of any school district to the board of trustees thereof.

4. Inspect *and, if he determines necessary, audit* the separate accounts established by boards of trustees under NRS 354.603, and report the

condition of the accounts to the respective boards of county commissioners and county treasurers.

Sec. 19. ~~NRS 385.320 is hereby amended to read as follows:~~

~~385.320 The Deputy Superintendent of Curriculum and Instruction, the Deputy Superintendent of Operations, Fiscal Services and Technology, the Director of Assessment and Accountability and the Director of [Instructional, Research and Evaluative Services and the Deputy Superintendent for Administrative and Fiscal Services:] Innovation, Research and Professional Development:~~

~~1. Are in the unclassified service of the State.~~

~~2. Except as otherwise provided in NRS 284.143, shall each devote his entire time and attention to the business of his office and shall not pursue any other business or occupation or hold any other office of profit. (Deleted by amendment.)~~

Sec. 20. NRS 385.330 is hereby amended to read as follows:

385.330 1. Professional staff and other personnel appointed by the State Superintendent ~~[of Public Instruction]~~ for Education shall perform such duties as are assigned by the State Superintendent.

2. The State Superintendent ~~[of Public Instruction,]~~ for Education, under the policies of the State Board, shall locate the offices of professional staff and other personnel ~~[where]~~ :

(a) Where the needs of the education program can best be served [-]; and

(b) To reflect the geographic diversity of this State.

Sec. 21. NRS 385.34691 is hereby amended to read as follows:

385.34691 1. The State Board shall prepare a plan to improve the achievement of pupils enrolled in the public schools in this State. The plan:

(a) Must be prepared in consultation with:

(1) Employees of the Department;

(2) At least one employee of a school district in a county whose population is 100,000 or more, appointed by the Nevada Association of School Boards;

(3) At least one employee of a school district in a county whose population is less than 100,000, appointed by the Nevada Association of School Boards; ~~and]~~

(4) At least one representative of the Statewide Council for the Coordination of the Regional Training Programs created by NRS 391.516, appointed by the Council; and

(5) A representative from the Nevada Youth ~~[Legislative Issues Forum]~~ Legislature created by NRS 385.515, appointed by the Chairman of the Forum.

(b) May be prepared in consultation with:

(1) Representatives of ~~[institutions of higher education;]~~ the colleges of education in the Nevada System of Higher Education;

(2) Representatives of regional educational laboratories;

(3) Representatives of outside consultant groups;

(4) Representatives of the regional training programs for the professional development of teachers and administrators created by NRS 391.512;

(5) The Bureau; and

(6) Other persons who the State Board determines are appropriate.

2. A plan to improve the achievement of pupils enrolled in public schools in this State must include:

(a) A review and analysis of the data upon which the report required pursuant to NRS 385.3469 is based and a review and analysis of any data that is more recent than the data upon which the report is based.

(b) The identification of any problems or factors common among the school districts or charter schools in this State, as revealed by the review and analysis.

(c) Strategies based upon scientifically based research, as defined in 20 U.S.C. § 7801(37), that will strengthen the core academic subjects, as set forth in NRS 389.018.

(d) Strategies to improve the academic achievement of pupils enrolled in public schools in this State, including, without limitation, strategies to:

(1) Instruct pupils who are not achieving to their fullest potential, including, without limitation:

(I) The curriculum appropriate to improve achievement;

(II) The manner by which the instruction will improve the achievement and proficiency of pupils on the examinations administered pursuant to NRS 389.015 and 389.550; and

(III) An identification of the instruction and curriculum that is specifically designed to improve the achievement and proficiency of pupils in each group identified in paragraph (b) of subsection 1 of NRS 385.361;

(2) Increase the rate of attendance of pupils, *improve the percentage of pupils who graduate with a high school diploma* and reduce the number of pupils who drop out of school;

(3) Integrate technology into the instructional and administrative programs of the school districts;

(4) Manage effectively the discipline of pupils; and

(5) Enhance the professional development offered for the teachers and administrators employed at public schools in this State to include the activities set forth in 20 U.S.C. § 7801(34) and to address the specific needs of the pupils enrolled in public schools in this State, as deemed appropriate by the State Board.

(e) Strategies designed to provide to the pupils enrolled in middle school, junior high school and high school, the teachers and counselors who provide instruction to those pupils, and the parents and guardians of those pupils information concerning:

(1) *The availability of programs of career and technical education in public schools in this State;*

(2) The requirements for admission to an institution of ~~higher~~ *postsecondary* education and the opportunities for financial aid;

~~{(2)}~~ (3) The availability of Governor Guinn Millennium Scholarships pursuant to NRS 396.911 to 396.938, inclusive; and

~~{(3)}~~ (4) The need for a pupil to make informed decisions about his curriculum in middle school, junior high school and high school in preparation for success after graduation.

(f) An identification ~~[by category]~~ of the employees of the Department who are responsible for ensuring that each provision of the plan is carried out effectively ~~[ ]~~, *including, without limitation, a description of the duties of those employees relating to the achievement of pupils and the support of the success of pupils in the classroom.*

(g) ~~For~~ *A timeline for carrying out the plan, including benchmarks that indicate the rate of improvement which must be attained annually and, for each provision of the plan, a timeline for carrying out that provision, including, without limitation, a timeline for monitoring whether the provision is carried out effectively.*

(h) For each provision of the plan, measurable criteria for determining whether the provision has contributed toward improving the academic achievement of pupils, increasing the rate of attendance of pupils, *improving the rate of pupils who graduate with a high school diploma* and reducing the number of pupils who drop out of school.

(i) Strategies to improve the allocation of resources from this State, by program and by school district, in a manner that will improve the academic achievement of pupils. If this State has a financial analysis program that is designed to track educational expenditures and revenues to individual schools, the State Board shall use that statewide program in complying with this paragraph. If a statewide program is not available, the State Board shall use the Department's own financial analysis program in complying with this paragraph.

(j) Based upon the reallocation of resources set forth in paragraph (i), the resources available to the State Board and the Department to carry out the plan, including, without limitation, a budget for the overall cost of carrying out the plan.

(k) A summary of the effectiveness of appropriations made by the Legislature to improve the academic achievement of pupils and programs approved by the Legislature to improve the academic achievement of pupils.

*(l) Strategies to increase the percentage of classes that are taught by highly qualified teachers in ~~low-poverty~~ high-poverty schools.*

3. The State Board shall:

(a) Review the plan prepared pursuant to this section annually to evaluate the effectiveness of the plan; ~~and~~

(b) *Examine the timeline for implementing the plan and the timeline for implementing each provision of the plan to determine whether the annual benchmarks have been attained;*

(c) Based upon the evaluation of the plan, make revisions, as necessary, to ensure that ~~the~~:

(1) *The benchmarks set forth in the plan are being attained in a timely manner; and*

(2) *The plan is designed to improve the academic achievement of pupils enrolled in public schools in this State.*

4. On or before December 15 of each year, the State Board shall submit the plan or the revised plan, as applicable, to the:

- (a) Governor;
- (b) Committee;
- (c) Bureau;
- (d) Board of Regents of the University of Nevada;
- (e)  ~~Council to Establish Academic Standards for Public Schools created by NRS 389.510;~~

~~(f)~~ Board of trustees of each school district; and

~~(g)~~ (f) Governing body of each charter school.

5. *On or before February 1 of each odd-numbered year, the State Board shall submit the plan or the revised plan, as applicable, to the Director of the Legislative Counsel Bureau for transmission to the next regular session of the Legislature.*

*Sec. 21.1. NRS 385.3782 is hereby amended to read as follows:*

385.3782 *As used in NRS 385.3782 to 385.379, inclusive, "Account" means the Account for Programs for Innovation and the Prevention of Remediation created by NRS 385.379.*

*Sec. 21.3. NRS 385.3785 is hereby amended to read as follows:*

385.3785 1. The ~~Commission~~ State Board shall:

(a) Establish a program of educational excellence designed exclusively for pupils enrolled in kindergarten through grade 6 in public schools in this State based upon:

(1) The plan to improve the achievement of pupils prepared by the State Board pursuant to NRS 385.34691;

(2) The plan to improve the achievement of pupils prepared by the board of trustees of each school district pursuant to NRS 385.348;

(3) The plan to improve the achievement of pupils prepared by the principal of each school pursuant to NRS 385.357, which may include a program of innovation; and

(4) Any other information that the ~~Commission~~ State Board considers relevant to the development of the program of educational excellence.

(b) Identify programs, practices and strategies that have proven effective in improving the academic achievement and proficiency of pupils.

(c) Develop a concise application and simple procedures for the submission of applications by public schools and consortiums of public schools, including, without limitation, charter schools, for participation in a program of educational excellence and for grants of money from the Account. Grants of money must be made for programs designed for the



achievement of pupils that are linked to the plan to improve the achievement of pupils or for innovative programs, or both. The ~~{Commission}~~ State Board shall not award a grant of money from the Account for a program to provide full-day kindergarten. All public schools and consortiums of public schools, including, without limitation, charter schools, are eligible to submit such an application, regardless of whether the schools have made adequate yearly progress or failed to make adequate yearly progress. A public school or a consortium of public schools selected for participation may be approved by the ~~{Commission}~~ State Board for participation for a period not to exceed 2 years, but may reapply.

(d) Prescribe a long-range timeline for the review, approval and evaluation of applications received from public schools and consortiums of public schools that desire to participate in the program.

(e) Establish guidelines for the review, evaluation and approval of applications for grants of money from the Account, including, without limitation, consideration of the list of priorities of public schools provided by the Department pursuant to subsection 5. To ensure consistency in the review, evaluation and approval of applications, if the guidelines authorize the review and evaluation of applications by less than the entire membership of the ~~{Commission}~~ State Board or by an advisory committee appointed pursuant to subsection 9, money must not be allocated from the Account for a grant until the entire membership of the ~~{Commission}~~ State Board has reviewed and approved the application for the grant.

(f) Prescribe accountability measures to be carried out by a public school that participates in the program if that public school does not meet the annual measurable objectives established by the State Board pursuant to NRS 385.361, including, without limitation:

(1) The specific levels of achievement expected of schools that participate; and

(2) Conditions for schools that do not meet the grant criteria but desire to continue participation in the program and receive money from the Account, including, without limitation, a review of the leadership at the school and recommendations regarding changes to the appropriate body.

(g) Determine the amount of money that is available from the Account for those public schools and consortiums of public schools that are selected to participate in the program.

(h) Allocate money to public schools and consortiums of public schools from the Account. Allocations must be distributed not later than August 15 of each year.

(i) Establish criteria for public schools and consortiums of public schools that participate in the program and receive an allocation of money from the Account to evaluate the effectiveness of the allocation in improving the achievement of pupils, including, without limitation, a detailed analysis of:

(1) The achievement of pupils enrolled at each school that received money from the allocation based upon measurable criteria identified in the

plan to improve the achievement of pupils for the school prepared pursuant to NRS 385.357;

(2) If applicable, the effectiveness of the program of innovation on the achievement of pupils and the overall effectiveness for pupils and staff;

(3) The implementation of the applicable plans for improvement, including, without limitation, an analysis of whether the school is meeting the measurable objectives identified in the plan; and

(4) The attainment of measurable progress on the annual list of adequate yearly progress of school districts and schools.

2. To the extent money is available, the ~~{Commission}~~ *State Board* shall make allocations of money to public schools and consortiums of public schools for effective programs for grades 7 through 12 that are designed to improve the achievement of pupils and effective programs of innovation for pupils. In making such allocations, the ~~{Commission}~~ *State Board* shall comply with the requirements of subsection 1.

3. The ~~{Commission}~~ *State Board* shall ensure, to the extent practicable, that grants of money provided pursuant to this section reflect the economic and geographic diversity of this State.

4. If a public school or consortium that receives money pursuant to subsection 1 or 2:

(a) Does not meet the criteria for effectiveness as prescribed in paragraph (i) of subsection 1;

(b) Does not, as a result of the program for which the grant of money was awarded, show improvement in the achievement of pupils, as determined in an evaluation conducted pursuant to subsection 3 of NRS 385.379; or

(c) Does not implement the program for which the money was received, as determined in an evaluation conducted pursuant to subsection 3 of NRS 385.379,

Ê over a 2-year period, the ~~{Commission}~~ *State Board* may consider not awarding future allocations of money to that public school or consortium of public schools.

5. On or before July 1 of each year, the Department shall provide a list of priorities of public schools that indicates:

(a) The adequate yearly progress status of schools in the immediately preceding year; ~~and~~

(b) The public schools that are considered Title I eligible by the Department based upon the poverty level of the pupils enrolled in a school in comparison to the poverty level of the pupils in the school district as a whole ~~}; and~~

*(c) The status of the public schools in achieving the goals and measurable outcomes prescribed by the State Board pursuant to NRS 385.075.*

Ê for consideration by the ~~{Commission}~~ *State Board* in its development of procedures for the applications.

6. A public school, including, without limitation, a charter school, or a consortium of public schools may request assistance from the school district

in which the school is located in preparing an application for a grant of money pursuant to this section. A school district shall assist each public school or consortium of public schools that requests assistance pursuant to this subsection to ensure that the application of the school:

(a) Is based directly upon the plan to improve the achievement of pupils prepared for the school pursuant to NRS 385.357;

(b) Is developed in accordance with the criteria established by the ~~Commission~~ State Board; and

(c) Is complete and complies with all technical requirements for the submission of an application.

È A school district may make recommendations to the individual schools and consortiums of public schools. Such schools and consortiums of public schools are not required to follow the recommendations of a school district.

7. In carrying out the requirements of this section, the ~~Commission~~ State Board shall review and consider the programs of remedial study adopted by the Department pursuant to NRS 385.389, the list of approved providers of supplemental services maintained by the Department pursuant to NRS 385.384 and the recommendations submitted by the Committee pursuant to NRS 218.5354 concerning programs, practices and strategies that have proven effective in improving the academic achievement and proficiency of pupils.

8. If a consortium of public schools is formed for the purpose of submitting an application pursuant to this section, the public schools within the consortium do not need to be located within the same school district.

9. The State Board may appoint an advisory committee composed of six members who are qualified and who represent the ethnic and geographic diversity of the State to carry out the provisions of this section. The advisory committee serves at the pleasure of the State Board and without compensation unless an appropriation or other money for that purpose is provided by the Legislature.

Sec. 21.5. NRS 385.3787 is hereby amended to read as follows:

385.3787 1. A public school or consortium of public schools that receives an allocation of money from the Account shall:

(a) Account for the money separately;

(b) Use the money to supplement and not replace the money that would otherwise be expended by the school district or public school for the achievement of pupils in kindergarten through grade 6 or pupils in grades 7 through 12, as applicable; and

(c) Submit an evaluation of the effectiveness of the allocation in improving the achievement of pupils in kindergarten through grade 6 or pupils in grades 7 through 12, as applicable, in accordance with the criteria for evaluation established by the ~~Commission~~ State Board pursuant to NRS 385.3785.

2. A public school or consortium of public schools that receives an allocation of money from the Account shall not:

(a) Use the money to settle or arbitrate disputes or negotiate settlements between an organization that represents licensed employees of the school district or public school and the school district or public school, as applicable.

(b) Use the money to adjust the schedules of salaries and benefits of the employees of the school district or public school, as applicable.

*Sec. 21.7. NRS 385.3789 is hereby amended to read as follows:*

385.3789 1. The ~~Commission~~ *State Board* shall prepare an annual report that describes the distribution of money to the public schools and consortiums of public schools and the programs for which money was allocated from the Account, including, without limitation, the total amount of money allocated:

(a) To each consortium of public schools, with a designation of which public schools are included in each consortium;

(b) To each public school;

(c) To schools included on the list of priorities of schools provided by the Department pursuant to NRS 385.3785;

(d) For programs that provide services directly to pupils for remediation and innovation, including, without limitation, instruction, instructional materials and support materials;

(e) For programs that provide instructional support and have an indirect effect on pupils, including, without limitation, the provision of professional development for educational personnel and the employment of administrators; ~~and~~

(f) For each program, including, without limitation:

(1) A description of the program, including, without limitation, whether the program is available commercially;

(2) Whether the ~~Commission~~ *State Board* considers the program to be innovative;

(3) Whether the program includes the provision of professional development other than professional development that is related to carrying out a program that provides services directly to pupils;

(4) The costs to implement the program; and

(5) The full-time personnel necessary to implement the program, if any

~~}; and~~

*(g) For evaluations of programs for which money was allocated from the Account pursuant to subsection 3 of NRS 385.379.*

Ê The report must be submitted on or before September 1 of each year to the entities identified in subsection 3.

2. The ~~Commission~~ *State Board* shall:

(a) Prepare an annual report that describes:

(1) The activities of the ~~Commission~~ *State Board relating to the provisions of NRS 385.3782 to 385.379, inclusive;*

(2) An analysis of the progress of *and strategies proposed by* the public schools in carrying out the plans to improve the achievement of pupils; and

(3) An analysis of the progress of *and strategies proposed by* the public schools and consortiums of public schools that received an allocation of money from the Account in improving the achievement of pupils.

(b) Submit the report on or before January 31 of each year to the entities identified in subsection 3.

3. The ~~Commission~~ State Board shall submit the reports required by this section to the:

(a) ~~State Board~~;

~~(b)~~ Governor;

~~(c)~~ (b) Committee;

~~(d)~~ (c) Bureau;

~~(e)~~ (d) Interim Finance Committee; and

~~(f)~~ (e) Board of trustees of each school district.

4. The Legislative Auditor shall audit biennially the programs for which public schools and consortiums of public schools receive an allocation of money. The audit may include a representative sample of programs, based upon geographic location and type of program. The Legislative Auditor shall report the results of each biennial audit to the entities prescribed in subsection 3.

*Sec. 21.9. NRS 385.379 is hereby amended to read as follows:*

385.379 1. The Account for Programs for Innovation and the Prevention of Remediation is hereby created in the State General Fund, to be administered by the State Superintendent of Public Instruction ~~for Education~~. The State Superintendent of Public Instruction may accept gifts and grants of money from any source for deposit in the Account. Any money from gifts and grants may be expended in accordance with the terms and conditions of the gift or grant, or in accordance with subsection 2 or 3. The interest and income earned on the sum of:

(a) The money in the Account; and

(b) Unexpended appropriations made to the Account from the State General Fund,

Ê must be credited to the Account. Any money remaining in the Account at the end of a fiscal year does not revert to the State General Fund, and the balance in the Account must be carried forward to the next fiscal year.

2. Except as otherwise provided in ~~NRS 385.3784 and~~ subsection 3, the money in the Account may only be used for the allocation of money to public schools and consortiums of public schools whose applications are approved by the ~~Commission~~ State Board pursuant to NRS 385.3785.

3. Upon the request of the ~~Commission~~ State Board:

(a) Not more than \$50,000 in the Account may be used each biennium to pay:

(1) The expenses incurred by members of the ~~Commission~~ State Board to travel to the public schools and consortiums of public schools that received allocations of money from the Account; and

(2) The costs incurred by the ~~{Commission}~~ *State Board* to hold meetings or conferences for representatives of public schools and consortiums of schools that received allocations of money from the Account to discuss or display, or both, programs, practices and strategies that have proven effective in improving the academic achievement and proficiency of pupils.

(b) Not more than \$450,000 in the Account may be used each biennium to pay for an evaluation of the programs for which money was allocated from the Account. If the ~~{Commission}~~ *State Board* uses money in the Account for such an evaluation, the ~~{Commission}~~ *State Board* shall ensure that:

(1) A request for proposals is issued and a qualified, independent consultant is selected to conduct the evaluation;

(2) Upon selection of the consultant, the ~~{Commission}~~ *State Board* receives approval of the consultant and the plan for the evaluation from the Committee;

(3) The evaluation is designed to determine the effectiveness of the programs for which money was allocated from the Account in improving the achievement of pupils;

(4) The evaluation includes an identification of the programs for which money was allocated from the Account that did not improve the achievement of pupils as described in the approved application for the grant;

(5) The evaluation includes an identification of the public schools and consortiums of public schools that did not implement the programs for which money was allocated from the Account as described in the approved application for the grant; and

(6) The evaluation includes a compilation and review of each evaluation required to be submitted by public schools and consortiums of public schools pursuant to NRS 385.3787.

Sec. 22. (Deleted by amendment.)

Sec. 23. (Deleted by amendment.)

Sec. 24. (Deleted by amendment.)

Sec. 25. (Deleted by amendment.)

Sec. 26. (Deleted by amendment.)

Sec. 27. NRS 385.389 is hereby amended to read as follows:

385.389 1. The Department shall adopt programs of remedial study for each subject tested on the examinations administered pursuant to NRS 389.015, including, without limitation, programs that are designed for pupils who are limited English proficient. The programs adopted for pupils who are limited English proficient must be designed to:

(a) Improve the academic achievement of those pupils; or

(b) Assist those pupils with attaining proficiency in the English language.

Ê In adopting these programs of remedial study, the Department shall consider the recommendations submitted by the Committee pursuant to NRS 218.5354 and programs of remedial study that have proven to be successful in improving the academic achievement of pupils.

2. If a school fails to make adequate yearly progress or if less than 60 percent of the pupils enrolled in a school who took the examinations administered pursuant to NRS 389.015 received an average score on those examinations that is at least equal to the 26th percentile of the national reference group of pupils to which the examinations were compared, the school shall adopt a program of remedial study that has been adopted by the Department pursuant to subsection 1 or a program, practice or strategy recommended by the ~~[Commission on Educational Excellence pursuant to NRS 385.3785,]~~ *Committee pursuant to NRS 218.5354*, or any combination thereof, as applicable.

3. A school district that includes a school described in subsection 2 shall ensure that each of the pupils enrolled in the school who failed to demonstrate at least adequate achievement on the examinations administered pursuant to NRS 389.015 completes, in accordance with the requirements set forth in subsection 4 of NRS 389.015, remedial study that is determined to be appropriate for the pupil.

Sec. 28. NRS 385.620 is hereby amended to read as follows:

385.620 The Advisory Council shall:

1. Review the policy of parental involvement adopted by the State Board and the policy of parental involvement adopted by the board of trustees of each school district pursuant to NRS 392.457;

2. Review the information relating to communication with and participation of parents that is included in the annual report of accountability for each school district pursuant to paragraph (j) of subsection 2 of NRS 385.347;

3. Review any effective practices carried out in individual school districts to increase parental involvement and determine the feasibility of carrying out those practices on a statewide basis;

4. Review any effective practices carried out in other states to increase parental involvement and determine the feasibility of carrying out those practices in this State;

5. Identify methods to communicate effectively and provide outreach to parents and legal guardians of pupils who have limited time to become involved in the education of their children for various reasons, including, without limitation, work schedules, single-parent homes and other family obligations;

6. Identify the manner in which the level of parental involvement affects the performance, attendance and discipline of pupils;

7. Identify methods to communicate effectively with and provide outreach to parents and legal guardians of pupils who are limited English proficient;

8. Determine the necessity for the appointment of a statewide parental involvement coordinator or a parental involvement coordinator in each school district, or both;

9. On or before July 1 of each year, submit a report to the *State Board and the Legislative Committee on Education* describing the activities of the Advisory Council and any recommendations for legislation; and

10. On or before February 1 of each odd-numbered year, submit a report to the *State Board and* to the Director of the Legislative Counsel Bureau for transmission to the next regular session of the Legislature describing the activities of the Advisory Council and any recommendations for legislation.

Sec. 28.5. NRS 386.650 is hereby amended to read as follows:

386.650 1. The Department shall establish and maintain an automated system of accountability in information for Nevada. The system must:

(a) Have the capacity to provide and report information, including, without limitation, the results of the achievement of pupils:

(1) In the manner required by 20 U.S.C. §§ 6301 et seq., and the regulations adopted pursuant thereto, and NRS 385.3469 and 385.347; and

(2) In a separate reporting for each group of pupils identified in paragraph (b) of subsection 1 of NRS 385.361;

(b) Include a system of unique identification for each pupil:

(1) To ensure that individual pupils may be tracked over time throughout this State; and

(2) That, to the extent practicable, may be used for purposes of identifying a pupil for both the public schools and the Nevada System of Higher Education, if that pupil enrolls in the System after graduation from high school;

(c) Have the capacity to provide longitudinal comparisons of the academic achievement, rate of attendance and rate of graduation of pupils over time throughout this State;

(d) Have the capacity to perform a variety of longitudinal analyses of the results of individual pupils on assessments, including, without limitation, the results of pupils by classroom and by school;

(e) Have the capacity to identify which teachers are assigned to individual pupils and which paraprofessionals, if any, are assigned to provide services to individual pupils;

(f) Have the capacity to provide other information concerning schools and school districts that is not linked to individual pupils, including, without limitation, the designation of schools and school districts pursuant to NRS 385.3623 and 385.377, respectively, and an identification of which schools, if any, are persistently dangerous;

(g) Have the capacity to access financial accountability information for each public school, including, without limitation, each charter school, for each school district and for this State as a whole; and

(h) Be designed to improve the ability of the Department, school districts and the public schools in this State, including, without limitation, charter schools, to account for the pupils who are enrolled in the public schools, including, without limitation, charter schools.



Ê The information maintained pursuant to paragraphs (c), (d) and (e) must be used for the purpose of improving the achievement of pupils and improving classroom instruction . ~~but must not be used for the purpose of evaluating an individual teacher or paraprofessional.~~

2. The board of trustees of each school district shall:

(a) Adopt and maintain the program prescribed by the *State Superintendent* ~~[of Public Instruction]~~ *for Education* pursuant to subsection 3 for the collection, maintenance and transfer of data from the records of individual pupils to the automated system of information, including, without limitation, the development of plans for the educational technology which is necessary to adopt and maintain the program;

(b) Provide to the Department electronic data concerning pupils as required by the *State Superintendent* ~~[of Public Instruction]~~ *for Education* pursuant to subsection 3; and

(c) Ensure that an electronic record is maintained in accordance with subsection 3 of NRS 386.655.

3. The *State Superintendent* ~~[of Public Instruction]~~ *for Education* shall:

(a) Prescribe a uniform program throughout this State for the collection, maintenance and transfer of data that each school district must adopt, which must include standardized software;

(b) Prescribe the data to be collected and reported to the Department by each school district and each sponsor of a charter school pursuant to subsection 2 and by each university school for profoundly gifted pupils;

(c) Prescribe the format for the data;

(d) Prescribe the date by which each school district shall report the data to the Department;

(e) Prescribe the date by which each charter school shall report the data to the sponsor of the charter school;

(f) Prescribe the date by which each university school for profoundly gifted pupils shall report the data to the Department;

(g) Prescribe standardized codes for all data elements used within the automated system and all exchanges of data within the automated system, including, without limitation, data concerning:

(1) Individual pupils;

(2) Individual teachers and paraprofessionals;

(3) Individual schools and school districts; and

(4) Programs and financial information;

(h) Provide technical assistance to each school district to ensure that the data from each public school in the school district, including, without limitation, each charter school and university school for profoundly gifted pupils located within the school district, is compatible with the automated system of information and comparable to the data reported by other school districts; and

(i) Provide for the analysis and reporting of the data in the automated system of information.

4. The Department shall establish, to the extent authorized by the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. § 1232g, and any regulations adopted pursuant thereto, a mechanism by which persons or entities, including, without limitation, state officers who are members of the Executive or Legislative Branch, administrators of public schools and school districts, teachers and other educational personnel, and parents and guardians, will have different types of access to the accountability information contained within the automated system to the extent that such information is necessary for the performance of a duty or to the extent that such information may be made available to the general public without posing a threat to the confidentiality of an individual pupil.

5. The Department may, to the extent authorized by the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. § 1232g, and any regulations adopted pursuant thereto, enter into an agreement with the Nevada System of Higher Education to provide access to data contained within the automated system for research purposes.

Sec. 29. ~~[NRS 387.303 is hereby amended to read as follows:~~

~~387.303 1. Not later than November 10 of each year, the board of trustees of each school district shall submit to the State Superintendent [of Public Instruction] for Education and the Department of Taxation a report which includes the following information:~~

~~(a) For each fund within the school district, including, without limitation, the school district's general fund and any special revenue fund which receives state money, the total number and salaries of licensed and nonlicensed persons whose salaries are paid from the fund and who are employed by the school district in full-time positions or in part-time positions added together to represent full-time positions. Information must be provided for the current school year based upon the school district's final budget, including any amendments and augmentations thereto, and for the preceding school year. An employee must be categorized as filling an instructional, administrative, instructional support or other position.~~

~~(b) The count of pupils computed pursuant to paragraph (a) of subsection 1 of NRS 387.1233.~~

~~(c) The school district's actual expenditures in the fiscal year immediately preceding the report.~~

~~(d) The school district's proposed expenditures for the current fiscal year.~~

~~(e) The schedule of salaries for licensed employees in the current school year and a statement of whether the negotiations regarding salaries for the current school year have been completed. If the negotiations have not been completed at the time the schedule of salaries is submitted, the board of trustees shall submit a supplemental report to the State Superintendent [of Public Instruction] for Education upon completion of negotiations or the determination of an arbitrator concerning the negotiations that includes the schedule of salaries agreed to or required by the arbitrator.~~

~~(f) The number of employees who received an increase in salary pursuant to subsection 2, 3 or 4 of NRS 391.160 for the current and preceding fiscal years. If the board of trustees is required to pay an increase in salary retroactively pursuant to subsection 2 of NRS 391.160, the board of trustees shall submit a supplemental report to the *State Superintendent* [of Public Instruction] *for Education* not later than February 15 of the year in which the retroactive payment was made that includes the number of teachers to whom an increase in salary was paid retroactively.~~

~~(g) The number of employees eligible for health insurance within the school district for the current and preceding fiscal years and the amount paid for health insurance for each such employee during those years.~~

~~(h) The rates for fringe benefits, excluding health insurance, paid by the school district for its licensed employees in the preceding and current fiscal years.~~

~~(i) The amount paid for extra duties, supervision of extracurricular activities and supplemental pay and the number of employees receiving that pay in the preceding and current fiscal years.~~

~~(j) The expenditures from the account created pursuant to subsection [3] 4 of NRS 179.1187. The report must indicate the total amount received by the district in the preceding fiscal year, and the specific amount spent on books and computer hardware and software for each grade level in the district.~~

~~2. On or before November 25 of each year, the *State Superintendent* [of Public Instruction] *for Education* shall submit to the Department of Administration and the Fiscal Analysis Division of the Legislative Counsel Bureau, in a format approved by the Director of the Department of Administration, a compilation of the reports made by each school district pursuant to subsection 1.~~

~~3. In preparing the agency biennial budget request for the State Distributive School Account for submission to the Department of Administration, the *State Superintendent* [of Public Instruction:] *for Education*:~~

~~(a) Shall compile the information from the most recent compilation of reports submitted pursuant to subsection 2;~~

~~(b) May increase the line items of expenditures or revenues based on merit salary increases and cost of living adjustments or inflation, as deemed credible and reliable based upon published indexes and research relevant to the specific line item of expenditure or revenue;~~

~~(c) May adjust expenditures and revenues pursuant to paragraph (b) for any year remaining before the biennium for which the budget is being prepared and for the 2 years of the biennium covered by the biennial budget request to project the cost of expenditures or the receipt of revenues for the specific line items;~~

~~(d) May consider the cost of enhancements to existing programs or the projected cost of proposed new educational programs, regardless of whether those enhancements or new programs are included in the per pupil basic~~

~~support guarantee for inclusion in the biennial budget request to the Department of Administration; and~~

~~(c) Shall obtain approval from the State Board for any inflationary increase, enhancement to an existing program or addition of a new program included in the agency biennial budget request.~~

~~4. The State Superintendent [of Public Instruction] for Education shall, in the compilation required by subsection 2, reconcile the revenues of the school districts with the apportionment received by those districts from the State Distributive School Account for the preceding year.~~

~~5. The request prepared pursuant to subsection 3 must:~~

~~(a) Be presented by the State Superintendent [of Public Instruction] for Education to such standing committees of the Legislature as requested by the standing committees for the purposes of developing educational programs and providing appropriations for those programs; and~~

~~(b) Provide for a direct comparison of appropriations to the proposed budget of the Governor submitted pursuant to subsection 4 of NRS 352.230.~~

*(Deleted by amendment.)*

Sec. 30. (Deleted by amendment.)

Sec. 31. NRS 388.795 is hereby amended to read as follows:

388.795 1. The ~~[Commission]~~ Department shall establish a plan for the use of educational technology in the public schools of this State. In preparing the plan, the ~~[Commission]~~ Department shall consider:

(a) Plans that have been adopted by ~~[the Department and]~~ the school districts and charter schools in this State;

(b) Plans that have been adopted in other states;

(c) The information reported pursuant to paragraph (t) of subsection 2 of NRS 385.347;

(d) The results of the assessment of needs conducted pursuant to subsection ~~[6.]~~ 5; and

(e) Any other information that the ~~[Commission]~~ Department or the Legislative Committee on Education deems relevant to the preparation of the plan.

2. The plan established by the ~~[Commission]~~ Department must include recommendations for methods to:

(a) Incorporate educational technology into the public schools of this State;

(b) Increase the number of pupils in the public schools of this State who have access to educational technology;

(c) Increase the availability of educational technology to assist licensed teachers and other educational personnel in complying with the requirements of continuing education, including, without limitation, the receipt of credit for college courses completed through the use of educational technology;

(d) Facilitate the exchange of ideas to improve the achievement of pupils who are enrolled in the public schools of this State; and

(e) Address the needs of teachers in incorporating the use of educational technology in the classroom, including, without limitation, the completion of training that is sufficient to enable the teachers to instruct pupils in the use of educational technology.

3. ~~The Department shall provide:~~

- ~~(a) Administrative support;~~
- ~~(b) Equipment; and~~
- ~~(c) Office space,~~

~~as is necessary for the Commission to carry out the provisions of this section.~~

4.] The following entities shall cooperate with the ~~Commission~~ Department in carrying out the provisions of this section:

- (a) The State Board.
- (b) The board of trustees of each school district.
- (c) The superintendent of schools of each school district.
- (d) ~~The Department.~~

5.] ~~Deputy Superintendent of Operations, Fiscal Services and Technology.~~

~~(e) The governing body of each charter school.~~

4. The ~~Commission~~ Department shall:

(a) Develop technical standards for educational technology and any electrical or structural appurtenances necessary thereto, including, without limitation, uniform specifications for computer hardware and wiring, to ensure that such technology is compatible, uniform and can be interconnected throughout the public schools of this State.

(b) Allocate money to the school districts ~~from the Trust Fund for Educational Technology created pursuant to NRS 388.800~~ and charter schools pursuant to paragraph (a) of subsection 2 of section 5.5 of this act and any money appropriated by the Legislature for educational technology, subject to any priorities for such allocation established by the Legislature.

(c) Establish criteria for the board of trustees of a school district and governing bodies of charter schools that ~~receives~~ receive an allocation of money from the ~~Commission~~ Department pursuant to paragraph (a) of subsection 2 of section 5.5 of this act to:

(1) Repair, replace and maintain computer systems.

(2) Upgrade and improve computer hardware and software and other educational technology.

(3) Provide training, installation and technical support related to the use of educational technology within the district ~~or charter school.~~

(d) Submit to the Governor ~~and~~ the Legislative Committee ~~and the Department~~ on Education its plan for the use of educational technology in the public schools of this State and any recommendations for legislation.

(e) Review the plan annually and make revisions as ~~it~~ the Department deems necessary ~~for as directed by the Committee or the Department.~~

(f) In addition to the recommendations set forth in the plan pursuant to subsection 2, make further recommendations to the *Legislative Committee* ~~and the Department~~ on Education as the ~~Commission~~ Department deems necessary.

~~6.~~ 5. During the spring semester of each even-numbered school year, the ~~Commission~~ Department shall conduct an assessment of the needs of each school district *and charter school* relating to educational technology. In conducting the assessment, the ~~Commission~~ Department shall consider:

- (a) The recommendations set forth in the plan pursuant to subsection 2;
- (b) The plan for educational technology of each school district ~~and~~ *and charter school*, if applicable;
- (c) Evaluations of educational technology conducted for the State, ~~or~~ for a school district ~~and~~ *or for a charter school*, if applicable; and
- (d) Any other information deemed relevant by the ~~Commission~~ Department.

~~E~~ The ~~Commission~~ Department shall submit a final written report of the assessment to the State Superintendent ~~of Public Instruction~~ for Education on or before April 1 of each even-numbered year.

~~7.~~ 6. The State Superintendent ~~of Public Instruction~~ for Education shall prepare a written compilation of the results of the assessment conducted by the ~~Commission~~ Department and transmit the written compilation on or before June 1 of each even-numbered year to the Legislative Committee on Education and to the Director of the Legislative Counsel Bureau for transmission to the next regular session of the Legislature.

~~8.~~ 7. The ~~Commission~~ Department may appoint an advisory committee composed of six members ~~of the Commission or other qualified persons~~ who are qualified and who represent the ethnic and geographic diversity of this State to provide recommendations to the ~~Commission~~ Department regarding standards for the establishment, coordination and use of a telecommunications network in the public schools throughout ~~the various school districts in~~ this State. The advisory committee serves at the pleasure of the ~~Commission~~ Department and without compensation unless an appropriation or other money for that purpose is provided by the Legislature.

~~9.~~ 8. As used in this section, "public school" includes the Caliente Youth Center, the Nevada Youth Training Center and any other state facility for the detention of children that is operated pursuant to title 5 of NRS.

Sec. 32. (Deleted by amendment.)

Sec. 33. (Deleted by amendment.)

Sec. 34. NRS 389.012 is hereby amended to read as follows:

389.012 1. The State Board shall:

(a) In accordance with guidelines established by the National Assessment Governing Board and National Center for Education Statistics and in accordance with 20 U.S.C. §§ 6301 et seq. and the regulations adopted pursuant thereto, adopt regulations requiring the schools of this State that are

selected by the National Assessment Governing Board or the National Center for Education Statistics to participate in the examinations of the National Assessment of Educational Progress.

(b) Report the results of those examinations to the:

- (1) Governor;
- (2) Board of trustees of each school district of this State;
- (3) Legislative Committee on Education created pursuant to NRS 218.5352; and
- (4) Legislative Bureau of Educational Accountability and Program Evaluation created pursuant to NRS 218.5356.

(c) Include in the report required pursuant to paragraph (b) an analysis and comparison of the results of pupils in this State on the examinations required by this section with:

- (1) The results of pupils throughout this country who participated in the examinations of the National Assessment of Educational Progress; and
- (2) The results of pupils on the achievement and proficiency examinations administered pursuant to this chapter.

2. If the report required by subsection 1 indicates that the percentage of pupils enrolled in the public schools in this State who are proficient on the National Assessment of Educational Progress differs by more than 10 percent of the pupils who are proficient on the examinations administered pursuant to NRS 389.550 and the high school proficiency examination administered pursuant to NRS 389.015, the Department shall prepare a written report describing the discrepancy. The report must include, without limitation, a comparison and evaluation of:

(a) The standards of content and performance for English and mathematics established pursuant to NRS 389.520 with the standards for English and mathematics that are tested on the National Assessment.

(b) The standards for proficiency established for the National Assessment with the standards for proficiency established for the examinations that are administered pursuant to NRS 389.550 and the high school proficiency examination administered pursuant to NRS 389.015.

3. The report prepared by the Department pursuant to subsection 2 must be submitted to the:

- (a) Governor;
- (b) Legislative Committee on Education;
- (c) Legislative Bureau of Educational Accountability and Program Evaluation; and
- (d) ~~[(Council to Establish Academic Standards for Public Schools)]~~ *State Board*.

4. The ~~[(Council to Establish Academic Standards for Public Schools)]~~ *State Board* shall review and evaluate the report provided to the ~~[(Council)]~~ *State Board* pursuant to subsection 3 to identify any discrepancies in the standards of content and performance established by the ~~[(Council)]~~ *State Board* that require revision and a timeline for carrying out the revision, if

necessary. The ~~{Council}~~ *State Board* shall submit a written report of its review and evaluation to the Legislative Committee on Education and Legislative Bureau of Educational Accountability and Program Evaluation.

Sec. 35. (Deleted by amendment.)

Sec. 36. NRS 389.019 is hereby amended to read as follows:

389.019 Except as otherwise provided in NRS 389.180, boards of trustees of school districts in this State shall enforce in schools:

1. The standards of content and performance established by the ~~{Council to Establish Academic Standards for Public Schools}~~ *State Board* and the courses of study related to those standards; and

2. The courses of study prescribed and adopted by the State Board.

Sec. 37. NRS 389.520 is hereby amended to read as follows:

389.520 1. The ~~{Council}~~ *State Board* shall:

(a) Establish standards of content and performance, including, without limitation, a prescription of the resulting level of achievement, for the grade levels set forth in subsection 2, based upon the content of each course, that is expected of pupils for the following courses of study:

(1) English, including reading, composition and writing;

(2) Mathematics;

(3) Science;

(4) Social studies, which includes only the subjects of history, geography, economics and government;

(5) The arts;

(6) Computer education and technology;

(7) Health; and

(8) Physical education.

(b) Establish a schedule for the periodic review and, if necessary, revision of the standards of content and performance. The review must include, without limitation, the review required pursuant to NRS 389.570 of the results of pupils on the examinations administered pursuant to NRS 389.550.

(c) Assign priorities to the standards of content and performance relative to importance and degree of emphasis and revise the standards, if necessary, based upon the priorities.

2. The ~~{Council}~~ *State Board* shall establish *and adopt* standards of content and performance for each grade level in kindergarten and grades 1 to 8, inclusive, for English and mathematics. The ~~{Council}~~ *State Board* shall establish *and adopt* standards of content and performance for the grade levels selected by the ~~{Council}~~ *State Board* for the other courses of study prescribed in subsection 1.

3. ~~{The Council shall forward to the State Board the standards of content and performance established by the Council for each course of study. The State Board shall:~~

~~(a) Adopt the standards for each course of study, as submitted by the Council; or~~



~~(b) If the State Board objects to the standards for a course of study or a particular grade level for a course of study, return those standards to the Council with a written explanation setting forth the reason for the objection.~~

~~4. If the State Board returns to the Council the standards of content and performance for a course of study or a grade level, the Council shall:~~

~~(a) Consider the objection provided by the State Board and determine whether to revise the standards based upon the objection; and~~

~~(b) Return the standards or the revised standards, as applicable, to the State Board.~~

~~5. The State Board shall adopt the standards of content and performance or the revised standards, as applicable.~~

~~5. The Council shall work in cooperation with the] The State Board [to] shall prescribe the examinations required by NRS 389.550.~~

Sec. 38. NRS 389.530 is hereby amended to read as follows:

389.530 ~~1. The Department shall provide:~~

~~(a) Administrative support;~~

~~(b) Equipment; and~~

~~(c) Office space,~~

~~as is necessary for the Council to carry out its duties.~~

~~2. The Council may request assistance from any agency of this state if the assistance is necessary for the Council to carry out its duties.] The State Board may appoint an advisory committee composed of six members who are qualified and who represent the ethnic and geographic diversity of this State to carry out the provisions of NRS 389.520 to 389.570, inclusive. The advisory committee serves at the pleasure of the State Board and without compensation unless an appropriation or other money for that purpose is provided by the Legislature.~~

Sec. 39. NRS 389.540 is hereby amended to read as follows:

389.540 The board of trustees of each school district shall conduct a periodic review of the courses of study offered in the public schools of the school district to determine whether the courses of study comply with the standards of content and performance established by the ~~[Council]~~ State Board pursuant to NRS 389.520 and if revision of the courses of study is necessary to ensure compliance.

Sec. 40. NRS 389.550 is hereby amended to read as follows:

389.550 1. The State Board shall ~~[, in consultation with the Council,]~~ prescribe examinations that comply with 20 U.S.C. § 6311(b)(3) and that measure the achievement and proficiency of pupils:

(a) For grades 3, 4, 5, 6, 7 and 8 in the standards of content established by the ~~[Council]~~ State Board for the subjects of English and mathematics.

(b) For grades 5 and 8, in the standards of content established by the ~~[Council]~~ State Board for the subject of science.

Ê The examinations prescribed pursuant to this subsection must be written, developed, printed and scored by a nationally recognized testing company.

2. In addition to the examinations prescribed pursuant to subsection 1, the State Board shall ~~[, in consultation with the Council,]~~ prescribe a writing examination for grades 5 and 8 and for the high school proficiency examination.

3. The board of trustees of each school district and the governing body of each charter school shall administer the examinations prescribed by the State Board. The examinations must be:

(a) Administered to pupils in each school district and each charter school at the same time during the spring semester, as prescribed by the State Board.

(b) Administered in each school in accordance with uniform procedures adopted by the State Board. The Department shall monitor the school districts and individual schools to ensure compliance with the uniform procedures.

(c) Administered in each school in accordance with the plan adopted pursuant to NRS 389.616 by the Department and with the plan adopted pursuant to NRS 389.620 by the board of trustees of the school district in which the examinations are administered. The Department shall monitor the compliance of school districts and individual schools with:

(1) The plan adopted by the Department; and

(2) The plan adopted by the board of trustees of the applicable school district, to the extent that the plan adopted by the board of trustees of the school district is consistent with the plan adopted by the Department.

Sec. 41. NRS 389.560 is hereby amended to read as follows:

389.560 1. The State Board shall adopt regulations that require the board of trustees of each school district and the governing body of each charter school to submit to the *State Superintendent [of Public Instruction,] for Education*, the Department and the ~~[Council,]~~ *State Board*, in the form and manner prescribed by the Superintendent, the results of the examinations administered pursuant to NRS 389.550. The State Board shall not include in the regulations any provision that would violate the confidentiality of the test scores of an individual pupil.

2. The results of the examinations must be reported for each school, including, without limitation, each charter school, school district and this State, as follows:

(a) The percentage of pupils who have demonstrated proficiency, as defined by the Department, and took the examinations under regular testing conditions; and

(b) The percentage of pupils who have demonstrated proficiency, as defined by the Department, and took the examinations with modifications or accommodations, if such reporting does not violate the confidentiality of the test scores of any individual pupil.

3. Not later than 10 days after the Department receives the results of the examinations, the Department shall transmit a copy of the results to the Legislative Bureau of Educational Accountability and Program Evaluation in

a manner that does not violate the confidentiality of the test scores of any individual pupil.

4. On or before July 1 of each year, each school district and each charter school shall report to the Department the following information for each examination administered in the public schools in the school district or charter school:

- (a) The examination administered;
- (b) The grade level or levels of pupils to whom the examination was administered;
- (c) The costs incurred by the school district or charter school in administering each examination; and
- (d) The purpose, if any, for which the results of the examination are used by the school district or charter school.

On or before September 1 of each year, the Department shall transmit to the Budget Division of the Department of Administration and the Fiscal Analysis Division of the Legislative Counsel Bureau the information submitted to the Department pursuant to this subsection.

5. The superintendent of schools of each school district and the governing body of each charter school shall certify that the number of pupils who took the examinations is equal to the number of pupils who are enrolled in each school in the school district or in the charter school who are required to take the examinations.

6. In addition to the information required by subsection 4, the *State Superintendent of Public Instruction* for Education shall:

- (a) Report the number of pupils who were not exempt from taking the examinations but were absent from school on the day that the examinations were administered; and
- (b) Reconcile the number of pupils who were required to take the examinations with the number of pupils who were exempt from taking the examinations or absent from school on the day that the examinations were administered.

Sec. 42. NRS 389.570 is hereby amended to read as follows:

389.570 1. The ~~Council~~ *State Board* shall review the results of pupils on the examinations administered pursuant to NRS 389.550, including, without limitation, for each school in a school district and each charter school that is located within a school district, a review of the results for the current school year and a comparison of the progress, if any, made by the pupils enrolled in the school from preceding school years.

2. After the completion of the review pursuant to subsection 1, the ~~Council~~ *State Board* shall evaluate:

- (a) Whether the standards of content and performance established by the ~~Council~~ *State Board* require revision; and
- (b) The success of pupils, as measured by the results of the examinations, in achieving the standards of performance established by the ~~Council~~ *State Board*.

3. The ~~{Council}~~ *State Board* shall report the results of the evaluation conducted pursuant to subsection 2 to the ~~{State Board and the}~~ Legislative Committee on Education.

Sec. 43. (Deleted by amendment.)

Sec. 44. NRS 390.140 is hereby amended to read as follows:

390.140 1. The State Board shall make the final selection of all textbooks to be used in the public schools in this State, except for charter schools. If a textbook proposed for selection is in a subject area for which standards of content have been established by the ~~{Council to Establish Academic Standards for Public Schools}~~ *State Board* pursuant to NRS 389.520, the State Board shall not select the textbook unless the State Board determines that the textbook adequately supports the standards for that subject area.

2. A textbook must not be selected by the State Board pursuant to subsection 1 for use in the public schools in classes in literature, history or social sciences unless it accurately portrays the cultural and racial diversity of our society, including lessons on the contributions made to our society by men and women from various racial and ethnic backgrounds.

Sec. 45. ~~{Chapter 391 of NRS is hereby amended by adding thereto the provisions set forth as sections 46, 47 and 47.5 of this act.} (Deleted by amendment.)~~

Sec. 46. (Deleted by amendment.)

Sec. 47. ~~{1. Within the limits of money available from the Endowment Fund for a Program of Performance Pay created pursuant to section 47.5 of this act or otherwise available for that purpose, the Department shall establish a program of performance pay for voluntary participation by licensed educational personnel and other school personnel of public schools that demonstrate improvement and exceptional performance.~~

~~2. The program must prescribe a formula for determining the classroom performance of each teacher who voluntarily participates in the program, which must give equal consideration to:~~

~~(a) The achievement and progress made by the pupils enrolled in the teacher's classroom, as measured by the model adopted pursuant to section 5 of this act and the information obtained from the automated system of accountability information for Nevada maintained pursuant to NRS 386.650; and~~

~~(b) The professional accomplishments of the teacher, as evidenced by:~~

~~(1) Evaluations of the teacher conducted in accordance with the policies adopted pursuant to NRS 391.3125;~~

~~(2) The participation of the teacher in professional development and other training;~~

~~(3) The results of peer reviews and parent satisfaction surveys concerning the school, if enough completed surveys are available to assess performance; and~~

~~(4) Any other measure of the professional accomplishments of the teacher deemed appropriate by the Department.~~

~~3. The program must prescribe a formula for determining the performance of each public school for purposes of awarding enhanced performance pay to other school personnel who voluntarily participate in the program and who are not teachers. The formula must give equal consideration to:~~

~~(a) The achievement and progress of pupils enrolled in the public school which is tracked from year to year to determine whether the school has made progress in the achievement of pupils, as measured by the model adopted pursuant to section 5 of this act and the information obtained from the automated system of accountability information for Nevada maintained pursuant to NRS 386.650; and~~

~~(b) The professional accomplishments of the school personnel, as evidenced by:~~

~~(1) The participation of the school personnel in development and training in their area of employment;~~

~~(2) The results of parent satisfaction surveys concerning the school, if enough completed surveys are available to assess the performance of the school; and~~

~~(3) Any other measure of the accomplishments of school personnel deemed appropriate by the Department.~~

~~4. The Department shall provide enhanced compensation to licensed educational personnel and other school personnel who voluntarily participate in the program and, as calculated pursuant to this section, are in the top quartile of progress in pupil achievement and professional accomplishment.] (Deleted by amendment.)~~

~~Sec. 47.5. 1. There is hereby created the Endowment Fund for a Program of Performance Pay to be administered by the Department.~~

~~2. The money in the Fund must be used to provide enhanced compensation to licensed educational personnel and other school personnel who voluntarily participate in the program of performance pay established pursuant to section 47 of this act.~~

~~3. The Department shall deposit in the Fund any money received for the purpose of carrying out the provisions of section 47 of this act.~~

~~4. Any interest or other income earned on the money in the Fund must be credited to the Fund.~~

~~5. Any money that remains in the Fund at the end of a fiscal year does not revert to the State General Fund, and the balance in the Fund must be carried forward to the next fiscal year.] (Deleted by amendment.)~~

Sec. 48. (Deleted by amendment.)

Sec. 49. (Deleted by amendment.)

Sec. 50. (Deleted by amendment.)

Sec. 51. (Deleted by amendment.)

Sec. 52. (Deleted by amendment.)

Sec. 53. (Deleted by amendment.)

Sec. 54. (Deleted by amendment.)

Sec. 55. (Deleted by amendment.)

Sec. 56. (Deleted by amendment.)

Sec. 57. NRS 391.038 is hereby amended to read as follows:

391.038 1. The State Board, in consultation with educational institutions in this State which offer courses of study and training for the education of teachers, the board of trustees of each school district in this State and other educational personnel, shall review and evaluate a course of study and training offered by an educational institution which is designed to provide the education required for:

- (a) The licensure of teachers or other educational personnel;
- (b) The renewal of licenses of teachers or other educational personnel; or
- (c) An endorsement in a field of specialization.

È If the course of study and training meets the requirements established by the State Board, it must be approved by the State Board. The State Board shall not approve a course of study or training unless the course of study and training provides instruction, to the extent deemed necessary by the State Board, in the standards of content and performance prescribed by the ~~{Council to Establish Academic Standards for Public Schools}~~ *State Board* pursuant to NRS 389.520.

2. The State Board may review and evaluate such courses of study and training itself or may recognize a course of study and training approved by a national agency for accreditation acceptable to the Board.

3. The State Board shall adopt regulations establishing fees for the review by the Board of a course of study and training submitted to the Board by an educational institution.

4. The State Board, in consultation with educational institutions in this State which offer courses of study and training for the education of teachers and other educational personnel, and the Nevada Association of Colleges for Teacher Education and the Nevada Association of Teacher Educators, shall adopt regulations governing the approval by the State Board of courses of study and training which are accredited by the National Council for Accreditation of Teacher Education, and those which are not so accredited.

5. If the State Board denies or withdraws its approval of a course of study or training, the educational institution is entitled to a hearing and judicial review of the decision of the State Board.

Sec. 58. (Deleted by amendment.)

Sec. 59. (Deleted by amendment.)

Sec. 60. 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, 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.

(f) *Collaborate with the Nevada System of Higher Education concerning the programs offered by the colleges of education at the institutions within the System and the programs of professional development for teachers.*

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. 61. (Deleted by amendment.)

Sec. 62. 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}~~ *State Board* 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}~~ *State Board* pursuant to NRS 389.520;

(b) Fundamental reading skills; and

(c) Other training listed in subsection 1.

Ê The governing body shall provide a copy of the list on an annual basis to school districts 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 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 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. 63. (Deleted by amendment.)

Sec. 64. NRS 391.556 is hereby amended to read as follows:

391.556 The board of trustees of each school district shall submit an annual report to the State Board, the Commission, the Legislative Committee on Education and the Legislative Bureau of Educational Accountability and Program Evaluation that includes for the immediately preceding year:

1. The number of teachers and administrators employed by the school district who received training through the program; and

2. An evaluation of whether that training included the standards of content and performance established by the ~~{Council to Establish Academic Standards for Public Schools}~~ *State Board* pursuant to NRS 389.520.

Sec. 65. NRS 396.5195 is hereby amended to read as follows:

396.5195 The Board of Regents shall, in cooperation with the State Board, ~~{and the Council to Establish Academic Standards for Public Schools}~~, ensure that students enrolled in a program developed by the System for the education of teachers are provided instruction regarding the standards of content and performance required of pupils enrolled in high schools in this State.

Sec. 66. (Deleted by amendment.)

Sec. 67. NRS 218.5354 is hereby amended to read as follows:

218.5354 1. The Committee may:

(a) Evaluate, review and comment upon issues related to education within this State, including, but not limited to:

(1) Programs to enhance accountability in education;

(2) Legislative measures regarding education;

(3) The progress made by this State, the school districts and the public schools in this State in satisfying the goals and objectives of the federal No Child Left Behind Act of 2001, 20 U.S.C. §§ 6301 et seq., ~~{and}~~ the annual measurable objectives established by the State Board of Education pursuant to NRS 385.361 ~~{;}~~, *the defined goals and benchmarks and the measurable outcomes established by the State Board of Education pursuant to NRS 385.075;*

(4) Methods of financing public education;

(5) The condition of public education in the elementary and secondary schools;

(6) The program to reduce the ratio of pupils per class per licensed teacher prescribed in NRS 388.700, 388.710 and 388.720;

(7) The development of any programs to automate the receipt, storage and retrieval of the educational records of pupils; and

(8) Any other matters that, in the determination of the Committee, affect the education of pupils within this State.

(b) Conduct investigations and hold hearings in connection with its duties pursuant to this section.

(c) Request that the Legislative Counsel Bureau assist in the research, investigations, hearings and reviews of the Committee.

(d) Make recommendations to the Legislature concerning the manner in which public education may be improved.

2. The Committee shall:

(a) In addition to any standards prescribed by the Department of Education, prescribe standards for the review and evaluation of the reports of the State Board of Education, school districts and public schools pursuant to paragraph (a) of subsection 1 of NRS 385.359.

(b) For the purposes set forth in NRS 385.389, recommend to the Department of Education programs of remedial study for each subject tested on the examinations administered pursuant to NRS 389.015. In recommending these programs of remedial study, the Committee shall consider programs of remedial study that have proven to be successful in improving the academic achievement of pupils.

(c) Recommend to the Department of Education providers of supplemental educational services for inclusion on the list of approved providers prepared by the Department pursuant to NRS 385.384. In recommending providers, the Committee shall consider providers with a demonstrated record of effectiveness in improving the academic achievement of pupils.

(d) For the purposes set forth in NRS 385.3785, subsection 2 of NRS 385.389 and section 5.5 of this act, recommend to the ~~[Commission on Educational Excellence created by NRS 385.3784]~~ ~~[Department of Education]~~ State Board programs, practices and strategies that have proven effective in improving the academic achievement and proficiency of pupils.

Sec. 68. (Deleted by amendment.)

Sec. 69. NRS 385.017, 385.0175, 385.018, 385.019, 385.0225, 385.023, 385.0235, 385.024, 385.0245, 385.025, 385.0255, 385.0257, 385.026, 385.0265, 385.3781, ~~385.3782~~, 385.3783, 385.3784, ~~385.3785, 385.3787, 385.3789, 385.3791~~, 388.780, 388.785, 388.787, 388.790, 388.800, 388.805, 389.500 and 389.510 are hereby repealed.

*Sec. 69.3. In addition to the study of the governance of the system of K-12 public education, the committee appointed by the Legislative Commission pursuant to Assembly Concurrent Resolution Number 2 of the 2009 Legislature, File No. 89, shall also study the establishment of a program of performance pay for voluntary participation by licensed educational personnel and other school personnel employed in the public schools in this State. As part of the study, the interim committee shall consider and make recommendations concerning:*

*1. The development of a formula for determining the classroom performance of a teacher who voluntarily participates in the program, including, without limitation:*

*(a) The achievement and progress made by the pupils enrolled in the teacher's classroom; and*

*(b) The professional accomplishments of the teacher.*

*2. The development of a formula for determining the performance of each public school for purposes of awarding enhanced compensation pay to other school personnel who voluntarily participate in the program, including, without limitation:*

*(a) The achievement and progress made by the pupils enrolled in the public school in a manner that tracks their progress from year to year; and*

*(b) The professional accomplishments of the school personnel.*

~~Sec. 69.5. 1 Any money remaining unexpended on June 30, 2009, in the Account for Programs for Innovation and the Prevention of Remediation must not be committed for expenditure after June 30, 2009, by the entity which is responsible for the administration of the Account or any entity to which money from the Account is granted or otherwise transferred in any manner. The State Treasurer shall, on June 30, 2009, revert to the State General Fund any money remaining unexpended in the Account on that date.~~

~~2 Any money remaining unexpended on June 30, 2009, in the Trust Fund for Educational Technology must not be committed for expenditure after June 30, 2009, by the entity which is responsible for the administration of the Trust Fund or any entity to which money from the Trust Fund is granted or otherwise transferred in any manner. ~~The State Treasurer shall, on June 30, 2009, revert~~ and must be reverted to the State General Fund ~~any money remaining unexpended in the Trust Fund on that date.~~ on or before September 18, 2009.~~

Sec. 70. 1. The Legislative Commission shall:

(a) Monitor the State Board of Education and the Department of Education in carrying out the amendatory provisions of this act.

(b) Review the implementation of the amendatory provisions of this act.

2. The State Board of Education and the Department of Education shall work cooperatively with the Legislative Commission to carry out the provisions of this section.

Sec. 71. 1. The terms of all members of the State Board of Education who are incumbent on December 31, 2010, expire on that date.

2. On or before January 1, 2011:

(a) The Governor shall appoint one member who meets the qualifications set forth in paragraph (b) of subsection 2 of NRS 385.021, as amended by section 8 of this act, to a term which commences on January 1, 2011, and expires on December 31, 2013.

(b) The Legislative Commission shall appoint one member who meets the qualifications set forth in paragraph (b) of subsection 2 of NRS 385.021, as

amended by section 8 of this act, to a term which commences on January 1, 2011, and expires on December 31, 2015.

(c) The Legislative Commission shall appoint one member who meets the qualifications set forth in paragraph (b) of subsection 2 of NRS 385.021, as amended by section 8 of this act, to a term which commences on January 1, 2011, and expires on December 31, 2013.

(d) The Board of Regents of the University of Nevada shall appoint one member who meets the qualifications set forth in paragraph (c) of subsection 2 of NRS 385.021, as amended by section 8 of this act, to a term which commences on January 1, 2011, and expires on December 31, 2015.

3. The member who is elected in the 2010 general election who is a resident of:

(a) Congressional District 1, as described in NRS 304.100, serves an initial term of 2 years and serves a term of 4 years thereafter.

(b) Congressional District 2, as described in NRS 304.110, serves a term of 4 years.

(c) Congressional District 3, as described in NRS 304.120, serves a term of 4 years.

Sec. 72. 1. The terms of all members of the Commission on Educational Excellence who are incumbent on June 30, 2009, expire on that date.

2. The terms of all members of the Commission on Educational Technology who are incumbent on June 30, 2009, expire on that date.

3. The terms of all members of the Council to Establish Academic Standards for Public Schools who are incumbent on June 30, 2009, expire on that date.

Sec. 73. ~~1. The term of the Superintendent of Public Instruction who was appointed pursuant to NRS 385.150 before the effective date of this act continues to serve for the remainder of that unexpired term. Upon expiration of the term or if a vacancy occurs before the expiration of that term, the Governor shall nominate and the Legislative Commission may confirm a State Superintendent for Education in accordance with NRS 385.150, as amended by section 11 of this act, for a term which expires on June 30, 2010.~~

~~2. Commencing on February 1, 2011, the Governor shall nominate, and the Senate may confirm in accordance with NRS 385.150, as amended by section 11 of this act, a State Superintendent for Education for a term which commences on July 1, 2011. (Deleted by amendment.)~~

Sec. 74. 1. The Legislative Counsel shall, in preparing the:

(a) Reprint and supplement to the Nevada Revised Statutes with respect to any section which is not amended by this act or is adopted or amended by another act, appropriately change any reference to an officer, agency or other entity whose responsibilities have been transferred pursuant to the provisions of this act to refer to the appropriate officer, agency or entity. If any internal reference is made to a section repealed by this act, the Legislative Counsel

shall delete the reference and replace it by reference to the superseding section, if any.

(b) Supplements to the Nevada Administrative Code, appropriately change any reference to an officer, agency or other entity whose responsibilities have been transferred pursuant to the provisions of this act to refer to the appropriate officer, agency or entity.

2. Any references in a bill or resolution passed by the 75th Session of the Nevada Legislature to an officer, agency or other entity whose name is changed or whose responsibilities have been transferred pursuant to the provisions of this act to another officer, agency or other entity shall be deemed to refer to the officer, agency or other entity to which the responsibility is transferred.

Sec. 75. Any policies adopted by the Commission on Educational Excellence pursuant to NRS 385.3781 to 385.379, inclusive, before July 1, 2009:

1. Remain in effect and may be enforced by the Department of Education and the State Board of Education as if adopted by the State Board in accordance with the provisions of this act; and

2. May be amended or repealed by the State Board of Education in accordance with the provisions of this act.

Sec. 76. On or before July 1, 2009, the:

1. The State Board of Education shall appoint members to the advisory committee authorized pursuant to NRS 385.3785, as amended by section 21.3 of this act. Persons appointed by the State Board may be persons who served on the Commission for Educational Excellence as it existed before the effective date of this act. The term of each member appointed pursuant to this subsection expires on June 30, 2011, unless the State Board decides to reappoint a member.

2. Department of Education shall appoint members to the advisory committee authorized pursuant to NRS 388.795, as amended by section 31 of this act. Persons appointed by the Department may be persons who served on the Commission on Educational Technology as it existed before the effective date of this act. The term of each member appointed pursuant to this subsection expires on June 30, 2011, unless the Department decides to reappoint the member.

~~2.~~ 3. State Board of Education shall appoint members to the advisory committee authorized pursuant to NRS 389.530, as amended by section 38 of this act. Persons appointed by the State Board may be persons who served on the Council to Establish Academic Standards for Public Schools as it existed before the effective date of this act. The term of each member appointed pursuant to this subsection expires on June 30, 2011, unless the State Board decides to reappoint the member.

Sec. 77. 1. Any contract entered into by the Commission on Educational Excellence or the Council to Establish Academic Standards for

Public Schools before July 1, 2009, remains in effect and may be administered and enforced by the State Board of Education.

2. Any contract entered into by the ~~[Commission on Educational Excellence or the]~~ Commission on Educational Technology before July 1, 2009, remains in effect and may be administered and enforced by the Department of Education.

Sec. 78. 1. The Department of Personnel shall, upon the request of an employee of the Department of Education or the State Board of Education whose employment is terminated as a result of this act, place the employee on an appropriate reemployment list maintained by the Department of Personnel and allow a preference for each of those employees on that list. The Department of Personnel shall maintain each such employee on the reemployment list until October 1, 2011, or until the employee is reemployed by the Executive Branch of State Government, whichever occurs earlier.

2. The provisions of this section apply regardless of whether the employee was in the classified, unclassified or nonclassified service of the State of Nevada.

Sec. 79. 1. This section and sections 69.3 and 69.5 become effective upon passage and approval.

~~2. Sections 70,~~ 72 and 76 of this act become effective on passage and approval for purposes of:

- (a) Expiring terms pursuant to section 72 of this act; and
- (b) Making appointments pursuant to ~~sections 70 and~~ section 76 of this act,

and on July 1, 2009, for all other purposes.

~~2.~~ 3. Sections 8 and 71 of this act become effective upon passage and approval for purposes of electing members from each of the congressional districts in the 2010 general election and expiring the terms of the incumbent members of the State Board of Education pursuant to section 71 of this act, and on January 1, 2011, for all other purposes.

~~3.~~ 4. Sections 1 to 7, inclusive, 9 to ~~49, inclusive, 51, 52, 53, 55 to~~ 69, inclusive, 70, 73, 74, 75, 77 and 78 of this act become effective on July 1, 2009.

~~4. Sections 50 and 54 of this act become effective on July 1, 2011.~~

~~5. Section 56 of this act expires by limitation on the date on which the provisions of 42 U.S.C. § 666 requiring each state to establish procedures under which the state has authority to withhold or suspend, or to restrict the use of professional, occupational and recreational licenses of persons who:~~

- ~~(a) Have failed to comply with a subpoena or warrant relating to a proceeding to determine the paternity of a child or to establish or enforce an obligation for the support of a child; or~~
- ~~(b) Are in arrears in the payment for the support of one or more children;~~

~~are repealed by the Congress of the United States.]~~

## LEADLINES OF REPEALED SECTIONS

- 385.017 Definitions.
- 385.0175 Maps of districts: Duties of Director of Legislative Counsel Bureau.
- 385.018 Maps of districts: Duties of Secretary of State.
- 385.019 Attachment of omitted area to appropriate district.
- 385.0225 District 1.
- 385.023 District 2.
- 385.0235 District 3.
- 385.024 District 4.
- 385.0245 District 5.
- 385.025 District 6.
- 385.0255 District 7.
- 385.0257 District 8.
- 385.026 District 9.
- 385.0265 District 10.
- 385.3781 Definitions.
- ~~¶ 385.3782 "Account" defined.~~
- 385.3783 "Commission" defined.
- 385.3784 Commission: Creation; membership; terms; meetings; compensation of members; duty of Department to provide administrative support; involvement of the Legislative Counsel Bureau in activities of Commission.
- ~~¶ 385.3785 Commission: Establishment of program of educational excellence; allocations of money to public schools and consortiums of public schools; Department required to provide list of priorities of schools; review of certain information by Commission.~~
- ~~385.3787 Use of money by public schools and consortiums of public schools that receive allocations from Account; submission of evaluation of effectiveness.~~
- ~~385.3789 Submission of annual reports by Commission; biennial audit of programs by Legislative Auditor.~~
- ~~385.379 Creation of Account for Programs for Innovation and the Prevention of Remediation; acceptance of gifts and grants; use of money in Account.~~
- 388.780 Definitions.
- 388.785 "Commission" defined.
- 388.787 "Committee" defined.
- 388.790 Commission on Educational Technology: Creation; membership; terms; removal and vacancy; quarterly meetings required; compensation.
- 388.800 Trust Fund for Educational Technology: Creation; administration; interest and income; use of money in Fund.
- 388.805 Trust Fund for Educational Technology: Program for school districts to apply for money from Fund.

389.500 "Council" defined.

389.510 Council to Establish Academic Standards: Creation; membership; terms; compensation.

Senator Horsford moved the adoption of the amendment.

Remarks by Senators Horsford and Washington.

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

SENATOR HORSFORD:

The amendment eliminates, in sections 3 and 4, the two new director positions that were proposed. They were not part of the pay bill and, therefore, needed to be deleted. The amendment establishes a statewide council to address high school graduation related to the Nevada Public Education Foundation and the Ready for Life Initiative and establishes a council for representation throughout the State including northern, rural and southern representation.

The amendment, in section 11, deletes the provisions that would have provided for the appointment of the State Superintendent by the Governor with ratification by the Legislature.

In section 47, the amendment deletes the provisions dealing with the endowment fund for the program for performance pay. It deletes the provisions dealing with the pay-for-performance model, which would have enacted the legislation adopted in 2005. It allows pay-for-performance to be negotiated at the local level and agreed upon by those parties. It directs Assembly Concurrent Resolution No. 2, an interim study, to look at pay-for-performance models, including the model proposed in the original bill. They can ascertain the best model for pay-for-performance that may be utilized, and this is found in section 69.3 on page 43.

On page 45, sections 72 and 73, it deletes the terms of the Commission on Educational Excellence, since these become advisory to the Board, should they decide to do so. Those are the major provisions of the amendment.

With this amendment, Senate Bill No. 330 enacts the Initiative for a World Class Education in Nevada. In doing so, the measure requires the Legislative Commission to monitor progress changes and reformations required by the measure.

Senate Bill No. 330 revises the membership of the State Board of Education to eliminate the ten districts from which members are elected and provides for the election of one member from each of the Congressional Districts, the appointment of one member by the Governor and the appointment of two members by the Legislative Commission as well as one nonvoting member who is appointed by the Board of Regents of the University of Nevada. The measure also requires the Department to establish measurable performance goals, and that helps to realign some of those objectives based upon the academic standards, which are already adopted and in place based on the Nevada Reform Act of 1997, which was spearheaded by the Minority Leader.

There have been a number of hearings on the bill, both in the Health and Education Committee and in the Finance Committee, due to various opinions on this measure. The bill has changed from its original form, but it institutes major shifts in the governance structure of the State Board of Education as well as establishing clear performance benchmarks that allow us to move the system of education forward in Nevada.

With the addition of the new language establishing the statewide council to address the high school graduation rate, that will bring all of the stakeholders together throughout the State to find ways to improve the graduation of all students in Nevada.

SENATOR WASHINGTON:

I stand in support of the amendment. There are some provisions in the bill that are acceptable, and there are some from the original bill that I called into question. When the bill was first introduced, we discussed it and offered some suggestions for the bill. After its hearing in the Finance Committee, many contentious sections were deleted from the bill. The bill looks good now.

I hope that Senate Bill No. 385, which deals with the Charter School Institute, makes it out of committee in the Assembly at the same time.



Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Assembly Bill No. 9.

Bill read third time.

Roll call on Assembly Bill No. 9:

YEAS—21.

NAYS—None.

Assembly Bill No. 9 having received a constitutional majority,  
Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 214.

Bill read third time.

Roll call on Assembly Bill No. 214:

YEAS—21.

NAYS—None.

Assembly Bill No. 214 having received a constitutional majority,  
Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 503.

Bill read third time.

Roll call on Assembly Bill No. 503:

YEAS—21.

NAYS—None.

Assembly Bill No. 503 having received a constitutional majority,  
Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 546.

Bill read third time.

Roll call on Assembly Bill No. 546:

YEAS—21.

NAYS—None.

Assembly Bill No. 546 having received a constitutional majority,  
Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

UNFINISHED BUSINESS  
CONSIDERATION OF ASSEMBLY AMENDMENTS

Senate Bill No. 273.

The following Assembly amendment was read:

Amendment No. 796.

"SUMMARY—Provides for various activities related to nonembryonic  
cells. (BDR 54-874)"

"AN ACT relating to health; providing for the scope of regulation of certain activities related to nonembryonic cells; providing that nothing in this act shall be construed to indicate the status under federal law of the activities authorized under this act; providing for cell or tissue banks; providing for the administration of nonembryonic cells to a person; providing for the compounding of drugs, medicines or health products using nonembryonic cells; providing for the importation and administration of nonembryonic cells under certain circumstances; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Section 6 of this bill provides that no state or local entity may regulate the activities related to nonembryonic cells authorized in this bill except as otherwise provided in certain portions of this bill.

Section 7 of this bill provides that nothing in this bill shall be construed to indicate the status under federal law of the activities authorized under this bill.

Section 8 of this bill authorizes cell or tissue banks to operate in this State.

Section 9 of this bill authorizes the administration, whether assisted or not, of nonembryonic cells to a person.

Section 10 of this bill authorizes the compounding of a drug, medicine or health product using nonembryonic cells.

Section 11 of this bill authorizes the importation and administration, whether assisted or not, of nonembryonic cells under certain circumstances.

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

Section 1. Chapter 629 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 11, inclusive, of this act.

Sec. 2. *As used in sections 2 to 11, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 3, 4 and 5 of this act have the meanings ascribed to them in those sections.*

Sec. 3. *"Allogeneic" means originating from the body of another person.*

Sec. 4. *"Autologous" means originating from within a person's own body.*

Sec. 5. *"Nonembryonic cells" means autologous or allogeneic cellular material, including, without limitation, stem cells and immune cells, that:*

1. *Has not been isolated or obtained directly from human embryos; and*

2. *May have been or may be combined with one or more:*

(a) *Naturally occurring biomaterials; or*

(b) *Materials approved or cleared for any purpose by the United States Food and Drug Administration or other applicable agency or authority.*

Sec. 6. *1. Notwithstanding any other provision of law, any department, commission, board or agency of a state or local government, including, without limitation, a state professional board, shall not:*

~~117~~ (a) Except as otherwise provided in subsection 2 of section 9 of this act and subsection 2 of section 11 of this act, regulate the activities authorized by sections 2 to 11, inclusive, of this act; or

~~127~~ (b) Take disciplinary action or impose civil or criminal liabilities or penalties against a person for engaging in an activity authorized by sections 2 to 11, inclusive, of this act.

2. This section does not:

(a) Absolve a professional licensing board of the duty to regulate licensees or otherwise prohibit or limit the powers and duties of a licensing board to regulate the procedures used to administer the nonembryonic stem cells.

(b) Absolve any person of civil or criminal liability or penalty for failure to use the reasonable care, skill or knowledge ordinarily used in rendering medical services under similar circumstances.

Sec. 7. Nothing in sections 2 to 11, inclusive, of this act shall be construed to indicate the status of any of the activities authorized pursuant to sections 2 to 11, inclusive, of this act as regards federal law.

Sec. 8. 1. Notwithstanding any other provision of law, a cell or tissue bank may operate in this State.

2. As used in this section, "cell or tissue bank" means a facility that stores nonembryonic cells or tissues, or both.

Sec. 9. Notwithstanding any other provision of law, nonembryonic cells may be administered to a person by:

1. That person himself; or

2. A person licensed or authorized in this State to administer or assist in the administration of medicine or health care to others if the mode of delivery used by the person to deliver the nonembryonic cells is a mode of delivery permitted under the person's license or authorization.

Sec. 10. Notwithstanding any other provision of law:

1. A drug, medicine or health product may be compounded using as an ingredient, by itself or with other ingredients, nonembryonic cells; and

2. A pharmacy that compounds a drug, medicine or health product described in subsection 1 may be owned or operated, or both, in this State.

Sec. 11. Notwithstanding any other provision of law:

1. A person may import into this State any compound, drug or other treatment containing nonembryonic cells if:

(a) The compound, drug or other treatment was obtained without violating the laws of the jurisdiction in which it was obtained; and

The compound, drug or other treatment is for personal use.

2. A person who is licensed or authorized in this State to administer or assist in the administration of medicine or health care to others may administer or assist in the administration of, to a person described in subsection 1, the imported compound, drug or other treatment if the mode of delivery used to deliver the nonembryonic cells by the person who is licensed or authorized in this State is a mode of delivery permitted under the person's license or authorization.

Sec. 12. This act becomes effective on July 1, 2009.

Senator Carlton moved that the Senate concur in the Assembly amendment to Senate Bill No. 273.

Motion carried by a constitutional majority.

Bill ordered enrolled.

#### RECEDE FROM SENATE AMENDMENTS

Senator Care moved that the Senate do not recede from its action on Assembly Bill No. 88, that a conference be requested, and that Mr. President appoint a Conference Committee consisting of three members to meet with a like committee of the Assembly.

Motion carried.

Bill ordered transmitted to the Assembly.

#### APPOINTMENT OF CONFERENCE COMMITTEES

President Krolicki appointed Senators Care, Amodei and Parks as a Conference Committee to meet with a like committee of the Assembly for the further consideration of Assembly Bill No. 88.

#### REPORTS OF CONFERENCE COMMITTEES

*Mr. President:*

The Conference Committee concerning Senate Bill No. 119, consisting of the undersigned members, has met and reports that:

It has agreed to recommend that Amendment Nos. 777 and 936 of the Assembly be concurred in.

It has agreed to recommend that the bill be further amended as set forth in Conference Amendment No. 9, which is attached to and hereby made a part of this report.

Conference Amendment.

"SUMMARY—Revises provisions governing massage therapists. (BDR 54-162)"

"AN ACT relating to professions; revising provisions governing the regulation of massage therapists by the Board of Massage Therapists; prohibiting certain misleading and deceptive practices relating to massage therapy; revising provisions governing the discipline of massage therapists; authorizing the Board to issue administrative citations and to impose administrative fines for certain violations; revising provisions governing the temporary suspension of licenses of massage therapists; requiring governmental agencies and courts of competent jurisdiction to provide certain records to the Board or its Executive Director upon request; authorizing governmental agencies and courts of competent jurisdiction to redact certain confidential information from records provided to the Board or its Executive Director; providing remedies and penalties; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under existing law, massage therapists must be licensed by the Board of Massage Therapists. (Chapter 640C of NRS) Sections 2, 3 and 11 of this bill require a massage therapist to display his original license, not a copy or replica, at each location where he practices massage therapy. (NRS 640C.450) Section 3 prohibits a person from: (1) forging or counterfeiting a license; (2) altering, copying or replicating a license for the purpose of aiding or abetting an unlawful act; or (3) using or displaying a license that has been forged or counterfeited or has been altered, copied or replicated for the purpose of aiding or abetting an unlawful act.

Sections 4 and 16 of this bill prohibit an unlicensed person from advertising as a massage therapist and prohibit a licensed person from using any false or misleading statements in advertising. (NRS 640C.910) Sections 4 and 16 also prohibit an unlicensed person from having his name listed in a telephone directory under a heading such as "massage" which indicates or implies that he is licensed or qualified to practice massage therapy. Sections 4 and 16 also authorize the Board to issue an order to cease and desist from engaging in unlawful advertising.

Sections 4, 18 and 19 of this bill contain provisions whereby the Board can have telephone numbers for any type of telephone, messaging or paging service disconnected because they are included in unlawful advertising. (NRS 703.175, 707.355)

Existing law authorizes the Board to take disciplinary action by imposing administrative fines. (NRS 640C.710) Section 14 of this bill provides that the Board may impose an administrative fine of not more than \$5,000 for each violation, unless a greater fine is required pursuant to section 5 of this bill. Section 5 requires the Board to impose, based on the number of violations, increasing administrative fines of not more than \$10,000 against a licensee who *has engaged in or solicited sexual activity during a massage therapy session or* has been convicted of ~~a crime involving violence~~ prostitution or any other sexual offense that occurred during a massage therapy session.

*Section 6.3 of this bill authorizes the Board to issue administrative citations for any statutory or regulatory violations relating to massage therapy and provides that an unlicensed person who fails to comply with a citation is guilty of a misdemeanor. A citation may include an order to: (1) pay an administrative fine; (2) correct a condition resulting from a violation; and (3) reimburse the Board for expenses incurred to investigate the violation, not to exceed \$150. Section 6.5 of this bill allows a person to request a hearing before the Board to contest an administrative citation.*

*Under existing law, an applicant for a license to practice massage therapy is required to pass a written examination. (NRS 640C.400) Section 10.5 of this bill authorizes an applicant, at his discretion, to pass an oral examination in lieu of the written examination.*

Existing law provides for the temporary suspension of a massage therapy license without a prior hearing for a period of 15 or 30 days under certain exigent circumstances. (NRS 640C.720) Generally, procedural due process entitles a licensee to a hearing before his license is suspended. (*Barry v. Barchi*, 443 U.S. 55, 99 S. Ct. 2642 (1979); U.S. Const. Amend. XIV, § 1; Nev. Const. Art. 1, § 8) However, when exigent circumstances justify immediate action, a statute may provide for the temporary suspension of a license without a prior hearing if the statute requires a post-suspension administrative review where a hearing is held and a final decision is rendered as promptly as is practicable. (*Federal Deposit Insurance Corporation v. Mallen*, 486 U.S. 230, 108 S. Ct. 1780 (1988); *Sierra Life Insurance Company v. Rottman*, 95 Nev. 654 (1979)) Section 15 of this bill: (1) provides for the temporary suspension of a massage therapy license without a prior hearing for a period not to exceed 15 business days under certain exigent circumstances; (2) authorizes the licensee to request a post-suspension administrative review; and (3) requires the Board to hold a hearing and render a final decision as promptly as is practicable but not later than 10 business days after the date of the initial suspension. (NRS 640C.720)

Section 15 of this bill also authorizes the Board and its Executive Director to request from the appropriate governmental agency or court of competent jurisdiction records relating to any conviction of a massage therapist for a crime involving violence, prostitution or any other sexual offense and authorizes those governmental agencies and courts of competent jurisdiction to redact from those records certain information which the agencies or courts deem confidential. (NRS 640C.720) Sections 15 and 17 of this bill require the governmental agency or court of competent jurisdiction to provide the requested records as soon as reasonably practicable. (NRS 179A.100) Section 15 also provides that the Board and its Executive Director: (1) must maintain the confidentiality of the records; and (2) may use the records for the sole and limited purpose of determining whether to take disciplinary action against the massage therapist.

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

Section 1. Chapter 640C of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 8, inclusive, of this act.

Sec. 2. 1. "Original license" means the actual license which is issued to the licensee by the Board and which is current and valid.

2. The term does not include any photocopy print, photostat or other replica of such a license.

Sec. 3. 1. A person shall not:

(a) Counterfeit or forge or attempt to counterfeit or forge a license to practice massage therapy; or

(b) For the purpose of aiding or abetting an unlawful act:

(1) Alter or attempt to alter a license to practice massage therapy; or

(2) Make or attempt to make any photocopy print, photostat or other replica of a license to practice massage therapy.

2. A person shall not use or display a license to practice massage therapy that:

(a) Is not the original license issued to the person;

(b) Has been counterfeited or forged;

(c) Has been altered, copied or replicated for the purpose of aiding or abetting an unlawful act; or

(d) Has been issued to another person.

3. A person who violates any provision of this section is guilty of a misdemeanor.

Sec. 4. 1. A person shall not advertise as a massage therapist in this State unless the person is licensed to practice massage therapy pursuant to this chapter.

2. A person licensed to practice massage therapy pursuant to this chapter shall not disseminate, as part of any advertising by the massage therapist, any false or misleading statement or representation of material fact that is intended, directly or indirectly, to induce another person to use the services of the massage therapist.

3. All advertising by a licensed massage therapist must include his name and the name of his company, if applicable. All advertising in a telephone directory or a newspaper must also include the number of his license.

4. A person who violates any provision of subsection 1 or 2 is guilty of a misdemeanor.

5. If, after notice and a hearing as required by law, the Board determines that a person has willfully engaged in advertising in a manner that violates the provisions of this section or NRS 640C.910, the Board may, in addition to any penalty, punishment or disciplinary action authorized by the provisions of this chapter, order the person to cease and desist the unlawful advertising. The provisions of this subsection do not apply to any person whose license has been expired for less than 90 days or is temporarily suspended.

6. The Board may order any person convicted of a crime involving violence, prostitution or any other sexual offense to cause any telephone number included in the advertising to be disconnected from service. If the Board orders the person to cause any telephone number to be disconnected from service and the person fails to comply within 5 days after the date on which he is served with the order, the Board may:

(a) If the provider is regulated by the Public Utilities Commission of Nevada, request the Commission to order the provider to disconnect the telephone number from service pursuant to NRS 703.175 and 707.355; or

(b) If the provider is not regulated by the Public Utilities Commission of Nevada, request the provider to disconnect the telephone number from service and inform the provider that the request is made pursuant to this section. Upon receiving such a request, the provider shall take such action as is necessary to disconnect the telephone number from service.

7. A provider shall not:

(a) Forward or offer to forward the telephone calls of a telephone number disconnected from service pursuant to this section; or

(b) Provide or offer to provide a message that includes a new telephone number for the person whose telephone number was disconnected from service pursuant to this section.

8. If a provider complies in good faith with a request to disconnect a telephone number from service pursuant to this section, such good-faith compliance shall constitute a complete defense to any civil or criminal action brought against the provider arising from the disconnection or termination of service.

9. As used in this section:

(a) "Advertising" means the intentional placement or issuance of any sign, card or device, or the permitting or allowing of any sign or marking on a motor vehicle, in any building, structure, newspaper, magazine or airway transmission, on the Internet or in any directory under the listing of "massage therapist" or "massage."

(b) "Provider" means a provider of any type of telephone, messaging or paging service.

(c) "Provider of messaging or paging service" means an entity that provides any type of messaging or paging service to any type of communication device.

(d) "Provider of telephone service" has the meaning ascribed to it in NRS 707.355.

(e) "Telephone number" means any sequence of numbers or characters, or both, used by a provider to provide any type of telephone, messaging or paging service.

Sec. 5. 1. In addition to any other actions authorized by NRS 640C.710, if, after notice and a hearing as required by law, the Board determines that a licensee has engaged in or solicited sexual activity during the course of practicing massage on a person, as set forth in subsection 4 of NRS 640C.700, or has been convicted of ~~a crime involving violence,~~ prostitution or any other sexual offense that occurred during the course of practicing massage on a person, the Board shall:

(a) For a first violation, impose an administrative fine of not less than \$100 and not more than \$1,000;

(b) For a second violation, impose an administrative fine of not less than \$250 and not more than \$5,000; and

(c) For a third violation and for each additional violation, impose an administrative fine of not less than \$500 and not more than \$10,000.

2. The Board shall, by regulation, establish standards for use by the Board in determining the amount of an administrative fine imposed pursuant to this section. The standards must include, without limitation, provisions requiring the Board to consider:

(a) The gravity of the violation;

(b) The good faith of the licensee; and

(c) Any history of previous violations of the provisions of this chapter committed by the licensee.

Sec. 6. The expiration of a license by operation of law or by order or decision of the Board or a court, or the voluntary surrender of a license by a licensee, does not deprive the Board of jurisdiction to proceed with any investigation of, or action or disciplinary proceeding against, the licensee or to render a decision suspending or revoking the license.

Sec. 6.3. 1. If the Board or its designee, based upon a preponderance of the evidence, has reason to believe that a person has committed an act which constitutes a violation of this chapter or the regulations of the Board, the Board or its designee, as appropriate, may issue or authorize the issuance of a written administrative citation to the person. A citation issued pursuant to this section may include, without limitation:

(a) An order to take action to correct a condition resulting from an act that constitutes a violation of this chapter or the regulations of the Board, at the person's cost;

(b) An order to pay an administrative fine for each violation; and

(c) An order to reimburse the Board for the amount of the expenses incurred to investigate each violation, not to exceed \$150.

2. If the citation includes an order to take action to correct a condition resulting from an act that constitutes a violation of this chapter or the regulations of the Board, the citation must:

(a) State the time permitted for compliance, which must not be less than 15 business days after the date on which the citation is received by the person; and

(b) Describe, in specific detail, the action required to be taken.

3. If the citation is issued to a licensee and includes an order to pay an administrative fine for one or more violations, the amount of the administrative fine must not exceed the maximum amount authorized by NRS 640C.710 or section 5 of this act, as appropriate for each violation.

4. If the citation is issued to an unlicensed person and includes an order to pay an administrative fine for one or more violations, the amount of the administrative fine:

(a) For a first violation, must not be less than \$100 and must not be more than \$1,000;

(b) For a second violation, must not be less than \$250 and must not be more than \$5,000; and

(c) For a third violation and for each additional violation, must not be less than \$500 and must not be more than \$10,000.

5. The sanctions authorized by this section are separate from, and in addition to, any other remedy, civil or criminal, authorized by this chapter.

6. The failure of an unlicensed person to comply with a citation or order after it is final is a misdemeanor. If an unlicensed person does not pay an administrative fine imposed pursuant to this section or make satisfactory payment arrangements, as approved by the Board, within

60 days after the order of the Board becomes final, the order may be executed upon in the same manner as a judgment issued by a court.

Sec. 6.5. 1. If a person is issued a written administrative citation pursuant to section 6.3 of this act, the person may request a hearing before the Board to contest the citation by filing a written request with the Board:

(a) Not later than 15 business days after the date on which the citation is received by the person; or

(b) If the Board, for good cause shown, extends the time allowed to file a written request for a hearing to contest the citation, on or before the later date specified by the Board.

2. If the person files a written request for a hearing to contest the citation within the time allowed pursuant to this section:

(a) The Board shall provide notice of and conduct the hearing in the same manner as other disciplinary proceedings; and

(b) At the hearing, the person may contest, without limitation:

(1) The facts forming the basis for the determination that the person has committed an act which constitutes a violation of this chapter or the regulations of the Board;

(2) The time allowed to take any corrective action ordered;

(3) The amount of any administrative fine ordered;

(4) The amount of any order to reimburse the Board for the expenses incurred to investigate the violation; and

(5) Whether any corrective action described in the citation is reasonable.

3. If the person does not file a written request for a hearing to contest the citation within the time allowed pursuant to this section, the citation shall be deemed a final order of the Board.

4. For the purposes of this section, a citation shall be deemed to have been received by a person:

(a) On the date on which the citation is personally delivered to the person; or

(b) If the citation is mailed, 3 days after the date on which the citation is mailed by certified mail to the last known business or residential address of the person.

Sec. 7. (Deleted by amendment.)

Sec. 8. (Deleted by amendment.)

Sec. 9. NRS 640C.020 is hereby amended to read as follows:

640C.020 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 640C.030 to 640C.060, inclusive, and section 2 of this act have the meanings ascribed to them in those sections.

Sec. 10. (Deleted by amendment.)

Sec. 10.3. NRS 640C.320 is hereby amended to read as follows:

640C.320 The Board shall adopt regulations to carry out the provisions of this chapter. The regulations must include, without limitation, provisions that:

1. Establish the requirements for continuing education for the renewal of a license;

2. Establish the requirements for the approval of a course of continuing education, including, without limitation, a course on a specialty technique of massage therapy;

3. Establish the requirements for the approval of an instructor of a course of continuing education;

4. Establish requirements relating to sanitation, hygiene and safety relating to the practice of massage therapy;

5. Except as otherwise provided in NRS 622.090, prescribe the requirements for any practical, oral or written examination for a license that the Board may require, including, without limitation, the passing grade for such an examination; ~~and~~

6. Establish the period within which the Board or its designee must report the results of the investigation of an applicant ~~to~~; and

7. Prescribe the form of a written administrative citation issued pursuant to section 6.3 of this act.

Sec. 10.5. NRS 640C.400 is hereby amended to read as follows:

640C.400 1. The Board may issue a license to practice massage therapy.

2. An applicant for a license must:

(a) Be at least 18 years of age;



(b) Submit to the Board:

- (1) A completed application on a form prescribed by the Board;
- (2) The fees prescribed by the Board pursuant to NRS 640C.520;
- (3) Proof that he has successfully completed a program of massage therapy recognized by the Board;

(4) A certified statement issued by the licensing authority in each state, territory or possession of the United States or the District of Columbia in which the applicant is or has been licensed to practice massage therapy verifying that:

(I) The applicant has not been involved in any disciplinary action relating to his license to practice massage therapy; and

(II) Disciplinary proceedings relating to his license to practice massage therapy are not pending;

(5) Except as otherwise provided in NRS 640C.440, a complete set of fingerprints and written permission authorizing the Board to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report;

(6) The names and addresses of five natural persons not related to the applicant and not business associates of the applicant who are willing to serve as character references;

(7) A statement authorizing the Board or its designee to conduct an investigation to determine the accuracy of any statements set forth in the application; and

(8) If required by the Board, a financial questionnaire; and

(c) In addition to any examination required pursuant to NRS 640C.320 ~~(and except)~~ :

*(1) Except* as otherwise provided in subsection 3, pass a written examination administered by any board that is accredited by the National Commission for Certifying Agencies, or its successor organization, to examine massage therapists ~~and~~ ; *or*

*(2) At the applicant's discretion and in lieu of a written examination, pass an oral examination prescribed by the Board.*

3. If the Board determines that the examinations being administered pursuant to subparagraph (1) of paragraph (c) of subsection 2 are inadequately testing the knowledge and competency of applicants, the Board shall prepare or cause to be prepared its own written examination to test the knowledge and competency of applicants. Such an examination must be offered not less than four times each year. The location of the examination must alternate between Clark County and Washoe County. Upon request, the Board must provide a list of approved interpreters at the location of the examination to interpret the examination for an applicant who, as determined by the Board, requires an interpreter for the examination.

4. The Board shall recognize a program of massage therapy that is:

- (a) Approved by the Commission on Postsecondary Education; or
- (b) Offered by a public college in this State or any other state.

È The Board may recognize other programs of massage therapy.

5. The Board or its designee shall:

(a) Conduct an investigation to determine:

- (1) The reputation and character of the applicant;
- (2) The existence and contents of any record of arrests or convictions of the applicant;
- (3) The existence and nature of any pending litigation involving the applicant that would affect his suitability for licensure; and

(4) The accuracy and completeness of any information submitted to the Board by the applicant;

(b) If the Board determines that it is unable to conduct a complete investigation, require the applicant to submit a financial questionnaire and investigate the financial background and each source of funding of the applicant;

(c) Report the results of the investigation of the applicant within the period the Board establishes by regulation pursuant to NRS 640C.320; and

(d) Except as otherwise provided in NRS 239.0115, maintain the results of the investigation in a confidential manner for use by the Board and its members and employees in carrying out their duties pursuant to this chapter. The provisions of this paragraph do not prohibit the Board or its members or employees from communicating or cooperating with or providing any

documents or other information to any other licensing board or any other federal, state or local agency that is investigating a person, including, without limitation, a law enforcement agency.

Sec. 11. NRS 640C.450 is hereby amended to read as follows:

640C.450 1. Each licensee shall display his *original* license in a conspicuous manner at each location where he practices massage therapy. *If a licensee practices massage therapy in more than one place, he must carry his original license with him and display it wherever he is actually working.*

2. *A licensee shall obtain a replacement of his original license from the Board if his:*

- (a) *Original license is destroyed, misplaced or mutilated; or*
- (b) *Name or address as printed on the original license has changed.*

3. *To obtain a replacement license, the licensee must:*

(a) *File an affidavit with the Board, on the form prescribed by the Board, which states that his original license was destroyed, misplaced or mutilated or that his name or address as printed on the original license has changed; and*

(b) *Pay the fee prescribed by the Board pursuant to NRS 640C.520.*

Sec. 12. NRS 640C.520 is hereby amended to read as follows:

640C.520 1. The Board shall establish a schedule of fees and charges. The fees for the following items must not exceed the following amounts:

An examination established by the Board pursuant to this chapter.....	\$600
An application for a license.....	300
An application for a license without an examination.....	300
A background check of an applicant.....	600
The issuance of a license.....	400
The renewal of a license.....	200
The restoration of an expired license.....	500
The reinstatement of a suspended or revoked license.....	500
The issuance of a <del>duplicate</del> replacement license.....	75
The restoration of an inactive license.....	300

2. The total fees collected by the Board pursuant to this section must not exceed the amount of money necessary for the operation of the Board and for the maintenance of an adequate reserve.

Sec. 13. NRS 640C.700 is hereby amended to read as follows:

640C.700 The Board may refuse to issue a license to an applicant, or may initiate disciplinary action against a holder of a license, if the applicant or holder of the license:

1. Has submitted false, fraudulent or misleading information to the Board or any agency of this State, any other state, a territory or possession of the United States, the District of Columbia or the Federal Government;

2. Has violated any provision of this chapter or any regulation adopted pursuant thereto;

3. Has been convicted of a crime involving violence, prostitution or any other sexual offense, a crime involving any type of larceny, a crime relating to a controlled substance, a crime involving any federal or state law or regulation relating to massage therapy or a substantially similar business, or a crime involving moral turpitude within the immediately preceding 10 years ; ~~†~~

4. Has engaged in or solicited sexual activity during the course of practicing massage on a person, with or without the consent of the person, including, without limitation, if the applicant or holder of the license:

- (a) Made sexual advances toward the person;
- (b) Requested sexual favors from the person; or
- (c) Massaged, touched or applied any instrument to the breasts of the person, unless the person has signed a written consent form provided by the Board;

5. Has habitually abused alcohol or is addicted to a controlled substance;

6. Is, in the judgment of the Board, guilty of gross negligence in his practice of massage therapy;

7. Is determined by the Board to be professionally incompetent to engage in the practice of massage therapy;

8. Has failed to provide information requested by the Board within 60 days after he received the request;

9. Has, in the judgment of the Board, engaged in unethical or unprofessional conduct as it relates to the practice of massage therapy;

10. Has been disciplined in another state, a territory or possession of the United States or the District of Columbia for conduct that would be a violation of the provisions of this chapter or any regulations adopted pursuant thereto if the conduct were committed in this State;

11. Has solicited or received compensation for services relating to the practice of massage therapy that he did not provide;

12. If the holder of the license is on probation, has violated the terms of his probation; ~~or~~

13. Has engaged in false, deceptive or misleading advertising, including, without limitation, falsely, deceptively or misleadingly advertising that he has received training in a specialty technique of massage for which he has not received training, practicing massage therapy under an assumed name and impersonating a licensed massage therapist ~~or~~; ~~or~~

14. Has failed to comply with a written administrative citation issued pursuant to section 6.3 of this act within the time permitted for compliance set forth in the citation or, if a hearing is held pursuant to section 6.5 of this act, within 15 business days after the hearing; or

15. Except as otherwise provided in subsection 14, has failed to pay or make arrangements to pay, as approved by the Board, an administrative fine imposed pursuant to this chapter within 60 days after:

(a) Receiving notice of the imposition of the fine; or

(b) The final administrative or judicial decision affirming the imposition of the fine,

*whichever occurs later.*

Sec. 14. NRS 640C.710 is hereby amended to read as follows:

640C.710 1. If, after notice and a hearing as required by law, the Board finds one or more grounds for taking disciplinary action, the Board may:

(a) Place the applicant or holder of the license on probation for a specified period or until further order of the Board;

(b) Administer to the applicant or holder of the license a public reprimand;

(c) Refuse to issue, renew, reinstate or restore the license;

(d) Suspend or revoke the license;

(e) ~~Impose~~ *Except as otherwise provided in section 5 of this act, impose an administrative fine of not more than ~~[\$1,000 per day for each day for which the Board determines that a violation occurred]; \$5,000 for each violation;~~*

(f) Require the applicant or holder of the license to pay the costs incurred by the Board to conduct the investigation and hearing; or

(g) Impose any combination of actions set forth in paragraphs (a) to (f), inclusive.

2. The order of the Board may contain such other terms, provisions or conditions as the Board deems appropriate.

3. The order of the Board and the findings of fact and conclusions of law supporting that order are public records.

4. The Board shall not issue a private reprimand.

Sec. 15. NRS 640C.720 is hereby amended to read as follows:

640C.720 Notwithstanding any other statute to the contrary:

1. If the Board finds, *based upon evidence in its possession*, that immediate action is necessary to protect the health, safety or welfare of the public, the Board may, upon providing notice to the massage therapist, temporarily suspend his license *without a prior hearing* for a period not to exceed ~~(30 days. For good cause,)~~ *15 business days. The massage therapist may file a written request for a hearing to challenge the necessity of the temporary suspension. The written request must be filed not later than 10 business days after the date on which the massage therapist receives notice of the temporary suspension. If the massage therapist:*

(a) *Files a timely written request for a hearing, the Board shall extend the temporary suspension until a hearing is held. The Board shall hold a hearing and render a final decision regarding the necessity of the temporary suspension as promptly as is practicable but not later than 15 business days after the date on which the Board receives the written request. After holding such a hearing, the Board may extend the period of the temporary suspension if the*

Board ~~{deems}~~ finds, for good cause shown, that such action ~~{to be}~~ is necessary to protect the health, safety or welfare of the public pending proceedings for disciplinary action. ~~{In any such case, a}~~

(b) Does not file a timely written request for a hearing and the Board wants to consider extending the period of the temporary suspension, the Board shall schedule a hearing and notify the massage therapist immediately by certified mail of the date of the hearing. The hearing must be held and a final decision rendered regarding whether to extend the period of the temporary suspension as promptly as is practicable but not later than 30 days after the date on which the Board ~~{notifies the massage therapist}~~ provides notice of the initial temporary suspension. After holding such a hearing, the Board may extend the period of the temporary suspension if the Board finds, for good cause shown, that such action is necessary to protect the health, safety or welfare of the public pending proceedings for disciplinary action.

2. If a massage therapist is charged with or cited for ~~{a crime involving violence,}~~ prostitution or any other sexual offense, the appropriate law enforcement agency shall report the charge or citation to the Executive Director ~~{}~~ of the Board. Upon receiving such a report, the Executive Director shall immediately issue by certified mail to the massage therapist a cease and desist order temporarily suspending the license of the massage therapist ~~{}~~ without a prior hearing. The temporary suspension of the license is effective immediately ~~{upon issuance}~~ after the massage therapist receives notice of the cease and desist order and must not exceed ~~{15 days. For good cause,}~~ 15 business days. The massage therapist may file a written request for a hearing to challenge the necessity of the temporary suspension. The written request must be filed not later than 10 business days after the date on which the Executive Director mails the cease and desist order. If the massage therapist:

(a) Files a timely written request for a hearing, the Board shall extend the temporary suspension until a hearing is held. The Board shall hold a hearing and render a final decision regarding the necessity of the temporary suspension as promptly as is practicable but not later than 15 business days after the date on which the Board receives the written request. After holding such a hearing, the Board may extend the period of the temporary suspension if the Board ~~{deems}~~ finds, for good cause shown, that such action ~~{to be}~~ is necessary to protect the health, safety or welfare of the public pending proceedings for disciplinary action. ~~{In any such case, a}~~

(b) Does not file a timely written request for a hearing and the Board wants to consider extending the period of the temporary suspension, the Board shall schedule a hearing and notify the massage therapist immediately by certified mail of the date of the hearing. The hearing must be held and a final decision rendered regarding whether to extend the period of the temporary suspension as promptly as is practicable but not later than 15 business days after the date on which the Executive Director ~~{issues}~~ mails the cease and desist order. After holding such a hearing, the Board may extend the period of the temporary suspension if the Board finds, for good cause shown, that such action is necessary to protect the health, safety or welfare of the public pending proceedings for disciplinary action.

3. If the Board or the Executive Director issues an order temporarily suspending the license of a massage therapist pending proceedings for disciplinary action, a court shall not stay that order.

4. When conducting an investigation of a massage therapist pursuant to this chapter, the Board or the Executive Director may request from the appropriate governmental agency or court of competent jurisdiction records relating to any conviction of the massage therapist for a crime involving violence, prostitution or any other sexual offense. Such records include, without limitation, a record of criminal history as defined in NRS 179A.070.

5. Upon receiving a request from the Board or the Executive Director pursuant to subsection 4, the governmental agency or court of competent jurisdiction shall provide the requested records to the Board or the Executive Director as soon as reasonably practicable. The governmental agency or court of competent jurisdiction may redact from the records produced pursuant to this subsection any information relating to the agency or court that is deemed confidential by the agency or court. Upon receiving the records from the governmental agency or court, the Board and the Executive Director:

(a) Shall maintain the confidentiality of the records if such confidentiality is required by federal or state law; and

(b) May use the records for the sole and limited purpose of determining whether to take disciplinary action against the massage therapist pursuant to this chapter.

6. For purposes of this section, a person is deemed to have notice of a temporary suspension of his license:

(a) On the date on which the notice is personally delivered to the person; or

(b) If the notice is mailed, 3 days after the date on which the notice is mailed by certified mail to the last known business or residential address of the person.

Sec. 16. NRS 640C.910 is hereby amended to read as follows:

640C.910 1. If a person is not licensed to practice massage therapy pursuant to this chapter, the person shall not:

(a) Engage in the practice of massage therapy; ~~or~~

(b) Use in connection with his name the words or letters "L.M.T.," "licensed massage therapist," "licensed massage technician," "M.T.," "massage technician" or "massage therapist," or any other letters, words or insignia indicating or implying that he is licensed to practice massage therapy, or in any other way, orally, or in writing or print, or by sign, directly or by implication, use the word "massage" or represent himself as licensed or qualified to engage in the practice of massage therapy ~~or~~; or

(c) List or cause to have listed in any directory, including, without limitation, a telephone directory, his name or the name of his company under the heading "massage," "massage therapy," "massage therapist," "massage technician" or any other term that indicates or implies that he is licensed or qualified to practice massage therapy.

2. If a person's license to practice massage therapy pursuant to this chapter has expired or has been suspended or revoked by the Board, the person shall not:

(a) Engage in the practice of massage therapy; ~~or~~

(b) Use in connection with his name the words or letters "L.M.T.," "licensed massage therapist," "licensed massage technician," "M.T.," "massage technician" or "massage therapist," or any other letters, words or insignia indicating or implying that he is licensed to practice massage therapy, or in any other way, orally, or in writing or print, or by sign, directly or by implication, use the word "massage" or represent himself as licensed or qualified to engage in the practice of massage therapy ~~or~~; or

(c) List or cause to have listed in any directory, including, without limitation, a telephone directory, his name or the name of his company under the heading "massage," "massage therapy," "massage therapist," "massage technician" or any other term that indicates or implies that he is licensed or qualified to practice massage therapy.

3. A person who violates any provision of this section is guilty of a misdemeanor.

Sec. 17. NRS 179A.100 is hereby amended to read as follows:

179A.100 1. The following records of criminal history may be disseminated by an agency of criminal justice without any restriction pursuant to this chapter:

(a) Any which reflect records of conviction only; and

(b) Any which pertain to an incident for which a person is currently within the system of criminal justice, including parole or probation.

2. Without any restriction pursuant to this chapter, a record of criminal history or the absence of such a record may be:

(a) Disclosed among agencies which maintain a system for the mutual exchange of criminal records.

(b) Furnished by one agency to another to administer the system of criminal justice, including the furnishing of information by a police department to a district attorney.

(c) Reported to the Central Repository.

3. An agency of criminal justice shall disseminate to a prospective employer, upon request, records of criminal history concerning a prospective employee or volunteer which:

(a) Reflect convictions only; or

(b) Pertain to an incident for which the prospective employee or volunteer is currently within the system of criminal justice, including parole or probation.

4. In addition to any other information to which an employer is entitled or authorized to receive, the Central Repository shall disseminate to a prospective or current employer, or a person or entity designated to receive the information on behalf of such an employer, the information contained in a record of registration concerning an employee, prospective employee, volunteer or prospective volunteer who is a sex offender or an offender convicted of a crime against a child, regardless of whether the employee, prospective employee, volunteer or prospective volunteer gives his written consent to the release of that information. The Central Repository shall disseminate such information in a manner that does not reveal the name of an individual victim of an offense. A request for information pursuant to this subsection must conform to the requirements of the Central Repository and must include:

(a) The name and address of the employer, and the name and signature of the person or entity requesting the notice on behalf of the employer;

(b) The name and address of the employer's facility in which the employee, prospective employee, volunteer or prospective volunteer is employed or volunteers or is seeking to become employed or volunteer; and

(c) The name and other identifying information of the employee, prospective employee, volunteer or prospective volunteer.

5. In addition to any other information to which an employer is entitled or authorized to receive, the Central Repository shall disseminate to a prospective or current employer, or a person or entity designated to receive the information on behalf of such an employer, the information described in subsection 4 of NRS 179A.190 concerning an employee, prospective employee, volunteer or prospective volunteer who gives his written consent to the release of that information if the employer submits a request in the manner set forth in NRS 179A.200 for obtaining a notice of information. The Central Repository shall search for and disseminate such information in the manner set forth in NRS 179A.210 for the dissemination of a notice of information.

6. Except as otherwise provided in subsection 5, the provisions of NRS 179A.180 to 179A.240, inclusive, do not apply to an employer who requests information and to whom information is disseminated pursuant to subsections 4 and 5.

7. Records of criminal history must be disseminated by an agency of criminal justice, upon request, to the following persons or governmental entities:

(a) The person who is the subject of the record of criminal history for the purposes of NRS 179A.150.

(b) The person who is the subject of the record of criminal history or his attorney of record when the subject is a party in a judicial, administrative, licensing, disciplinary or other proceeding to which the information is relevant.

(c) The State Gaming Control Board.

(d) The State Board of Nursing.

(e) The Private Investigator's Licensing Board to investigate an applicant for a license.

(f) A public administrator to carry out his duties as prescribed in chapter 253 of NRS.

(g) A public guardian to investigate a ward or proposed ward or persons who may have knowledge of assets belonging to a ward or proposed ward.

(h) Any agency of criminal justice of the United States or of another state or the District of Columbia.

(i) Any public utility subject to the jurisdiction of the Public Utilities Commission of Nevada when the information is necessary to conduct a security investigation of an employee or prospective employee, or to protect the public health, safety or welfare.

(j) Persons and agencies authorized by statute, ordinance, executive order, court rule, court decision or court order as construed by appropriate state or local officers or agencies.

(k) Any person or governmental entity which has entered into a contract to provide services to an agency of criminal justice relating to the administration of criminal justice, if authorized by the contract, and if the contract also specifies that the information will be used only for stated purposes and that it will be otherwise confidential in accordance with state and federal law and regulation.

(l) Any reporter for the electronic or printed media in his professional capacity for communication to the public.

(m) Prospective employers if the person who is the subject of the information has given written consent to the release of that information by the agency which maintains it.

(n) For the express purpose of research, evaluative or statistical programs pursuant to an agreement with an agency of criminal justice.

(o) An agency which provides child welfare services, as defined in NRS 432B.030.

(p) The Division of Welfare and Supportive Services of the Department of Health and Human Services or its designated representative.

(q) The Aging Services Division of the Department of Health and Human Services or its designated representative.

(r) An agency of this or any other state or the Federal Government that is conducting activities pursuant to Part D of Subchapter IV of Chapter 7 of Title 42 of the Social Security Act, 42 U.S.C. §§ 651 et seq.

(s) The State Disaster Identification Team of the Division of Emergency Management of the Department.

(t) The Commissioner of Insurance.

(u) The Board of Medical Examiners.

(v) The State Board of Osteopathic Medicine.

(w) *The Board of Massage Therapists and its Executive Director.*

8. Agencies of criminal justice in this State which receive information from sources outside this State concerning transactions involving criminal justice which occur outside Nevada shall treat the information as confidentially as is required by the provisions of this chapter.

Sec. 18. NRS 703.175 is hereby amended to read as follows:

703.175 1. Upon receiving a request *to disconnect a telephone number* from the State Contractors' Board ~~to disconnect a telephone number~~ pursuant to NRS 624.720, *the Board of Massage Therapists pursuant to section 4 of this act or the Nevada Transportation Authority pursuant to NRS 706.758*, the Commission shall issue an order to the appropriate provider of telephone service to disconnect the telephone number.

2. Compliance in good faith by a provider of telephone service with an order of the Commission to terminate service issued pursuant to this section shall constitute a complete defense to any civil or criminal action brought against the provider of telephone service arising from the termination of service.

3. As used in this section, "provider of telephone service" has the meaning ascribed to it in NRS 707.355.

Sec. 19. NRS 707.355 is hereby amended to read as follows:

707.355 1. Each provider of telephone service in this State shall, when notified that:

(a) A court has ordered the disconnection of a telephone number pursuant to NRS 706.2855;

or

(b) The Public Utilities Commission of Nevada has ordered the disconnection of a telephone number pursuant to NRS ~~624.720 and~~ 703.175, *after receiving a request to disconnect the telephone number from the State Contractors' Board pursuant to NRS 624.720, the Board of Massage Therapists pursuant to section 4 of this act or the Nevada Transportation Authority pursuant to NRS 706.758,*

É take such action as is necessary to carry out the order of the court or the Public Utilities Commission of Nevada.

2. A provider of telephone service shall not:

(a) Forward or offer to forward the telephone calls of a telephone number disconnected from service pursuant to the provisions of this section; or

(b) Provide or offer to provide a recorded message that includes the new telephone number for a business whose telephone number was disconnected from service pursuant to the provisions of this section.

3. As used in this section, "provider of telephone service" includes, but is not limited to:

(a) A public utility furnishing telephone service.

(b) A provider of cellular or other service to a telephone that is installed in a vehicle or is otherwise portable.

MAGGIE CARLTON  
ALLISON COPENING  
WARREN B. HARDY II  
*Senate Conference Committee*

WILLIAM C. HORNE  
BERNIE ANDERSON  
JAMES A. SETTELMEYER  
*Assembly Conference Committee*

Senator Carlton moved that the Senate adopt the report of the Conference Committee concerning Senate Bill No. 119.

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

We added an additional provision that the body has not discussed. When we started licensing massage therapists, we had a grandfather provision. Some people were missed because they had different licenses, since it was a new profession.

We have put an option in the bill to allow them to become licensed through an oral examination and the presentation of a portfolio review. Since some of them have been doing the job for 20 or 30 years, we did not want to put them out of business. We want to give them the opportunity to be licensed.

Motion carried by a constitutional majority.

*Mr. President:*

The Conference Committee concerning Assembly Bill No. 46, consisting of the undersigned members, has met and reports that:

It has agreed to recommend that the bill be further amended as set forth in Conference Amendment No. 6, which is attached to and hereby made a part of this report.

Conference Amendment.

"SUMMARY—Makes various changes concerning the right of certain persons to purchase or possess a firearm. (BDR 14-271)"

"AN ACT relating to firearms; requiring a court to transmit certain records of adjudication concerning a person's mental health to the Central Repository for Nevada Records of Criminal History for certain purposes relating to the purchase or possession of a firearm; establishing procedures for those persons to petition a court to regain certain rights relating to the purchase or possession of a firearm; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Federal law requires states to transmit to the National Instant Criminal Background Check System records of adjudication of mental illness or incompetence, involuntary admission to mental health facilities and other records which indicate a person is prohibited from purchasing a firearm. Federal law also requires states to implement a program by which a person who was previously adjudicated mentally ill or involuntarily committed can apply to have his right to possess a firearm restored and ties this requirement to certain federal funding for states under the NICS Improvement Amendments Act of 2007. (Public Law 110-180) Nevada law prohibits a person from owning or possessing a firearm if he has been adjudicated as mentally ill or has been committed to any mental health facility. (NRS 202.360)

Sections 1-4 and 13 of this bill require a court to transmit to the Central Repository for Nevada Records of Criminal History a record of any court order, judgment, plea or verdict concerning the involuntary admission of a person to a mental health facility, the appointment of a guardian for a person who has a mental defect, a finding that a person is incompetent to stand trial, a verdict acquitting a person by reason of insanity or a plea of guilty but mentally ill, along with a statement that the record is being transmitted for inclusion in all appropriate databases of the National Instant Criminal Background Check System. (NRS 159.055, 174.035, 175.533, 175.539, 178.425, 433A.310)

Section 7 of this bill requires the Central Repository to take reasonable steps to ensure that the records transmitted to it by the court are included in each appropriate database of the National Instant Criminal Background Check System. In accordance with federal law, this section also provides a procedure for a person who is the subject of such a record to petition a



court to have the record removed from the National Instant Criminal Background Check System and to have his right to possess or purchase a firearm restored.

Section 8 of this bill provides that the records transmitted by the court to the Central Repository are confidential, may not be used for any purpose other than for inclusion in each appropriate database of the National Instant Criminal Background Check System, and no cause of action for damages may be brought for transmission, failure to transmit, delay in transmitting or inaccuracies within such records.

Section 8.5 of this bill authorizes a person who is or believes he is the subject of a record of mental health held by the Central Repository to inspect and correct such records. This section, which is modeled after NRS 179A.150, also requires the Central Repository and the Director of the Department of Public Safety to adopt certain regulations relating to the inspection and correction of such records.

Section 11.5 of this bill requires a court, when appointing a general guardian, to determine whether a proposed ward is a person with a mental defect who is prohibited from possessing a firearm pursuant to federal law.

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

Section 1. NRS 174.035 is hereby amended to read as follows:

174.035 1. A defendant may plead not guilty, guilty, guilty but mentally ill or, with the consent of the court, nolo contendere. The court may refuse to accept a plea of guilty or guilty but mentally ill.

2. If a plea of guilty or guilty but mentally ill is made in a written plea agreement, the agreement must be in substantially the form prescribed in NRS 174.063. If a plea of guilty or guilty but mentally ill is made orally, the court shall not accept such a plea or a plea of nolo contendere without first addressing the defendant personally and determining that the plea is made voluntarily with understanding of the nature of the charge and consequences of the plea.

3. With the consent of the court and the district attorney, a defendant may enter a conditional plea of guilty, guilty but mentally ill or nolo contendere, reserving in writing the right, on appeal from the judgment, to a review of the adverse determination of any specified pretrial motion. A defendant who prevails on appeal must be allowed to withdraw the plea.

4. A plea of guilty but mentally ill must be entered not less than 21 days before the date set for trial. A defendant who has entered a plea of guilty but mentally ill has the burden of establishing his mental illness by a preponderance of the evidence. Except as otherwise provided by specific statute, a defendant who enters such a plea is subject to the same criminal, civil and administrative penalties and procedures as a defendant who pleads guilty.

5. The defendant may, in the alternative or in addition to any one of the pleas permitted by subsection 1, plead not guilty by reason of insanity. A plea of not guilty by reason of insanity must be entered not less than 21 days before the date set for trial. A defendant who has not so pleaded may offer the defense of insanity during trial upon good cause shown. Under such a plea or defense, the burden of proof is upon the defendant to establish by a preponderance of the evidence that:

(a) Due to a disease or defect of the mind, he was in a delusional state at the time of the alleged offense; and

(b) Due to the delusional state, he either did not:

(1) Know or understand the nature and capacity of his act; or

(2) Appreciate that his conduct was wrong, meaning not authorized by law.

6. If a defendant refuses to plead or if the court refuses to accept a plea of guilty or guilty but mentally ill or if a defendant corporation fails to appear, the court shall enter a plea of not guilty.

7. A defendant may not enter a plea of guilty or guilty but mentally ill pursuant to a plea bargain for an offense punishable as a felony for which:

(a) Probation is not allowed; or

(b) The maximum prison sentence is more than 10 years,

unless the plea bargain is set forth in writing and signed by the defendant, the defendant's attorney, if he is represented by counsel, and the prosecuting attorney.

8. *If the court accepts a plea of guilty but mentally ill pursuant to this section, the court shall cause, on a form prescribed by the Department of Public Safety, a record of that plea to be transmitted to the Central Repository for Nevada Records of Criminal History along with a statement indicating that the record is being transmitted for inclusion in each appropriate database of the National Instant Criminal Background Check System.*

9. As used in this section ~~the "disease"~~:

(a) "Disease or defect of the mind" does not include a disease or defect which is caused solely by voluntary intoxication.

(b) "National Instant Criminal Background Check System" has the meaning ascribed to it in section 6 of this act.

Sec. 2. NRS 175.533 is hereby amended to read as follows:

175.533 1. During a trial, upon a plea of not guilty by reason of insanity, the trier of fact may find the defendant guilty but mentally ill if the trier of fact finds all of the following:

(a) The defendant is guilty beyond a reasonable doubt of an offense;

(b) The defendant has established by a preponderance of the evidence that due to a disease or defect of the mind, he was mentally ill at the time of the commission of the offense; and

(c) The defendant has not established by a preponderance of the evidence that he is not guilty by reason of insanity pursuant to subsection 5 of NRS 174.035.

2. Except as otherwise provided by specific statute, a defendant who is found guilty but mentally ill is subject to the same criminal, civil and administrative penalties and procedures as a defendant who is found guilty.

3. *If the trier of fact finds a defendant guilty but mentally ill pursuant to subsection 1, the court shall cause, on a form prescribed by the Department of Public Safety, a record of the finding to be transmitted to the Central Repository for Nevada Records of Criminal History, along with a statement indicating that the record is being transmitted for inclusion in each appropriate database of the National Instant Criminal Background Check System.*

4. As used in this section ~~the "disease"~~:

(a) "Disease or defect of the mind" does not include a disease or defect which is caused solely by voluntary intoxication.

(b) "National Instant Criminal Background Check System" has the meaning ascribed to it in section 6 of this act.

Sec. 3. NRS 175.539 is hereby amended to read as follows:

175.539 1. Where on a trial a defense of insanity is interposed by the defendant and he is acquitted by reason of that defense, the finding of the jury pending the judicial determination pursuant to subsection 2 has the same effect as if he were regularly adjudged insane, and the judge must:

(a) Order a peace officer to take the person into protective custody and transport him to a forensic facility for detention pending a hearing to determine his mental health;

(b) Order the examination of the person by two psychiatrists, two psychologists, or one psychiatrist and one psychologist who are employed by a division facility; and

(c) At a hearing in open court, receive the report of the examining advisers and allow counsel for the State and for the person to examine the advisers, introduce other evidence and cross-examine witnesses.

2. If the court finds, after the hearing:

(a) That there is not clear and convincing evidence that the person is a person with mental illness, the court must order his discharge; or

(b) That there is clear and convincing evidence that the person is a person with mental illness, the court must order that he be committed to the custody of the Administrator of the Division of Mental Health and Developmental Services of the Department of Health and Human Services until he is discharged or conditionally released therefrom in accordance with NRS 178.467 to 178.471, inclusive.

È The court shall issue its finding within 90 days after the defendant is acquitted.

3. The Administrator shall make the reports and the court shall proceed in the manner provided in NRS 178.467 to 178.471, inclusive.

4. *If the court accepts a verdict acquitting a defendant by reason of insanity pursuant to this section, the court shall cause, on a form prescribed by the Department of Public Safety, a record*

*of that verdict to be transmitted to the Central Repository for Nevada Records of Criminal History, along with a statement indicating that the record is being transmitted for inclusion in each appropriate database of the National Instant Criminal Background Check System.*

5. As used in this section, unless the context otherwise requires:

(a) "Division facility" has the meaning ascribed to it in NRS 433.094.

(b) "Forensic facility" means a secure facility of the Division of Mental Health and Developmental Services of the Department of Health and Human Services for offenders and defendants with mental disorders. The term includes, without limitation, Lakes Crossing Center.

(c) "*National Instant Criminal Background Check System*" has the meaning ascribed to it in section 6 of this act.

(d) "Person with mental illness" has the meaning ascribed to it in NRS 178.3986.

Sec. 4. NRS 178.425 is hereby amended to read as follows:

178.425 1. If the court finds the defendant incompetent, and that he is dangerous to himself or to society and that commitment is required for a determination of his ability to receive treatment to competency and to attain competence, the judge shall order the sheriff to convey the defendant forthwith, together with a copy of the complaint, the commitment and the physicians' certificate, if any, into the custody of the Administrator or his designee for detention and treatment at a division facility that is secure. The order may include the involuntary administration of medication if appropriate for treatment to competency.

2. The defendant must be held in such custody until a court orders his release or until he is returned for trial or judgment as provided in NRS 178.450, 178.455 and 178.460.

3. If the court finds the defendant incompetent but not dangerous to himself or to society, and finds that commitment is not required for a determination of the defendant's ability to receive treatment to competency and to attain competence, the judge shall order the defendant to report to the Administrator or his designee as an outpatient for treatment, if it might be beneficial, and for a determination of his ability to receive treatment to competency and to attain competence. The court may require the defendant to give bail for his periodic appearances before the Administrator or his designee.

4. Except as otherwise provided in subsection 5, proceedings against the defendant must be suspended until the Administrator or his designee or, if the defendant is charged with a misdemeanor, the judge finds him capable of standing trial or opposing pronouncement of judgment as provided in NRS 178.400.

5. Whenever the defendant has been found incompetent, with no substantial probability of attaining competency in the foreseeable future, and released from custody or from obligations as an outpatient pursuant to paragraph (d) of subsection 4 of NRS 178.460, the proceedings against the defendant which were suspended must be dismissed. No new charge arising out of the same circumstances may be brought after a period, equal to the maximum time allowed by law for commencing a criminal action for the crime with which the defendant was charged, has lapsed since the date of the alleged offense.

6. *If a defendant is found incompetent pursuant to this section, the court shall cause, on a form prescribed by the Department of Public Safety, a record of that finding to be transmitted to the Central Repository for Nevada Records of Criminal History, along with a statement indicating that the record is being transmitted for inclusion in each appropriate database of the National Instant Criminal Background Check System.*

7. *As used in this section, "National Instant Criminal Background Check System" has the meaning ascribed to it in section 6 of this act.*

Sec. 5. Chapter 179A of NRS is hereby amended by adding thereto the provisions set forth as sections 6 to 8.5, inclusive, of this act.

Sec. 6. "*National Instant Criminal Background Check System*" means the national system created by the federal Brady Handgun Violence Prevention Act, Public Law 103-159.

Sec. 7. 1. *Upon receiving a record transmitted pursuant to NRS 174.035, 175.533, 175.539, 178.425 or 433A.310 or section 11.5 of this act, the Central Repository shall take reasonable steps to ensure that the information reported in the record is included in each appropriate database of the National Instant Criminal Background Check System.*

2. Except as otherwise provided in subsection 3, if the Central Repository receives a record described in subsection 1, the person who is the subject of the record may petition the court for an order declaring that:

- (a) The basis for the adjudication reported in the record no longer exists;
- (b) The adjudication reported in the record is deemed not to have occurred for purposes of 18 U.S.C. § 922(d)(4) and (g)(4) and NRS 202.360; and
- (c) The information reported in the record must be removed from the National Instant Criminal Background Check System.

3. To the extent authorized by federal law, if the record concerning the petitioner was transmitted to the Central Repository pursuant to NRS 174.035, 175.533, 175.539, 178.425 or 433A.310, ~~or~~ section 11.5 of this act, the petitioner may not file a petition pursuant to subsection 2 until 3 years after the date of the order transmitting the record to the Central Repository.

4. A petition filed pursuant to subsection 2 must be:

- (a) Filed in the court which made the adjudication or finding pursuant to NRS 174.035, 175.533, 175.539, 178.425 or 433A.310 or section 11.5 of this act; and
- (b) Served upon the district attorney for the county in which the court described in paragraph (a) is located.

5. The Nevada Rules of Civil Procedure govern all proceedings concerning a petition filed pursuant to subsection 2.

6. The court shall grant the petition and issue the order described in subsection 2 if the court finds that the petitioner has established that:

- (a) The basis for the adjudication or finding made pursuant to NRS 174.035, 175.533, 175.539, 178.425 or 433A.310 or section 11.5 of this act concerning the petitioner no longer exists;
- (b) The petitioner's record and reputation indicate that the petitioner is not likely to act in a manner dangerous to public safety; and
- (c) Granting the relief requested by the petitioner pursuant to subsection 2 is not contrary to the public interest.

~~6.7~~ 7. Except as otherwise provided in this subsection, the petitioner must establish the provisions of subsection ~~6.6~~ 6 by a preponderance of the evidence. If the adjudication or finding concerning the petitioner was made pursuant to NRS 433A.310 or section 11.5 of this act, the petitioner must establish the provisions of subsection ~~6.6~~ 6 by clear and convincing evidence.

~~7.8~~ 8. The court, upon entering an order pursuant to this section, shall cause, on a form prescribed by the Department of Public Safety, a record of the order to be transmitted to the Central Repository.

~~8.9~~ 9. Within 5 business days after receiving a record of an order transmitted pursuant to subsection ~~7.8~~ 8, the Central Repository shall take reasonable steps to ensure that information concerning the adjudication or finding made pursuant to NRS 174.035, 175.533, 175.539, 178.425 or 433A.310 or section 11.5 of this act is removed from the National Instant Criminal Background Check System.

~~9.10~~ 10. If the Central Repository fails to remove a record as provided in subsection ~~8.9~~ 9, the petitioner may bring an action to compel the removal of the record. If the petitioner prevails in the action, the court may award the petitioner reasonable attorney's fees and costs incurred in bringing the action.

~~10.11~~ 11. If a petition brought pursuant to subsection 2 is denied, the person who is the subject of the record may petition for a rehearing not sooner than 2 years after the date of the denial of the petition.

Sec. 8. 1. Any record described in section 7 of this act is confidential and is not a public book or record within the meaning of NRS 239.010. A person may not use the record for any purpose other than for inclusion in the appropriate database of the National Instant Criminal Background Check System.

2. If a person or governmental entity is required to transmit, report or take any other action concerning a record pursuant to NRS 174.035, 175.533, 175.539, 178.425 or 433A.310 or section 7 or 11.5 of this act, no action for damages may be brought against the person or governmental entity for:

(a) *Transmitting or reporting the record or taking any other required action concerning the record;*

(b) *Failing to transmit or report the record or failing to take any other required action concerning the record;*

(c) *Delaying the transmission or reporting of the record or delaying in taking any other required action concerning the record; or*

(d) *Transmitting or reporting an inaccurate or incomplete version of the record or taking any other required action concerning an inaccurate or incomplete version of the record.*

Sec. 8.5. 1. *The Central Repository shall permit a person who is or believes he may be the subject of information relating to records of mental health held by the Central Repository to inspect and correct any information contained in such records.*

2. *The Central Repository shall adopt regulations and make available necessary forms to permit inspection, review and correction of information relating to records of mental health by those persons who are the subjects thereof. The regulations must specify:*

(a) *The requirements for proper identification of the persons seeking access to the records, and*

(b) *The reasonable charges or fees, if any, for inspecting records.*

3. *The Director of the Department shall adopt regulations governing:*

(a) *All challenges to the accuracy or sufficiency of information or records of mental health by the person who is the subject of the allegedly inaccurate or insufficient record;*

(b) *The correction of any information relating to records of mental health found by the Director to be inaccurate, insufficient or incomplete in any material respect;*

(c) *The dissemination of corrected information to those persons or agencies which have previously received inaccurate or incomplete information; and*

(d) *A reasonable time limit within which inaccurate or insufficient information relating to records of mental health must be corrected and the corrected information disseminated.*

4. *As used in this section, "information relating to records of mental health" means information contained in a record:*

(a) *Transmitted to the Central Repository pursuant to NRS 174.035, 175.533, 175.539, 178.425 or 433A.310 or section 11.5 of this act; or*

(b) *Transmitted to the National Instant Criminal Background Check System pursuant to section 7 of this act.*

Sec. 9. NRS 179A.010 is hereby amended to read as follows:

179A.010 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 179A.020 to 179A.073, inclusive, and section 6 of this act have the meanings ascribed to them in those sections.

Sec. 10. (Deleted by amendment.)

Sec. 11. (Deleted by amendment.)

Sec. 11.5. Chapter 159 of NRS is hereby amended by adding thereto a new section to read as follows:

1. *If the court orders a general guardian appointed for a proposed ward, the court shall determine, by clear and convincing evidence, whether the proposed ward is a person with a mental defect who is prohibited from possessing a firearm pursuant to 18 U.S.C. § 922(d)(4) or (g)(4). If a court makes a finding pursuant to this section that the proposed ward is a person with a mental defect, the court shall include the finding in the order appointing the guardian and cause a record of the order to be transmitted to the Central Repository for Nevada Records of Criminal History, along with a statement indicating that the record is being transmitted for inclusion in each appropriate database of the National Instant Criminal Background Check System.*

2. *As used in this section:*

(a) *"National Instant Criminal Background Check System" has the meaning ascribed to it in section 6 of this act.*

(b) *"Person with a mental defect" means a person who, as a result of marked subnormal intelligence, mental illness, incompetence, condition or disease, is:*

(1) *A danger to himself or others; or*

(2) *Lacks the capacity to contract or manage his own affairs.*

Sec. 12. NRS 202.362 is hereby amended to read as follows:

202.362 1. Except as otherwise provided in subsection 3, a person within this State shall not sell or otherwise dispose of any firearm or ammunition to another person if he has actual knowledge that the other person:

- (a) Is under indictment for, or has been convicted of, a felony in this or any other state, or in any political subdivision thereof, or of a felony in violation of the laws of the United States of America, unless he has received a pardon and the pardon does not restrict his right to bear arms;
  - (b) Is a fugitive from justice;
  - (c) Has been adjudicated as mentally ill or has been committed to any mental health facility;
- or
- (d) Is illegally or unlawfully in the United States.

2. A person who violates the provisions of subsection 1 is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 10 years, and may be further punished by a fine of not more than \$10,000.

3. This section does not apply to a person who sells or disposes of any firearm or ammunition to:

- (a) A licensed importer, licensed manufacturer, licensed dealer or licensed collector who, pursuant to 18 U.S.C. § 925(b), is not precluded from dealing in firearms or ammunition; or
- (b) A person who has been granted relief from the disabilities imposed by federal laws pursuant to 18 U.S.C. § 925(c) ~~or section 7 of this act.~~

Sec. 13. NRS 433A.310 is hereby amended to read as follows:

433A.310 1. Except as otherwise provided in NRS 432B.6076 and 432B.6077, if the district court finds, after proceedings for the involuntary court-ordered admission of a person to a public or private mental health facility:

(a) That there is not clear and convincing evidence that the person with respect to whom the hearing was held has a mental illness or exhibits observable behavior such that he is likely to harm himself or others if allowed his liberty, the court shall enter its finding to that effect and the person must not be involuntarily detained in such a facility.

(b) That there is clear and convincing evidence that the person with respect to whom the hearing was held has a mental illness and, because of that illness, is likely to harm himself or others if allowed his liberty, the court may order the involuntary admission of the person for the most appropriate course of treatment. The order of the court must be interlocutory and must not become final if, within 30 days after the involuntary admission, the person is unconditionally released pursuant to NRS 433A.390.

2. Except as otherwise provided in NRS 432B.608, an involuntary admission pursuant to paragraph (b) of subsection 1 automatically expires at the end of 6 months if not terminated previously by the medical director of the public or private mental health facility as provided for in subsection 2 of NRS 433A.390. Except as otherwise provided in NRS 432B.608, at the end of the court-ordered period of treatment, the Division or any mental health facility that is not operated by the Division may petition to renew the detention of the person for additional periods not to exceed 6 months each. For each renewal, the petition must set forth to the court specific reasons why further treatment would be in the person's own best interests.

3. Before issuing an order for involuntary admission or a renewal thereof, the court shall explore other alternative courses of treatment within the least restrictive appropriate environment as suggested by the evaluation team who evaluated the person, or other persons professionally qualified in the field of psychiatric mental health, which the court believes may be in the best interests of the person.

4. *If the court issues an order involuntarily admitting a person to a public or private mental health facility pursuant to this section, the court shall, notwithstanding the provisions of NRS 433A.715, cause, on a form prescribed by the Department of Public Safety, a record of such order to be transmitted to the Central Repository for Nevada Records of Criminal History, along with a statement indicating that the record is being transmitted for inclusion in each appropriate database of the National Instant Criminal Background Check System.*

5. *As used in this section, "National Instant Criminal Background Check System" has the meaning ascribed to it in section 6 of this act.*

Sec. 14. The provisions of NRS 354.599 do not apply to any additional expenses of a local government that are related to the provisions of this act.

Sec. 15. This act becomes effective on January 1, 2010.

VALERIE WIENER

MIKE MCGINNESS

ALLISON COPENING

*Senate Conference Committee*

JAMES OHRENSCHALL

JOHN HAMBRICK

BONNIE PARNELL

*Assembly Conference Committee*

Senator Wiener moved that the Senate adopt the report of the Conference Committee concerning Assembly Bill No. 46.

Remarks by Senator Wiener.

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

We found that we have the opportunity to receive substantial funding if we comply with the three-year timeline.

Motion carried by a constitutional majority.

*Mr. President:*

The Conference Committee concerning Assembly Bill No. 130, consisting of the undersigned members, has met and reports that:

It has agreed to recommend that Amendment No. 792 of the Senate be concurred in.

JOHN J. LEE

STEVEN A. HORSFORD

*Senate Conference Committee*

DAVID P. BOBZIEN

PEGGY PIERCE

*Assembly Conference Committee*

Senator Lee moved that the Senate adopt the report of the Conference Committee concerning Assembly Bill No. 130.

Motion carried by a constitutional majority.

#### APPOINTMENT OF CONFERENCE COMMITTEES

President Krolicki appointed Senators Wiener, Parks and McGinness as a Conference Committee to meet with a like committee of the Assembly for the further consideration of Senate Bill No. 35.

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

Senate in recess at 4:13 p.m.

#### SENATE IN SESSION

At 4:56 p.m.

President Krolicki presiding.

Quorum present.

#### REPORTS OF COMMITTEES

*Mr. President:*

Your Committee on Finance, to which was rereferred Senate Bill No. 236, 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*

#### GENERAL FILE AND THIRD READING

Senate Bill No. 236.

Bill read third time.

The following amendment was proposed by the Committee on Finance:

Amendment No. 988.

"SUMMARY—Revises provisions relating to certain programs for ~~criminal offenders and parolees~~, persons released from incarceration. (BDR 14-896)"

"AN ACT relating to ~~criminal procedure; requiring a certain fee to be included in the sentence of certain defendants~~; convicted persons; creating the Fund for Reentry Programs; ~~requiring such fees to be credited to~~ providing for the expenditure of money in the Fund ~~for reentry programs for persons released from incarceration~~; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

~~{Section 1.5 of this bill requires a judge to include in the sentence of a defendant who pleads guilty or guilty but mentally ill to, or is found guilty or guilty but mentally ill of, a category C, D or E felony or gross misdemeanor a fee of \$250 to be credited to the Fund for Reentry Programs which is created in section 2 of this bill.}~~ Existing law authorizes the establishment by a judicial district and by the Director of the Department of Corrections of programs for reentry of criminal offenders and parolees into the community. (NRS 209.4883, 209.4887) ~~Section 2 authorizes the money~~ 5 of this bill creates the Fund for Reentry Programs to be administered by the Director of the Department of Public Safety or his designee. Money in the Fund ~~to~~ may be used only to pay necessary administrative costs and to pay for programs for reentry of ~~criminal offenders and parolees~~ persons into the community ~~including correctional programs and judicial programs~~ upon their release from incarceration.

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

Section 1. (Deleted by amendment.)

Sec. 1.5. ~~{Chapter 176 of NRS is hereby amended by adding thereto a new section to read as follows:~~

~~1—When a defendant pleads guilty or guilty but mentally ill to, or is found guilty or guilty but mentally ill of, a category C, D or E felony or gross misdemeanor, the judge shall include in the sentence, in addition to any other fine, assessment, fee or restitution, the sum of \$250 as a fee to be deposited into the Fund for Reentry Programs created by section 2 of this act and render a judgment against the defendant for the fee.~~

~~2—The money collected as a fee pursuant to subsection 1:~~

~~(a) Must not be deducted from any fine imposed by the judge;~~

~~(b) Must be taxed against the defendant in addition to the fine; and~~

~~(c) Must be stated separately on the court's docket.~~

~~3—The money collected as fees in district courts must be paid by the clerk of the court to the county treasurer on or before the fifth day of each month for the preceding month. The county treasurer shall distribute, on or before the 15th day of that month, the money received to the State Controller for~~



~~credit to the Fund for Reentry Programs created by section 2 of this act.] (Deleted by amendment.)~~

Sec. 2. ~~[Chapter 209 of NRS is hereby amended by adding thereto a new section to read as follows:~~

~~1. The Fund for Reentry Programs is hereby created in the State Treasury as a special revenue fund, to be administered by the Director.~~

~~2. The Director may apply for and accept any gift, donation, bequest, grant or other source of money for the use of the Fund.~~

~~3. All money received for the use of the Fund pursuant to subsection 2 or NRS 209.4889 or section 1.5 of this act or from any other source must be deposited in the State Treasury for credit to the Fund.~~

~~4. All expenditures from the Fund must be approved by the Director. The money in the Fund may be expended only to pay necessary administrative costs and to pay for programs for reentry of offenders and parolees into the community, including, without limitation, correctional programs and judicial programs.~~

~~5. The interest and income earned on the money in the Fund, after deducting any applicable charges, must be credited to the Fund. All claims against the Fund must be paid as other claims against the State are paid.] (Deleted by amendment.)~~

Sec. 3. ~~[NRS 209.4871 is hereby amended to read as follows:~~

~~209.4871 As used in NRS 209.4871 to 209.4889, inclusive, and section 2 of this act, unless the context otherwise requires, the words and terms defined in NRS 209.4873 to 209.488, inclusive, have the meanings ascribed to them in those sections.] (Deleted by amendment.)~~

Sec. 4. NRS 209.4889 is hereby amended to read as follows:

209.4889 1. The Director may, after consulting with the Division, enter into one or more contracts with one or more public or private entities to provide any of the following services, as necessary and appropriate, to offenders or parolees participating in a correctional or judicial program:

- (a) Transitional housing;
- (b) Treatment pertaining to substance abuse or mental health;
- (c) Training in life skills;
- (d) Vocational rehabilitation and job skills training; and
- (e) Any other services required by offenders or parolees who are participating in a correctional or judicial program.

2. The Director shall, as necessary and appropriate, provide referrals and information regarding:

- (a) Any of the services provided pursuant to subsection 1;
- (b) Access and availability of any appropriate self-help groups;
- (c) Social services for families and children; and
- (d) Permanent housing.

3. The Director may apply for and accept any gift, donation, bequest, grant or other source of money to carry out the provisions of this section.

~~[Any money] Money received pursuant to this subsection ~~must~~ may be~~

deposited in the State Treasury for credit to the Fund for Reentry Programs created by section ~~47~~ 5 of this act.

4. As used in this section, "training in life skills" includes, without limitation, training in the areas of:

- (a) Parenting;
- (b) Improving human relationships;
- (c) Preventing domestic violence;
- (d) Maintaining emotional and physical health;
- (e) Preventing abuse of alcohol and drugs;
- (f) Preparing for and obtaining employment; and
- (g) Budgeting, consumerism and personal finances.

*Sec. 5. Chapter 480 of NRS is hereby amended by adding thereto a new section to read as follows:*

*1. The Fund for Reentry Programs is hereby created in the State Treasury as a special revenue fund, to be administered by the Director or his designee.*

*2. The Director or his designee may apply for and accept any gift, donation, bequest, grant or other source of money for the use of the Fund.*

*3. All money received for the use of the Fund pursuant to subsection 2 or NRS 209.4889 or from any other source must be deposited in the State Treasury for credit to the Fund.*

*4. All expenditures from the Fund must be approved by the Director or his designee, in accordance with procedures established by regulation by the Director. The Director may designate an advisory group to assist in the preparation of such procedures. The money in the Fund may be expended only to pay necessary administrative costs and to pay for programs for reentry of persons into the community upon their release from incarceration, including, without limitation, judicial programs, training programs and programs for the treatment of addiction.*

*5. The interest and income earned on the money in the Fund, after deducting any applicable charges, must be credited to the Fund. All claims against the Fund must be paid as other claims against the State are paid.*

*6. To the extent money is available in the Fund, the Director or his designee may enter into one or more contracts with one or more public or private entities to provide services to persons participating in a program for reentry into the community upon their release from incarceration.*

~~Sec. 5.~~ *Sec. 6.* This act becomes effective on July 1, 2009.

Senator Mathews moved the adoption of the amendment.

Remarks by Senator Parks.

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

Amendment No. 988 removes any financial impact in the budget and establishes a fund for the receipt of donations, grants and other funds that could be placed into a fund for recovery programs for persons departing prison or on probation. These are primarily treatment programs to keep them from reoffending.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Washington moved that Senate Bill No. 316 be taken from its place on the General File and placed on the bottom of the General File on this agenda.

Motion carried.

GENERAL FILE AND THIRD READING

Senate Bill No. 330.

Bill read third time.

Remarks by Senators Horsford, Washington and Coffin.

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

SENATOR HORSFORD:

This is an attempt to move our State forward as it pertains to sweeping reforms in education and to build on the work that has been done previously by colleagues here, specifically, the Minority Leader, Senator Raggio, who spearheaded the Nevada Education Reform Act of 1997, which established the academic standards we are currently governed by, and Speaker Buckley, who has worked to establish full-day kindergarten and to provide funding for innovation and remediation programs. The chair of the Assembly Committee on Education, Assemblywoman Bonnie Pamell, along with Assemblywoman Smith, has championed incentives for teachers and other educational personnel. Senator Washington has worked on the empowerment and charter school legislation.

We have worked hard this Session to provide the best amount of funding to K-12 education that we can under these dire economic times. While we were able to protect education funding from draconian cuts, I believe that it is not just a financial solution but also a policy one that we must continue to address if we are going to continue to move education forward.

Funding always is a part of the overall solution. Nevada currently ranks 43rd, 47th or 50th, depending upon the indicator, in education in national rankings. We should not be proud of the state of education in Nevada today. We rank second to last in the Nation for the number of students who successfully complete a high school diploma in four years. The number of students who enter the 9th grade and complete within 4 years is 60 percent across the board. Particular groups, such as African-American and Latinos, rank at barely 50 percent in graduation.

We all believe in education. We all talk about education. We all campaign on issues pertaining to education. I believe we are all committed to it. The issue of improving schools is not a partisan issue. We all care about how to improve the quality of education for all children. While we may disagree on the strategies and approaches, we are committed.

Senate Bill No. 330 helps to maximize our education resources by fostering high-quality leadership and governance working in a solid governance structure, and it will position our State for the future. If anyone has heard the remarks of our new Secretary of Education, Secretary Duncan, a former Superintendent of Chicago Public Schools, you will know that the expectations the federal government has for our schools is going to become a much greater priority than it has been. It is important that Nevada position itself to be able to take advantage of those resources. They will come in the form of eliminating the barriers to charter schools and providing for other innovative approaches that we know work. It means having clear performance benchmarks so that we can evaluate how well our schools are doing year to year.

Senate Bill No. 330 includes measures that change the State Board of Education to a mixture of appointed and elected members. There are those in this Chamber and in the Legislature in general who are concerned with the policy decision to move in that direction. The appointments that would be made involve the Legislature. Recommendations will be made to the Legislative Commission as well as to the Governor. I labored on how far to go with that provision,

especially after the concerns expressed by my colleagues. I still believe it is the right thing for the future. It will be difficult now, but in the end, it will be the right thing.

Constitutionally, the Legislature and the Governor are required to provide for a system of "normal" schools in the State and to adequately fund those schools. For us not to have a part in selecting the leadership that will carry out the policies that we set in law is part of where the disconnect currently exists. This bill proposes to move us in that direction where we will have a combination of elected and appointed Board of Education representatives. Those who are appointed must have clear qualifications in education, administration or business to be recommended. There is a process for screening through educational associations who can make recommendations to the Governor and to the Commission.

Senate Bill No. 330 also requires closer tracking of student achievement, attendance and dropout rates. We had many hearings in the Health and Education Committee. We have written plans we do not follow through with at the local level. There are compliance standards we have told the federal government we will meet. They include having highly qualified teachers in every classroom, but we do not measure in an effective way how that is done year to year and whether we are making progress. I think that is problematic. There have been gains recently. However, there is still much more work to do.

Senate Bill No. 330 evaluates the use and effectiveness of state grants for education and consolidates the many advisory boards we currently have in place with the State Board of Education. The graph that was prepared showed how the structure would be changed under this bill. A parent who is concerned about the quality of education will see the difference that Senate Bill No. 330 will make in their child's education.

I would like to thank all who participated in discussions on this bill, the educators, parents and stakeholders who offered ideas but who cautioned us to evaluate all aspects of the policy that were being proposed. I appreciated all they had to offer. I am hopeful that people will see the value in what we are attempting to do to move the state of education in Nevada forward from where it is today.

SENATOR WASHINGTON:

Senate Bill No. 330 does make an attempt to start reforms in education that are needed. I would be remiss if I did not recognize the Minority Leader in his efforts, starting in 1997 with his Standards and Accountability Bill before No Child Left Behind was on the national level. He made certain there were standards set and there was accountability within our educational system; he recognized that Nevada's educational system was lacking and that we were at the bottom. During the interim, he offered numerous policies, legislation and provisions to ensure that Nevada students receive a quality education, that it would be adequately funded and that teachers would be supplied with the resources, supplies and education they needed to help our students. He was the first to start us on the track to help Nevada's students.

We cannot forget Senator Cegavske, who has worked on educational issues since before she became a Legislator. She made certain there were qualified teachers and qualified substitutes, when needed, teaching the core subjects of math, science and reading. She diligently worked on this bill to make certain the provisions she was concerned about were listed in this bill.

There are some things in this bill we may not be in agreement with at this point, such as the selection of the superintendent by the State Board, but that is a compromise. We felt it was important that the Superintendent of Public Education be selected by the Governor, since most budgetary issues are connected to the Governor, along with his election or reelection process. Most constituents understand that the budgetary process relates to the Governor and his ability to pass his budget. We had some concerns with the makeup of the Board. Most of us understand that the Board, in their desire to do what they assume to be right, have become inept. We have created a lot of commissions, offshoots and many things we were concerned about because we did not feel that the Board was able to complete those tasks. This bill enumerates the task and makes certain that goals are set and objectives are met with regard to student achievement and teacher progress, and that they report to the Legislature with measurable outputs.

Last session, Senator Cegavske worked on a bill we did not have the opportunity to vet in our committee because it first went to Senate Finance. We appreciate the Majority Leader's efforts in

trying to fulfill some of the wishes of my colleagues. We will support this bill and hope we will move from the bottom to the top.

SENATOR COFFIN:

I am glad for the camaraderie displayed by Senator Washington. He has been a contributor to the education process. He has been a fiery opponent of bills I might have liked, but I have admired his approach to be able to speak his mind and contribute to the process.

When Senator Horsford brought forth his bill this year, I did not think there was much chance for him to achieve the goals he had set out. It is difficult for a person to not only assume leadership and to maintain a position on the money committees but to push legislation.

I have been here for 26 years and will be leaving. I have not taken as direct a role in the development of the K-12 educational statutory structure. I have watched, and I have tried to aid whenever I could. Senator Raggio created this first Act 12 years ago. Earlier, Senator Rawson did so, too. It has been a bipartisan effort. There are those who will continue. Senator Woodhouse has great experience. You all have the youth and the future to carry on. Senator Raggio will be here next Session to make certain his ideas are heard.

I ask those of you who will be here next Session: please do not expect too much from the student test scores, the IQ scores. Metrics is the term these days used for tests to measure a student's progress. Young students are not going to be any smarter 10 years or 20 years from now than they were 20, 30 or 40 years ago. It is not intelligence that brings the students forward. Testing, as a measure of intelligence, will never help. That is why the unreachable goals of the No Child Left Behind legislation have been such a hindrance to progress, rather than a help. I hope we reach common sense at the Congressional level.

If parents would be more helpful in the process, turning off the television set, so much could be gained. No one in the media would say that is right, but it is a parental problem. We need to involve them more. Thank you for the ability to serve and to all of you who have blended these issues into a true bipartisan bill.

Roll call on Senate Bill No. 330:

YEAS—21.

NAYS—None.

Senate Bill No. 330 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 385.

Bill read third time.

Remarks by Senator Nolan.

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

Assembly Bill No. 385 was the result of a lot of hard work on behalf of their proponents. In particular, one person who started this journey with us at the beginning of the Session unfortunately suffered a heart attack and passed away during the process. He was Senior Corrections Officer and AFSCME lobbyist Steven Allen Barr, a devoted husband, father; grandfather, brother, son and friend.

Roll call on Assembly Bill No. 385:

YEAS—21.

NAYS—None.

Assembly Bill No. 385 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 494.

Bill read third time.

Roll call on Assembly Bill No. 494:

YEAS—21.

NAYS—None.

Assembly Bill No. 494 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 316.

Bill read third time.

Senator Washington moved that Senate Bill No. 316 be placed on General File on the next agenda.

Motion failed.

Roll call on Senate Bill No. 316:

YEAS—16.

NAYS—Amodei, Cegavske, Hardy, McGinness, Washington—5.

Senate Bill No. 316 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

#### UNFINISHED BUSINESS

##### APPOINTMENT OF CONFERENCE COMMITTEES

President Krolicki appointed Senators Schneider, Care and McGinness as a Conference Committee to meet with a like committee of the Assembly for the further consideration of Senate Bill No. 182.

President Krolicki appointed Senators Rhoads, Parks and Copening as a Conference Committee to meet with a like committee of the Assembly for the further consideration of Senate Bill No. 411.

#### REMARKS FROM THE FLOOR

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

I have been in this body for 16 years. Legislators have the right to ask for an amendment to a bill that they think might need some clarification. When we were in the majority, we gave the minority the courtesy of having the opportunity to bring forth an amendment so the body could look at the language. My request was not out of order. I do not think it was something to derail the bill. There was a concern within the bill. I asked the indulgence of this body and, especially, of the party in the majority, to look at the clarifying language to ensure that the bill was addressed properly. We talk about decorum and having respect, but this was a partisan move and an attempt not to hear the language requested. If you do not like the language and choose to vote it down, so be it. Everyone should have the opportunity to bring language forward. I hope that next time, through the spirit of cooperation, whoever sits in this seat will be assured that they have that opportunity to bring forth an amendment to a bill for the body to look at and to determine whether it will be appropriate or inappropriate.

Senator Horsford moved that the Senate recess until 5:45 p.m.

Motion carried.

Senate in recess at 5:25 p.m.

## SENATE IN SESSION

At 6:29 p.m.  
 President Krolicki presiding.  
 Quorum present.

## MESSAGES FROM THE ASSEMBLY

ASSEMBLY CHAMBER, Carson City, May 30, 2009

*To the Honorable the Senate:*

I have the honor to inform your honorable body that the Assembly on this day failed to sustain the Governor's veto of Assembly Bills Nos. 25, 141, 246, 458, 463 of the 75th Session.

Also, I have the honor to inform your honorable body that the Assembly on this day respectfully refused to concur in the Senate Amendment No. 973 to Assembly Bill No. 561.

Also, I have the honor to inform your honorable body that the Assembly on this day respectfully refused to recede from its action on Senate Bill No. 403, Assembly Amendment No. 955, and requests a conference, and appointed Assemblymen Leslie, Arberry and Gansert as a Conference Committee to meet with a like committee of the Senate.

DIANE M. KEETCH

*Assistant Chief Clerk of the Assembly*

## MOTIONS, RESOLUTIONS AND NOTICES

By Senator Horsford and Assemblyman Ocegüera:

Senate Concurrent Resolution No. 37—Providing for the Interim Finance Committee to conduct a review of Nevada's revenue structure and to provide long-term stabilization of revenue.

Senator Horsford moved the adoption of the resolution.

Remarks by Senators Horsford and Raggio.

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

## SENATOR HORSFORD:

This resolution provides for the language for the interim process for reviewing the State's revenue structure and to look at options for long-term stabilization of revenue.

I would like to thank the Senate Minority Leader and others who have provided input into the development of this resolution. The resolution directs the Interim Finance Committee (IFC) to conduct a review of Nevada's current revenue structure and to look at long-term stabilization of revenue.

One page 2, you will see there will be two processes. One is that IFC will select, through competitive bidding, a third-party independent consultant. That is found on page 3 of the resolution. The consultant will carry out the scope of work that is listed on items 1 through 9, which are on pages 3 and 4. They include the allocation of our revenue, the adequacy of the revenue sources based on our population and governmental service and agency needs, the relative stability of the revenue sources of the State and local governments, the degree to which the revenue reflects the current economic activity of the State and the ways business is conducted relative to those sources.

A subcommittee will be formed to look at quality-of-life issues for the State and will develop over a 5-year, 10-year and 20-year period a visioning process along with key stakeholders to address quality-of-life issues, including education, health and human services, public safety, economic diversification, job creation, transit and energy use. Those are the things we have tried to improve and to address in a strategic plan. IFC will be able to use funds from the contingency allocation to select the independent consultant and fund the work of the independent consultant and the technical working group. The subcommittee will provide recommendations to IFC by July 1, 2010, and issue a final report on or before October 1, 2010. That report will be submitted

to the Governor as well as to the Director of the Legislative Counsel Bureau for transmittal to the Seventy-Sixth Legislative Session.

This meets all of the goals that both the Minority Leader and I have had, both to have a credible independent study as well as to have a visioning process and implementation plan, should new revenues be identified that the Legislature can review and act upon. I urge the body's adoption of Senate Concurrent Resolution No. 37.

SENATOR RAGGIO:

It is no secret that for a number of years I have been an advocate of a comprehensive analysis of the tax base in our State and of local governments. I have advocated that the analysis be conducted by an independent consultant who would be objective and not be pointed in any particular direction to advocate for or against taxes. This needs to be a complete and serious analysis of where we stand. We have not had that type of a study since the 1980s, when one was commissioned by this Legislature and conducted by the Urban Institute in coordination with Price-Waterhouse. We have had other studies, but they have lacked the credibility of the type of study we are talking about. That is the type of study envisioned by this resolution. I endorse that.

We do not have a perfect tax base. Those who are always criticizing us about our taxes in this State should recognize some things that are important now. The Tax Foundation of America ranks the states. Nevada is in the top 11 best states in the Country with the lowest state-and-local tax burden per capita. We have the best business-tax climate of any state. We want to keep it that way. We want to keep taxes low. We do not have a state income tax. We have all of the incentives for business and economic opportunity in this State as a result. My goal has been that an analysis would be objective and that it would also analyze whether we are serving the essential needs in our State and local governments and whether the revenues we now utilize are adequate, appropriate, fair and equitable, as to business and to consumers. My goal is that the analysis would show if the allocation of taxes between the state and local governments is appropriate. These are studies that are long overdue.

The Majority Leader and I have been working over a period of weeks to blend our concerns. I apologize for the frustrations I have caused him in developing the language, but he agrees that if we are going to have this type of study, it has to be credible and not pointed towards raising existing or new taxes, while pointing out the needs we must address in our State. The quality-of-life issues are important. We want our State to be the best state in the Nation in which to live.

There will be critics who will say the Legislature is doing a tax study because it wants to raise taxes. I want to make it clear that is not my goal. That is why I have persevered in developing the language we are using in this resolution. I urge the body to support this resolution.

Resolution adopted.

Resolution ordered transmitted to the Assembly.

Senator Horsford moved that vetoed Senate Bills Nos. 234, 201, 415 and 283 of the 75th Session be made a special order of business for Saturday, May 30, 2009, at 6:42 p.m.

Motion carried.

SPECIAL ORDERS OF THE DAY  
VETO MESSAGES OF THE GOVERNOR

The hour of 6:42 p.m. having arrived, Vetoed Senate Bills Nos. 234, 201, 415 and 283 of the 75th Session were considered.

Vetoed Senate Bill No. 234 of the 75th Session.

Bill read.

Governor's message stating his objections read.



MESSAGES FROM THE GOVERNOR  
STATE OF NEVADA  
EXECUTIVE CHAMBER  
CARSON CITY, NEVADA 89701

May 28, 2009

THE HONORABLE SENATOR STEVEN A. HORSFORD, *Majority Leader*,  
Legislative Building, 401 South Carson Street, Carson City, NV 89701

DEAR SENATOR HORSFORD:

I am herewith forwarding to you, for filing within the constitutional time limit and without my approval, Senate Bill 234, which is entitled:

"AN ACT relating to motor vehicles; revising certain provisions governing the fees charged by a short-term lessor of passenger cars; increasing the governmental services fee on short-term leases of passenger cars; revising the definition of "uninsured motor vehicle" to include a leased passenger car under certain circumstances; making various changes concerning the disclosure of certain information relating to the short-term lease of a passenger car; providing a penalty; and providing other matters properly relating thereto."

Senate Bill 234 is a bill that relates to the fees charged by car rental companies. These fees are in addition to the actual cost of the rental. The bill authorizes car rental companies to charge additional fees to their customers, which will effectively make the rental of automobiles more expensive. This is a fee increase that I will not support because it will impact not only Nevadans but businessmen and women and tourists who visit our state.

For these reasons, I hereby exercise my constitutional grant of authority and veto Senate Bill 234.

Sincerely,  
JIM GIBBONS  
*Governor of Nevada*

The question was put: "Shall the bill pass, notwithstanding objections of the Governor?"

The roll was called, and the Senate failed to sustain the veto of the Governor by the following vote:

Roll call on Senate Bill No. 234 of the 75th Session:

YEAS—21.

NAYS—None.

Bill ordered transmitted to the Assembly.

Vetoed Senate Bill No. 201 of the 75th Session.

Bill read.

The Governor's letter stating his objections read.

MESSAGES FROM THE GOVERNOR  
STATE OF NEVADA  
EXECUTIVE CHAMBER  
CARSON CITY, NEVADA 89701

May 21, 2009

THE HONORABLE SENATOR STEVEN A. HORSFORD, *Majority Leader*,  
Legislative Building, 401 South Carson Street, Carson City, NV 89701

DEAR SENATOR HORSFORD:

I am herewith forwarding to you, for filing within the constitutional time limit and without my approval, Senate Bill 201, which is entitled:

"AN ACT relating to taxation; authorizing certain counties to impose additional taxes on fuels for motor vehicles; providing for the administration, allocation, disbursement and use of the additional taxes; exempting the sale of revenue bonds secured by county

fuel taxes from certain requirements; and providing other matters properly relating thereto."

This bill would increase fuel taxes in Washoe County. The bill resulted from an advisory ballot question in November of 2008 whereby the voters of Washoe County were asked whether the Washoe County Board of Commissioners should "seek state legislation for the Regional Transportation Commission (RTC) to obtain necessary additional funding for transportation projects that will reduce traffic congestion, improve air quality, and repair and maintain roads in the Truckee Meadows?"

Notably absent from the language of that advisory question was a clear and concise statement that the state legislation being sought would come in the form of a fuel tax increase. Also notably absent from the language of that advisory question is a clear and concise statement of the amount of the fuel tax increase being sought. Although I have asked the question many times, nobody has adequately explained why the advisory question did not simply state that the voters were being asked to support a fuel tax increase along with the specific amount of that increase.

By contrast, Initiative Petition 1 from the 75th Legislative Session enacted a room tax as the result of a ballot question. With respect to that ballot question, voters were asked whether they "support the imposition of an additional hotel and motel room tax of not more than 3 percent to be used in the first 2 years after imposition to avoid large cuts in the funding of education and other state programs and to be used thereafter to increase the funding of K-12 education, specifically to improve student achievement and for salaries of non-administrative educational personnel?" The call of the ballot question on the room tax increase clearly and concisely informed voters of the impact of their vote.

If the voters of Washoe County are being asked to support a tax increase, they are entitled to a clear and concise ballot question stating the fact that a tax increase is being sought along with the amount of that tax increase. There is no reason a concept as simple as a tax increase cannot be clearly stated in the call of the question. I support the will of the people but I cannot support bills premised on advisory questions worded in a manner that deliberately obscures the impact of the question from the voters.

For these reasons, I hereby exercise my constitutional grant of authority and veto Senate Bill 201.

Sincerely,  
JIM GIBBONS  
*Governor of Nevada*

The question was put: "Shall the bill pass, notwithstanding objections of the Governor?"

The roll was called, and the Senate failed to sustain the veto of the Governor by the following vote:

Roll call on Senate Bill No. 201 of the 75th Session:

YEAS—20.

NAYS—Cegavske.

Bill ordered transmitted to the Assembly.

Vetoed Senate Bill No. 415 of the 75th Session.

Bill read.

The Governor's letter stating his objections read.

MESSAGES FROM THE GOVERNOR  
STATE OF NEVADA  
EXECUTIVE CHAMBER  
CARSON CITY, NEVADA 89701

May 28, 2009

DEAR SENATOR HORSFORD:

I am herewith forwarding to you, for filing within the constitutional time limit and without my approval, Senate Bill 415, which is entitled:

"AN ACT relating to programs for public personnel; establishing for the next biennium the amount to be paid to the Public Employees' Benefits Program for group insurance for certain active and retired public officers and employees; and providing other matters properly relating thereto."

Senate Bill 415 establishes premiums and contributions for state employees who participate in the Public Employees' Benefits Program. The Executive Budget, which was based on recommendations from the Spending and Government Efficiency Commission, proposed different premium costs for the biennium in order to save money. Because the recommendations set forth in the Executive Budget were replaced with the amounts set forth in Senate Bill 415, I cannot support the bill.

For these reasons, I hereby exercise my constitutional grant of authority and veto Senate Bill 415.

Sincerely,  
JIM GIBBONS  
*Governor of Nevada*

The question was put: "Shall the bill pass, notwithstanding the objections of the Governor?"

The roll was called, and the Senate failed to sustain the veto of the Governor by the following vote:

Roll call on Senate Bill No. 415 of the 75th Session:

YEAS—21.

NAYS—None.

Bill ordered transmitted to the Assembly.

Vetoed Senate Bill No. 283 of the 75th Session.

Bill read.

The Governor's letter stating his objections read.

MESSAGES FROM THE GOVERNOR  
STATE OF NEVADA  
EXECUTIVE CHAMBER  
CARSON CITY, NEVADA 89701

May 25, 2009

THE HONORABLE SENATOR STEVEN A. HORSFORD, *Majority Leader*,  
Legislative Building, 401 South Carson Street, Carson City, NV 89701

DEAR SENATOR HORSFORD

I am herewith forwarding to you, for filing within the constitutional time limit and without my approval, Senate Bill 283, which is entitled:

"AN ACT relating to domestic relations; providing for the registration and dissolution of domestic partnerships in the State of Nevada; setting forth the rights and responsibilities attendant to such partnerships; and providing other matters properly relating thereto."

Senate Bill 283 would extend to domestic partners nearly all of the rights, protections, benefits and privileges currently available only to married persons. Article 1, Section 21 of the Nevada Constitution, enacted by vote of the people less than a decade ago, provides that "only a marriage between a male and a female person shall be recognized and given effect in this state." Senate Bill 283 would effectively bypass that constitutional mandate by allowing the rights and privileges of marriage to be bestowed upon non-married persons.

Notwithstanding the suspect constitutionality of Senate Bill 283, I believe that because the voters have determined that the rights of marriage should apply only to married couples, only the voters should determine whether those rights should equally apply to domestic partners.

Furthermore, many of the rights granted in Senate Bill 283 are readily available today by way of private contracts. For example, estate planning allows a person to bequeath their assets to anyone of their choosing, including a domestic partner. Similarly, living wills allow individuals to designate responsibility for healthcare decisions to others, including a domestic partner. Finally, amendments to leases or deeds of trust allows individuals to ensure that others have a right to access property in the event of death or disability, and such amendments can be made regardless of whether the individuals are married. I also recently signed Senate Bill 314 which streamlines and eases the laws pertaining to powers of attorney, which will benefit all Nevadans.

My disapproval of this bill should not be taken to suggest that domestic partners are in any way undeserving of rights and protections. I recently signed Senate Bill 207, which prohibits discrimination in Nevada based on sexual orientation. However, I believe that Senate Bill 283 represents a fundamental departure from the will of the voters expressed in Article 1, Section 21 of the Nevada Constitution, and only the voters should have the right to undo or amend constitutional mandates.

For these reasons, I hereby exercise my constitutional grant of authority and veto Senate Bill 283.

Sincerely,  
JIM GIBBONS  
*Governor of Nevada*

Remarks by Senators Parks, Nolan, Washington and Carlton.

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

SENATOR PARKS:

Thank you, Mr. President. Senate Bill No. 283 is a bill about equality and fairness. It establishes a Domestic Partnership as a new type of civil contract recognized in the State of Nevada. Under the provisions of this bill, domestic partners have the same rights, protections, benefits, responsibilities, obligations and duties as do parties to any other civil contract created pursuant to Title 11 of NRS.

Senate Bill No. 283 would establish a Domestic Partner Registry through the Secretary of State's Office where couples, whether same-gender or opposite-gender, register their relationships with the State.

This past Monday, Governor Gibbons vetoed Senate Bill No. 283. He wrote that he vetoed the bill based on his opinion that it violates Section 21 of Article 1 of the Nevada Constitution.

Senate Bill No. 283 does not circumvent the will of the people, because Question 2 made no mention of partnerships or of denying peoples' rights and privileges if they are in committed relationships. Consistent with this, the proponents and supporters of Question 2 consistently stated that the initiative was solely about the sanctity of marriage and was not about anything but that. And domestic partnerships in no way threaten that sanctity, since their recognition does not diminish the institution of marriage and does not require that any religion or religious institution sanction any relationship at all.

Furthermore, legal opinions expressed by experts during legislative testimony at hearings on Senate Bill No. 283, and the opinion issued by the Legislative Council Bureau (LCB), contradict the Governor's reasoning. Senate Bill No. 283 is not the equivalent of marriage, and every legal expert says so—the LCB, the Attorney General, a number of professors at the Boyd Law School, including Former Dean Richard Morgan, and judges in at least 12 other states where this issue has been challenged. In fact, back in 2002, the chief sponsor of Question 2 stated that he was okay with civil unions and domestic partnerships. He just did not want persons from other states coming to Nevada and imposing those other states' laws on Nevada.

Governor Gibbons also claims in his letter that couples can contract privately through "estate planning, living wills and amendments to leases and deeds of trust." If legal contracts were as simple as the Governor claims, more people would enter into them. The process of drawing up

legal documents is cumbersome, complex, cost-prohibitive, time-consuming and easily challenged in court. There is simply no guarantee that these contracts will stand up in court. Such contracts are more vulnerable to legal challenge without the added strength provided by recognition of domestic partnership.

There is a lot more information I would like to share with this body; however, I will concentrate on a few closing remarks.

First, all three major newspapers in Nevada have fully endorsed Senate Bill No. 283. There are 18 states and an untold number of cities, which have enacted domestic partnership/civil union statutes or ordinances. Of the top 100 corporations in America, 83 of them offer full domestic-partner benefits. That has to prove domestic partnerships are good for business. Our state is a haven for opposite-gender senior citizens who have retired here. Many of these folks have lost their previous spouses and often meet a second individual with whom to spend the balance of their lives but do not wish to remarry.

Contrary to what may be thought, not all religious organizations oppose domestic partnerships. Far more support these relationships than oppose them. Numerous polls have been conducted by the likes of HarrisInteractive, FOX News, CBS/NY Times, Newsweek, Washington Post/ABC News and Gallup. All of these surveys revealed that a majority of Americans favor a broad range of policies and legal protections afforded by domestic-partnership legislation. They all come in with numbers between two-thirds and three-quarters of U.S. adults favoring these relationships. Only about one-quarter of U.S. adults oppose these relationships today. Our legislature also did its opinion polling and, according to that poll, it was the third highest vote count—1,659 opinions. The results show that 79 percent favor Senate Bill No. 283, while only 21 percent oppose it. That is a margin of 4 to 1.

On a final note, I know that all of you have received lots of e-mails. By my count, I have received over 1,500. Many were very moving. However, the ones that stood out in my mind are the ones from veterans and current active duty military service members. One of them wrote in closing, "I served my country in the belief that I was defending everyone's rights, not just certain groups, not just everyone else's, but also mine."

SENATOR NOLAN:

I have seen very few issues come before this body that have divided good people as this issue before us, the issue of domestic partnerships.

Of course, we all know that the real issue is not that of whether we acknowledge two people exclusively committing to each other to bond in a relationship. We rarely hear of public opposition to a man and a woman who commit to this type of "out of wedlock" relationship, even when it involves the rearing of children. Many young couples are apprehensive about matrimony today, and with an over 55-percent marriage-failure rate, discretion for many is probably well advised.

The real issue, which becomes so controversial for us here, is that a part, albeit I believe a small part, of our society disapproves, loathes and even fears people attracted to the same sex and does not want any form of recognition of their relationship with one another.

That is not to say that those of us who voted against Senate Bill No. 283 did it out of malice or prejudice; quite the opposite. Many of us who voted against Senate Bill No. 283, the "domestic partnership bill," did it because, in this people's republic form of government, we thought we were representing the will of our constituents by upholding the Marriage Amendment of 2000-2002, which passed overwhelmingly by a vote of the people.

In that vein, I can honestly say I never completely read Senate Bill No. 283 and, therefore, failed to afford myself or the people it would affect a true understanding of the measure. Further, it has been seven years since the so-called Marriage Protection Initiative passed, and I had since forgotten what the exact language in that measure was. This last week I read both.

Senate Bill No. 283, I now believe, in no way undermines or undoes the 2002 initiative. In fact, that initiative was carefully worded to address marriage as being between a man and a woman, and that Nevada would not recognize any marriage other than between a man and a woman consummated in any other state.

There was no mention in that initiative about prohibiting the "benefits granted under law to all citizens," including those citizens in domestic relationships. That language could have been

included in the amendment's writing but intentionally was left out by its proponents, obviously because such language in all likelihood would not meet the approval of the voters and threaten the passage of the measure.

The proponents did, however, attempt to forward what they could not get past a popular vote of the people on to us, the members of the Legislature, when we were asked to sign a "Marriage Protection Pledge" which encourages us to oppose any recognition of domestic partnerships, civil unions or anything related. While I openly supported the Marriage Protection Amendment, I refused to sign what I believed to be a biased and prejudiced pledge.

On May 25, the Governor issued a veto of Senate Bill No. 283. In the letter of explanation, he acknowledges that the bill attempts to bestow rights and protections upon nonmarried persons while affirming the bill does not, as is being promoted, permit "same sex-marriage." Further, the Governor writes, "I believe that because the voters have determined that the rights of marriage should apply only to married couples, only the voters should determine whether those rights should apply to domestic partners."

I agree the voters should decide whether to accept same-sex marriages. The voter-approved amendment of 2002 addressed that, stating: "Only a marriage between male and female person shall be recognized and given effect in this State." However, it does not say anything about the legal rights and privileges that Senate Bill No. 283 specifically addresses.

Finally, the Governor writes, "Many of the rights granted in Senate Bill No. 283 are readily available today by way of contract," and acknowledges, "My disapproval of this should not be taken to suggest that domestic partners are in any way undeserving of rights and protections." What is not stated is that while many of these rights and protections are, by law, automatically provided to one class of citizen, others have to engage lawyers to produce contracts at a considerable expense. If we recognize that citizens of a domestic partnership are deserving of the same rights and protections the law affords to married couples, why should we penalize them with excessive monetary costs to obtain those rights?

Marriages are consummated in churches, mosques, synagogues and other places of worship. City halls and courthouses each will issue the married couple a certificate of sorts to consecrate and memorialize the marriage.

Contracts and business transactions are recorded with the Secretary of State's Office. This bill requires a notarized statement be filed and recorded with this Office.

Marriage has as many definitions as there are cultures and religions, although nearly all of them recognize it as a bond between a man and a woman celebrated in sacraments and with an acknowledgment of mutual commitments to one another. Senate Bill No. 283 does not change, alter or in any way redefine marriage.

This last week, opponents of this bill conducted a robo-call in my district, demanding I support the Governor's veto. I received dozens of calls, some very civil, but many who opposed the bill left ugly, vulgar and threatening messages. Anyone who knows me knows that you will not get what you want from me with a threat. The messages did not reflect the Christian beliefs I was brought up with. I had the messages transferred to disk for any who would like to hear them.

Regardless of your or my acceptance or disapproval of domestic partnerships, I would submit that we have an obligation to insure that we, as the authors of this State's laws, have a duty to insure an equal and fair application of the State's laws to all law abiding, taxpaying citizens who seek only the same peaceful enjoyment of life that we all expect and which are afforded.

My father taught me the only thing worse than doing the wrong thing is knowing you have done something wrong and not righting it.

With all due respect to the Governor and to my colleagues who will not be supporting the veto, I believe in my heart I am doing the right thing. I am giving notice of my intent to support a veto override of Senate Bill No. 283.

SENATOR WASHINGTON:

I stand in support of the Governor's veto. I have listened to my two colleagues and to their opposition to the Governor's veto. The people of Nevada have spoken vociferously concerning the union between a man and a woman. They stated the importance of understanding that the institution of marriage is sacred. That institution bonds itself together to form a family. That is a

family that has offspring, siblings, and a family where they unite through hard times, trials and tribulations. They share their joys and their gratitude for life itself.

Today, we look at this bill, Senate Bill No. 283, and we have to determine whether we are going to honor the will of the people. We have had several petitions come before us this Session. There was the infamous teachers' petition; whether you agree or disagree, it was inaccurately stated, convoluted and somewhat deceiving. This petition that went before the people in 2002 was clear, and it was precise. The question was, "Do you want the sanction of a union between a man and woman to be ratified in the Nevada State Constitution?" This bill is an attempt to go around the will of those people. If this bill just dealt with legal aspects of contracts or the legal aspects of passing a person's estate to whomever, those things are in place and anyone, whether married or unmarried, has access to our legal process to ensure the transfer of those properties. This is not about rights. It does not deal with the rights already afforded to them through federal courts or through federal legislation or state statutes or civil rights. This is about conduct.

I heard my colleague say those of us against the bill do not want to set aside prejudices concerning other people who are united and are of the same sex. This is not about prejudice. If you want to talk about prejudice, ask me or others of my colleagues who have gone through prejudiced situations or innuendoes or set-asides or slurs. I know what prejudice is all about, but if you take the root word of prejudice, it is to prejudge. We are prejudging a conduct, and that conduct is judged based upon character. That conduct says if I am a bad character, you can judge me as being a bad person.

Character is the issue. The sanctity of marriage expresses the character and the fabric of a people, their country and where they stand morally. The issue before us is to determine to prejudge the conduct and the character by which we are going to govern ourselves by. We are not saying that we cannot get along. We are not saying that you are a special class. We are not saying you should have special rights. You are afforded the same rights as any other citizen in this country. However, your choices are your choices. My choices are my choices. I am not here to inflict my religious view or my religious conduct on you nor am I expecting you to reciprocate to me. What I am saying is that the people of this State have spoken, and they have said that the sanctity of marriage is important and that marriage should be between a man and woman. It is about conduct.

It is a conduct that speaks of the character of this State. If we override the Governor's veto, we are saying to the citizens that their voice does not matter. We will now legislate and we will ordain that if two people want to be united they can go to the Secretary of State's Office, get a contract and they will be on the same plane as those individuals who go to the county clerk's office and get a marriage certificate. You have the same rights that are afforded to you as if you were a man and a woman in a marriage. I think that is wrong. I think the Governor was right. The Governor stated clearly that it is against the amendment that was passed by the people to set the language in the Constitution.

I am appalled by the fact that some have come to my office and have called me a religious zealot. I am not more of a zealot than anyone else in here. I have firm beliefs. I have constitutional beliefs. I know where I stand, and I know what I believe in. Someone came to my office and asked me how I feel. I told them that I feel violated, just as you would feel violated if I smeared your name or smeared your relationship in the streets because you have been forced to accept something that is constitutionally against your character. I can go to lunch with you. I can sit down with you. I can converse with you. I can play ball with you. We can be friends, but as you want me to respect you, please respect me and where I stand.

I think this bill introduced by my colleague is a slap. It is not only a slap against the people of this great State, it is not only a slap against the process by which they petitioned to amend their own Constitution, it is a slap against the process by which we have set in statute that the union between a man and a woman should be certified by a marriage certificate given by the county clerk's office and not through the Secretary of State's Office. All other rights, federal and state and civil rights, are afforded to all citizens of this great Country. Therefore, I cannot accept the premises by my colleague from Clark County or my colleague from my party from Clark County. There has to be a line. There has to be a difference between what we constitute as marriage and what we constitute as not being marriage. Any other relationship you want to have,

so be it. However, when it comes down to a marriage, that is a sanctity that has been ordained that it is between a man and a woman. Therefore, I support the Governor's veto.

SENATOR CARLTON:

I want to congratulate my colleagues from Clark Districts 7 and 9 for doing such a good job and to my colleague from Sparks for a passionate speech. This is a passionate issue.

I am not going to speak to the bill. I am going to speak to the process. I will use some of the terms used by my colleague from Sparks: Their voice does matter. In this hearing process on this bill, everyone's voice did matter. We heard from all sides. This body made a decision. That decision was to forward the bill to the Assembly. It had its appropriate hearings in the Assembly. Everyone's voice did matter. The Assembly decided to forward the bill to the Governor.

If we are going to talk about honoring the will of the people, we are all here to represent the people. This piece of legislation made it through the process. We need to honor the process because we are all here to do the people's work. That is the reason we should look at this override in that perspective. This override vote is not a vote on the bill. We did that already. The bill was voted on twice. This vote is to say we have spoken, Mr. Governor, and we would like you to appreciate the work that we have done on this measure. We have given everyone their time in this process to make their case on this bill.

The question was put: "Shall the bill pass, notwithstanding objections of the Governor?"

The roll was called, and the Senate failed to sustain the veto of the Governor by the following vote:

Roll call on Senate Bill No. 283 of the 75th Session:

YEAS—14.

NAYS—Amodei, Care, Cegavske, Hardy, Lee, Raggio, Washington—7.

Bill ordered transmitted to the Assembly.

#### GENERAL FILE AND THIRD READING

Senate Bill No. 236.

Bill read third time.

Remarks by Senators Cegavske and Horsford.

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

SENATOR CEGAVSKE:

Why was the decision made to take the fee from \$25 to \$275? On page 2, lines 20 to 22, it says that the \$250 to the State Controller is a credit to the fund for the reentry program. On page 3, line 6, it says, "The interest and income earned from the money in the fund are deducted from any applicable charges." What does that mean?

SENATOR HORSFORD:

All of those sections were deleted. There are no fees. This becomes a program that is funded through donations and grants.

Roll call on Senate Bill No. 236:

YEAS—20.

NAYS—Washington.

Senate Bill No. 236 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.



UNFINISHED BUSINESS  
RECEDE FROM SENATE AMENDMENTS

Senator Coffin moved that the Senate recede from its action on Assembly Bill No. 492.

Motion carried.

Bill ordered transmitted to the Assembly.

SIGNING OF BILLS AND RESOLUTIONS

There being no objections, the President and Secretary signed Senate Bills Nos. 7, 188, 427, 429, 431, 433, 434, 435; Senate Resolution No. 11; Assembly Bills Nos. 18, 64, 218, 229, 430, 461, 540.

Senator Horsford moved that the Senate adjourn until Sunday, May 31, 2009, at 10:30 a.m.

Motion carried.

Senate adjourned at 7:24 p.m.

Approved:

BRIAN K. KROLICKI  
*President of the Senate*

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