

**THE ONE HUNDRED SEVENTEENTH DAY**

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CARSON CITY (Friday), June 3, 2011

Assembly called to order at 11:31 a.m.

Mr. Speaker presiding.

Roll called.

All present.

Prayer by the Chaplain, Reverend Bruce Henderson.

Well, Lord, it's almost over.

The last four months have brought times of joy and times of pain. We have had conflict, and we've had camaraderie. There have been storms, and there has been calm. As we reflect on it all, may we see Your presence and may we cling to that. May that presence see us through to the end of, not just this session, but to the very end of our lives here on earth.

AMEN.

Pledge of allegiance to the Flag.

Assemblywoman Kirkpatrick moved that further reading of the Journal be dispensed with, and the Speaker and Chief Clerk be authorized to make the necessary corrections and additions.

Motion carried.

## REPORTS OF COMMITTEES

*Mr. Speaker:*

Your Committee on Ways and Means has had under consideration various budgets for the Department of Public Safety, and begs leave to report back that the following accounts have been closed by the Committee:

Training Division (101-3775)  
Parole and Probation (101-3740)  
Division of Investigations (101-3743)  
Narcotics Control (101-3744)  
Emergency Management Division (101-3673)  
Emergency Management Assistance Grants (101-3674)  
Fire Marshal (101-3816)  
Cig Fire Safe Std & Firefighter Support (000-3819)  
Criminal History Repository (101-4709)  
Technology Division (201-4733)  
Justice Grant (101-4736)  
Justice Assistance Act (101-4708)  
Justice Assist Grant Trust (101-4734)  
Fund for Reentry Programs (101-4737)

Also, your Committee on Ways and Means has had under consideration the budget for the Department of Taxation, and begs leave to report back that it has closed the budget for the 2011-13 biennium.

DEBBIE SMITH, *Chair*

*Mr. Speaker*

Your Committee on Commerce and Labor, to which was referred Senate Bill No. 168, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

KELVIN ATKINSON, *Chair*

*Mr. Speaker:*

Your Committee on Government Affairs, to which was referred Assembly Bill No. 574, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

MARILYN K. KIRKPATRICK, *Chair*

*Mr. Speaker:*

Your Committee on Legislative Operations and Elections, to which were referred Assembly Bills Nos. 383, 575, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

TICK SEGERBLOM, *Chair*

*Mr. Speaker:*

Your Committee on Ways and Means, to which was rereferred Assembly Bill No. 123, 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 Ways and Means, to which was rereferred Assembly Bill No. 316, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

Also, your Committee on Ways and Means, to which was rereferred Assembly Bill No. 345, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

DEBBIE SMITH, *Chair*

#### MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, June 2, 2011

*To the Honorable the Assembly:*

I have the honor to inform your honorable body that the Senate on this day passed Assembly Bill No. 528.

Also, I have the honor to inform your honorable body that the Senate on this day passed, as amended, Senate Bills Nos. 129, 340.

Also, I have the honor to inform your honorable body that the Senate on this day concurred in the Assembly Amendment No. 646 to Senate Bill No. 77; Assembly Amendment No. 699 to Senate Bill No. 233; Assembly Amendment No. 614 to Senate Bill No. 361.

SHERRY L. RODRIGUEZ  
*Assistant Secretary of the Senate*

#### INTRODUCTION, FIRST READING AND REFERENCE

Senate Bill No. 129.

Assemblyman Conklin moved that the bill be referred to the Committee on Health and Human Services.

Motion carried.

Senate Bill No. 340.

Assemblyman Conklin moved that the bill be referred to the Committee on Health and Human Services.

Motion carried.

## GENERAL FILE AND THIRD READING

Assembly Bill No. 316.

Bill read third time

The following amendment was proposed by the Committee on Ways and Means:

Amendment No. 863.

SUMMARY—~~Establishes~~ **Revises** provisions relating to **services for persons with autism ~~and~~ spectrum disorders.** (BDR 38-260)

AN ACT relating to persons with disabilities; requiring the Aging and Disability Services Division of the Department of Health and Human Services to designate a standard protocol for measuring outcomes and assessing and evaluating persons with autism **spectrum disorders** through the age of 21 years who receive services through certain public programs; **establishing the Autism Treatment Assistance Program within the Division;** requiring certain state and local governmental agencies that provide services to persons with autism **spectrum disorders** to submit reports to the Division; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

**Section ~~1.3~~ 1.3** of this bill requires the Aging and Disability Services Division of the Department of Health and Human Services, in cooperation and guidance with the Department of Education, representatives of the school districts in this State and the Nevada Autism Task Force, to prescribe a statewide standard for measuring outcomes and assessing and evaluating persons with autism **spectrum disorders** through the age of 21 years for the purposes of receiving services through certain public programs in this State. **Section ~~1.3~~ 1.3** also requires the Division to designate, as part of the statewide standard, a protocol for determining whether a person is a person with autism **spectrum disorder.** **Section ~~1.3~~ 1.3** further requires the Division to collect certain information relating to persons with autism **spectrum disorders** and to document the services provided to and the progress of those persons.

**The Department of Health and Human Services provides various programs for persons with disabilities, including, without limitation, mental health services, early intervention services and services for persons who are disabled. (NRS 232.300) Section 1.5 of this bill establishes the Autism Treatment Assistance Program within the Aging and Disability Services Division of the Department to provide and coordinate the provision of services to persons with autism spectrum disorders. Section 1.5 also requires the Program to coordinate with other governmental entities to develop policies and programs for the treatment of persons with autism spectrum disorders. Section 12.5 of this bill requires the Health Division of the Department to refer certain children to the Program.**

**Section 3** of this bill requires the board of trustees of a school district or the governing body of a charter school to conduct an initial evaluation of each pupil with autism spectrum disorder and to conduct a reevaluation once every 3 years thereafter in accordance with the Individuals with Disabilities Education Act, 20 U.S.C. §§ 1400 et seq., and the regulations prescribed by the State Board of Education.

~~[Sections 8 and]~~ **Section 13** of this bill ~~[require:]~~ **requires:** (1) the Health Division of the Department ~~[and the Division of Mental Health and Developmental Services of the Department]~~ to use the statewide standard prescribed by the Aging and Disability Services Division pursuant to ~~section~~ **1.3** to determine whether a person is a person with autism ~~[:]~~ spectrum disorder; and (2) that certain evaluations be conducted to monitor the progress of persons with autism spectrum disorders receiving services through the Health Division ~~[and the Division of Mental Health and Developmental Services.]~~

**Sections 4, ~~[9,]~~ 12 and 14** of this bill require the Department of Education, the Health Division ~~[, the Division of Mental Health and Developmental Services]~~ and the Department of Employment, Training and Rehabilitation to submit to the Aging and Disability Services Division information relating to persons with autism ~~[:]~~ spectrum disorders.

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

**Section 1.** Chapter 427A of NRS is hereby amended by adding thereto ~~[a new section to read as follows:]~~ **the provisions set forth as sections 1.3 and 1.5 of this act.**

*Sec. 1.3. 1. The Division, in cooperation and guidance with the Department of Education, representatives of the school districts in this State and the Nevada Autism Task Force created by section 40 of chapter 348, Statutes of Nevada 2007, or its successor organization, shall prescribe by regulation a statewide standard for measuring outcomes and assessing and evaluating persons with autism spectrum disorders through the age of 21 years who receive services through the State or a local government or an agency thereof. The regulations must designate a protocol based upon accepted best practices guidelines which includes ~~[an]~~ at least one standardized assessment instrument that requires direct observation by the professional conducting the assessment for determining whether a person is a person with autism ~~[, including, without limitation, the Autism Diagnostic Observation Schedule or other appropriate instrument for assessment and diagnosis.]~~ spectrum disorder, which must be used by personnel employed by the State or a local government or an agency thereof who provide assessments, interventions and diagnoses of persons with autism spectrum disorders through the age of 21 years and by the persons with whom the State or a local government or an agency thereof contracts to provide assessments, interventions and diagnoses of persons*

with autism spectrum disorders through the age of 21 years. The protocol must require that the direct observation conducted by a professional pursuant to this subsection include, without limitation, an evaluation to measure behaviors of the person which are consistent with autism spectrum disorder, cognitive functioning, language functioning and adaptive functioning.

2. *The protocol designated pursuant to subsection 1 must be used upon intake of a person suspected of having autism spectrum disorder or at any later time if a person is suspected of having autism spectrum disorder after intake. The results of an assessment must be provided to the parent or legal guardian of the person, if applicable.*

3. *The Division shall prescribe the form and content of reports relating to persons with autism spectrum disorders through the age of 21 years that must be reported to the Division pursuant to sections 4, ~~9,~~ 12 and 14 of this act. Except as otherwise provided in section 4 of this act, the Division shall ensure that the information is reported in a manner which:*

(a) *Allows the Division to document the services provided to and monitor the progress of each person with autism spectrum disorder through the age of 21 years who receives services from the State or an agency thereof; and*

(b) *Ensures that information reported for each person who receives services which identifies the person is kept confidential, consistent with the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. § 1232g, and any other applicable state and federal privacy laws.*

4. *The Division shall prepare annually a summary of the reports submitted pursuant to sections 4, ~~9,~~ 12 and 14 of this act and make the summary publicly available. The Division shall ensure that information contained in the summary does not identify a person who received services.*

Sec. 1.5. 1. There is hereby established the Autism Treatment Assistance Program within the Division to serve as the primary autism program within the Department and to provide and coordinate the provision of services to persons with autism spectrum disorders through the age of 19 years.

2. The Autism Treatment Assistance Program shall:

(a) Prescribe an application process for parents and guardians of persons with autism spectrum disorders to participate in the Program.

(b) Provide for the development of a plan of treatment for persons who participate in the Program.

(c) Promote the use of evidence-based treatments which are cost effective and have been proven to improve treatment of autism spectrum disorders.

(d) Educate parents and guardians of persons with autism spectrum disorders on autism spectrum disorders and the assistance that may be provided by the parent or guardian to improve treatment outcomes.

(e) Establish and use a system for assessing persons with autism spectrum disorders to determine a baseline to measure the progress of and prepare a plan for the treatment of such persons.

(f) Assist parents and guardians of persons with autism spectrum disorders in obtaining public services that are available for the treatment of autism spectrum disorders.

3. A plan of treatment developed for a person who participates in the Program pursuant to paragraph (b) of subsection 2 must:

(a) Identify the specific behaviors of the person to be addressed and the expected outcomes.

(b) Include, without limitation, preparations for transitioning the person from one provider of treatment to another or from one public program to another, as the needs of the person require through the age of 19 years.

(c) Be revised to address any change in the needs of the person.

4. The policies of the Autism Treatment Assistance Program and any services provided by the Program must be developed in cooperation with and be approved by the Nevada Autism Task Force created by section 40 of chapter 348, Statutes of Nevada 2007, or its successor organization.

5. As used in this section, “autism spectrum disorder” means a neurobiological medical condition including, without limitation, autistic disorder, Asperger’s Disorder and Pervasive Developmental Disorder Not Otherwise Specified.

Sec. 2. Chapter 388 of NRS is hereby amended by adding thereto the provisions set forth as sections 3 and 4 of this act.

Sec. 3. 1. *The board of trustees of a school district or the governing body of a charter school shall conduct an initial evaluation of each pupil with autism spectrum disorder in accordance with the Individuals with Disabilities Education Act, 20 U.S.C. §§ 1400 et seq., and the regulations prescribed by the State Board pursuant to NRS 388.520 and shall, once every 3 years thereafter, conduct a reevaluation in accordance with the Individuals with Disabilities Education Act and the regulations of the State Board. The individualized education program for the pupil must be reviewed, and amended as appropriate, in compliance with the Individuals with Disabilities Education Act and the regulations of the State Board.*

2. *The board of trustees of a school district or the governing body of a charter school shall ensure that each person who conducts an evaluation of a pupil with autism spectrum disorder is provided with technical assistance and training to improve the accuracy and efficiency in conducting such evaluations.*

Sec. 4. 1. *The Department of Education shall report annually to the Aging and Disability Services Division of the Department of Health and Human Services information relating to pupils with autism ~~+~~ spectrum disorders. The information must:*

*(a) Be submitted in the form required by the Aging and Disability Services Division; and*

*(b) Include the total number of pupils with autism spectrum disorders who are enrolled in public schools in this State, including all pupils with autism spectrum disorders who have an individualized education program.*

*2. A pupil with autism spectrum disorder who is designated as a pupil with more than one physical or mental impairment or disability must be included as a pupil with autism spectrum disorder for the purposes of reporting information pursuant to this section.*

*3. The reporting made pursuant to this section must comply with the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. § 1232g, and any other applicable state and federal privacy laws.*

**Sec. 5.** NRS 388.440 is hereby amended to read as follows:

388.440 As used in NRS 388.440 to 388.5317, inclusive [;] , *and sections 3 and 4 of this act:*

1. “Gifted and talented pupil” means a person under the age of 18 years who demonstrates such outstanding academic skills or aptitudes that the person cannot progress effectively in a regular school program and therefore needs special instruction or special services.

2. “Pupil who receives early intervening services” means a person enrolled in kindergarten or grades 1 to 12, inclusive, who is not a pupil with a disability but who needs additional academic and behavioral support to succeed in a regular school program.

3. “Pupil with a disability” means a person under the age of 22 years who deviates either educationally, physically, socially or emotionally so markedly from normal patterns that the person cannot progress effectively in a regular school program and therefore needs special instruction or special services.

**Sec. 5.1. NRS 388.520 is hereby amended to read as follows:**

388.520 1. The Department shall:

(a) Prescribe a form that contains the basic information necessary for the uniform development, review and revision of an individualized education program for a pupil with a disability in accordance with 20 U.S.C. § 1414(d); and

(b) Make the form available on a computer disc for use by school districts and, upon request, in any other manner deemed reasonable by the Department.

2. Except as otherwise provided in this subsection, each school district shall ensure that the form prescribed by the Department is used for the development, review and revision of an individualized education program for each pupil with a disability who receives special education in the school district. A school district may use an expanded form that contains additions to the form prescribed by the Department if the basic information contained in the expanded form complies with the form prescribed by the Department.

3. The State Board:

(a) Shall prescribe minimum standards for the special education of pupils with disabilities and gifted and talented pupils.

(b) May prescribe minimum standards for the provision of early intervening services.

4. The minimum standards prescribed by the State Board must include standards for programs of instruction or special services maintained for the purpose of serving pupils with:

- (a) Hearing impairments, including, but not limited to, deafness.
- (b) Visual impairments, including, but not limited to, blindness.
- (c) Orthopedic impairments.
- (d) Speech and language impairments.
- (e) Mental retardation.
- (f) Multiple impairments.
- (g) Serious emotional disturbances.
- (h) Other health impairments.
- (i) Specific learning disabilities.
- (j) Autism ~~and~~ spectrum disorders.
- (k) Traumatic brain injuries.
- (l) Developmental delays.
- (m) Gifted and talented abilities.

5. No apportionment of state money may be made to any school district or charter school for the instruction of pupils with disabilities and gifted and talented pupils until the program of instruction maintained therein for such pupils is approved by the Superintendent of Public Instruction as meeting the minimum standards prescribed by the State Board.

6. The Department shall, upon the request of the board of trustees of a school district, provide information to the board of trustees concerning the identification and evaluation of pupils with disabilities in accordance with the standards prescribed by the State Board.

7. As used in this section, “individualized education program” has the meaning ascribed to it in 20 U.S.C. § 1414(d)(1)(A).

**Sec. 5.3. NRS 391.400 is hereby amended to read as follows:**

391.400 As used in NRS 391.400 to 391.420, inclusive, unless the context otherwise requires, “Grant Fund” means the Grant Fund for the Training and Education of Personnel Who Work With Pupils With Autism ~~and~~ Spectrum Disorders.

**Sec. 5.4. NRS 391.405 is hereby amended to read as follows:**

391.405 1. There is hereby created the Grant Fund for the Training and Education of Personnel Who Work With Pupils With Autism Spectrum Disorders to be administered by the Department. The Department may accept gifts, grants and donations from any source for deposit in the Grant Fund.

2. The money in the Grant Fund must be used only for the distribution of money to school districts and charter schools for programs of training as set forth in NRS 391.410, 391.415 and 391.420 and to provide assistance to licensed educational personnel who work with pupils with autism spectrum disorders in obtaining an appropriate endorsement to teach those pupils.



3. The board of trustees of a school district or the governing body of a charter school may apply to the Department on a form prescribed by the Department for a grant of money from the Grant Fund. The application must include a description of the program of training for which the grant of money will be used.

**Sec. 5.5. NRS 391.410 is hereby amended to read as follows:**

391.410 1. To the extent money is available from the Grant Fund, the board of trustees of each school district and the governing body of each charter school shall ensure that the licensed educational personnel employed by the school district or charter school who work with pupils with autism spectrum disorders receive the appropriate preparation and training necessary to serve those pupils. The training may include, without limitation:

(a) The characteristics of autism ~~and~~ spectrum disorders, including, without limitation, behavioral and communication characteristics;

(b) Methods for determining, on a regular and consistent basis, the specific needs of a pupil with autism spectrum disorder to ensure the pupil is meeting the objectives and goals described in the individualized education program of the pupil or other educational plan prepared for the pupil;

(c) The procedure for evaluating pupils who demonstrate behaviors which are consistent with autism ~~and~~ spectrum disorders;

(d) Approaches for use in the classroom to assist a pupil with autism spectrum disorder with communication and social development; and

(e) Methods of providing support to pupils with autism spectrum disorders and their families.

2. To the extent money is available from the Grant Fund, the board of trustees of a school district or the governing body of a charter school may enter into an agreement with a local corporation, business, organization or other entity to provide training for licensed educational personnel employed by the school district or charter school who work with pupils with autism spectrum disorders in accordance with this section.

**Sec. 5.7. NRS 391.415 is hereby amended to read as follows:**

391.415 To the extent money is available from the Grant Fund, the board of trustees of each school district and the governing body of each charter school shall ensure that the licensed educational personnel employed by the school district or charter school who are assigned to assist a parent or legal guardian of a pupil with autism spectrum disorder in making decisions about the services and programs available for the pupil receive the appropriate preparation and training:

1. On using the 2008 Report of the Nevada Autism Task Force and any subsequent report issued by the Nevada Autism Task Force created pursuant to chapter 348, Statutes of Nevada 2007, or its successor organization, to determine best practices in the development of programs for pupils with autism ~~and~~ spectrum disorders; and

2. To provide the parent or legal guardian with information on all options for treatment and intervention that may assist the pupil in the pupil's development and advancement.

**Sec. 5.9. NRS 391.420 is hereby amended to read as follows:**

391.420 1. To the extent money is available from the Grant Fund, the board of trustees of each school district and the governing body of each charter school shall ensure that a paraprofessional who is employed by the school district or charter school to provide assistance to pupils with autism spectrum disorders receives the appropriate preparation and training to acquire:

(a) Knowledge of autism ~~and~~ spectrum disorder, including, without limitation:

(1) The characteristics of autism and the range of spectrum disorders within a diagnosis of autism;

(2) An understanding of the importance of building relationships between pupils with autism ~~and~~ spectrum disorders, other pupils and teachers or adults to encourage the independence of a pupil with autism ~~and~~ spectrum disorder; and

(3) The ability to determine the patterns of behavior of pupils with autism ~~and~~ spectrum disorders;

(b) The ability to provide structure and predictability through the consistent use of methods that support prior learning and continued development;

(c) The ability to adapt, modify or structure the environment based upon an understanding of the auditory, visual or other sensory stimuli which may be reinforcing, calming or distracting to the pupil;

(d) The ability to use positive behavioral supports, including, without limitation, the use of discrete trial, structured teaching methods, reinforcement and generalized approaches to enhance the pupil's education and prevent behavioral problems, as directed by the pupil's teacher or other appropriate personnel;

(e) The ability to accurately collect and record data on the progress of a pupil with autism spectrum disorder and report to the pupil's teacher in a timely manner if a particular strategy or program is not producing the planned outcome for the pupil; and

(f) The ability to communicate effectively and consistently with pupils with autism spectrum disorders using communication techniques designed for those pupils.

2. To the extent money is available from the Grant Fund, the board of trustees of a school district or the governing body of a charter school may enter into an agreement with a local corporation, business, organization or other entity to provide training for a paraprofessional who provides assistance to pupils with autism spectrum disorders in accordance with this section.

**Sec. 6.** (Deleted by amendment.)

Sec. 7. ~~[Chapter 433 of NRS is hereby amended by adding thereto the provisions set forth as sections 8 and 9 of this act.] (Deleted by amendment.)~~

Sec. 8. ~~[1. For a client under the age of 22 years who may have autism, the Division shall use the statewide standard for measuring outcomes and assessing and evaluating persons with autism through the age of 21 years prescribed pursuant to section 1 of this act to determine whether the client is a person with autism. The Division shall ensure that the treatment, training and other services provided to a client with autism are based upon the results of the evaluation conducted pursuant to this subsection.~~

~~2. The Division shall conduct an evaluation upon intake of a client with autism to evaluate the cognitive, communicative, social and emotional condition and adaptive skill level of the client and shall once every 3 years conduct a follow up evaluation to assess the progress of the client from the time of the previous evaluation. The treatment of the client must be adjusted, if appropriate, to reflect the results of an evaluation conducted pursuant to this subsection.] (Deleted by amendment.)~~

Sec. 9. ~~[1. The Division shall report annually to the Aging and Disability Services Division of the Department information relating to clients with autism. The information must:~~

~~(a) Be submitted in the form required by the Aging and Disability Services Division;~~

~~(b) Include the information required by the Aging and Disability Services Division pursuant to section 1 of this act; and~~

~~(c) Include the total number of clients with autism who are receiving treatment, training or other services from the Division.~~

~~2. A client with autism who is designated as a client with more than one physical or mental impairment or disability must be included as a client with autism for the purposes of reporting information pursuant to this section.] (Deleted by amendment.)~~

Sec. 10. Chapter 442 of NRS is hereby amended by adding thereto the provisions set forth as sections 11, ~~and~~ 12 and 12.5 of this act.

Sec. 11. As used in this section and NRS 442.750 and ~~section~~ sections 12 and 12.5 of this act, "early intervention services" has the meaning ascribed to it in 20 U.S.C. § 1432.

Sec. 12. 1. The Health Division shall report annually to the Aging and Disability Services Division of the Department information relating to children with autism ~~and~~ spectrum disorders. The information must:

(a) Be submitted in the form required by the Aging and Disability Services Division;

(b) Include the information required by the Aging and Disability Services Division pursuant to section ~~1.3~~ 1.3 of this act;

(c) Include the total number of children with autism spectrum disorders and the total number of children who may have autism spectrum disorders

who are enrolled in early intervention services through the Health Division; and

(d) Include the total number of hours and the type of early intervention services received by each child with autism ~~+~~ spectrum disorder.

2. A child with autism spectrum disorder who is designated as a child with more than one physical or mental impairment or disability must be included as a child with autism spectrum disorder for the purposes of reporting information pursuant to this section.

3. The Health Division shall review the information submitted to the Aging and Disability Services Division pursuant to this section and any other data collected by the Health Division which demonstrates the ongoing outcomes of specific programs and treatments for children with autism ~~+~~ spectrum disorders.

Sec. 12.5. For an infant or toddler with a disability who has autism spectrum disorder and is eligible for early intervention services, the Health Division shall refer the infant or toddler to the Autism Treatment Assistance Program established by section 1.5 of this act and coordinate with the Program to develop a plan of treatment for the infant or toddler pursuant to that section.

Sec. 13. NRS 442.750 is hereby amended to read as follows:

442.750 1. The Health Division shall ensure that the personnel employed by the Health Division who provide early intervention services to children with autism spectrum disorders and the persons with whom the Health Division contracts to provide early intervention services to children with autism spectrum disorders possess the knowledge and skills necessary to serve children with autism ~~+~~ spectrum disorders, including, without limitation:

(a) The screening of a child for autism spectrum disorder at the age levels and frequency recommended by the American Academy of Pediatrics, or its successor organization;

(b) The procedure for evaluating children who demonstrate behaviors ~~which~~ that are consistent with autism ~~+~~ spectrum disorders, which procedure must require the use of the statewide standard for measuring outcomes and assessing and evaluating persons with autism spectrum disorders through the age of 21 years prescribed pursuant to section ~~+~~ 1.3 of this act;

(c) The procedure for enrolling a child in early intervention services upon determining that the child has autism ~~+~~ spectrum disorder;

(d) Methods of providing support to children with autism spectrum disorders and their families; and

(e) The procedure for developing an individualized family service plan in accordance with Part C of the Individuals with Disabilities Education Act, 20 U.S.C. §§ 1431 et seq., or other appropriate plan for the child.

2. The Health Division shall ensure that the personnel employed by the Health Division to provide early intervention services to children with autism

spectrum disorders and the persons with whom the Health Division contracts to provide early intervention services to children with autism ~~and~~ spectrum disorders:

(a) Possess the knowledge and understanding of the scientific research and support for the methods and approaches for serving children with autism spectrum disorders and the ability to recognize the difference between an approach or method that is scientifically validated and one that is not;

(b) Possess the knowledge to accurately describe to parents and guardians the research supporting the methods and approaches, including, without limitation, the knowledge necessary to provide an explanation that a method or approach is experimental if it is not supported by scientific evidence;

(c) Immediately notify a parent or legal guardian if a child is identified as being at risk for a diagnosis of autism spectrum disorder and refer the parent or legal guardian to the appropriate professionals for further evaluation and simultaneously refer the parent or legal guardian to any appropriate early intervention services and strategies; and

(d) Provide the parent or legal guardian with information on evidence-based treatments and interventions that may assist the child in the child's development and advancement.

3. The Health Division shall ensure that the personnel employed by the Health Division who provide early intervention screenings to children and the persons with whom the Health Division contracts to provide early intervention screenings to children perform screenings of children for autism spectrum disorders at the age levels and frequency recommended by the American Academy of Pediatrics, or its successor organization.

**4. The Health Division shall ensure that:**

(a) *For a child who may have autism ~~and~~ spectrum disorder, the personnel employed by the Health Division who provide early intervention screenings to children and the persons with whom the Health Division contracts to provide early intervention screenings to children use the protocol designated pursuant to section ~~and~~ 1.3 of this act for determining whether a child has autism ~~and~~ spectrum disorder.*

(b) *An initial evaluation of the cognitive, communicative, social, emotional and behavioral condition and adaptive skill level of a child with autism spectrum disorder is conducted to determine the ~~condition~~ baseline of the child.*

(c) *A subsequent evaluation is conducted upon ~~concluding~~ the child's conclusion of the early intervention services ~~and~~ to determine the progress made by the child from the time of his or her initial screening.*

**Sec. 14.** Chapter 615 of NRS is hereby amended by adding thereto a new section to read as follows:

**1. The Department shall report annually to the Aging and Disability Services Division of the Department of Health and Human Services information relating to persons with autism spectrum disorders who receive vocational rehabilitation services. The information must:**

(a) *Be submitted in the form required by the Aging and Disability Services Division;*

(b) *Include the information required by the Aging and Disability Services Division pursuant to section ~~1.3~~ 1.3 of this act;*

(c) *Include the total number of persons with autism spectrum disorders who are receiving vocational rehabilitation services from the Division;*

(d) *Include information concerning the types of vocational rehabilitation services provided to persons with autism ~~spectrum~~ spectrum disorders, the effectiveness of those services and the reasons for the ineffectiveness of those services, if applicable; and*

(e) *Include information concerning the technical assistance and training provided to personnel of the Division who work with persons with autism spectrum disorders to improve the effectiveness of vocational rehabilitation services.*

2. *A person with autism spectrum disorder who is designated as a person with more than one physical or mental impairment or disability must be included as a person with autism spectrum disorder for the purposes of reporting information pursuant to this section.*

Sec. 15. This act becomes effective on July 1, 2011.

Assemblyman Hickey moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed, and to third reading.

Assembly Bill No. 345.

Bill read third time.

The following amendment was proposed by the Committee on Ways and Means:

Amendment No. 864.

**WOODBURY;** Aizley, Anderson, Atkinson, Benitez-Thompson, Bobzien, Bustamante Adams, Carrillo, Daly, Diaz, Dondero Loop, Flores, Frierson, Hogan, Horne, Kirkpatrick, Livermore, Mastroluca, Munford, Neal, Pierce, Segerblom, **SMITH** and Stewart

SUMMARY—Revises provisions relating to services for persons with autism ~~spectrum disorders~~ spectrum disorders. (BDR 38-26)

AN ACT relating to ~~autism;~~ **persons with disabilities; requiring the Aging and Disability Services Division of the Department of Health and Human Services to designate a standard protocol for measuring outcomes and assessing and evaluating persons with autism spectrum disorders through the age of 21 years who receive services through certain public programs;** establishing the Autism Treatment Assistance Program within the ~~[Aging and Disability Services]~~ Division ~~[of the Department of Health and Human Services, making an appropriation to the Program for the provision of services to certain children with autism.];~~ **requiring certain state and local governmental agencies that provide**

services to persons with autism spectrum disorders to submit reports to the Division; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 1.3 of this bill requires the Aging and Disability Services Division of the Department of Health and Human Services, in cooperation and guidance with the Department of Education, representatives of the school districts in this State and the Nevada Autism Task Force, to prescribe a statewide standard for measuring outcomes and assessing and evaluating persons with autism spectrum disorders through the age of 21 years for the purposes of receiving services through certain public programs in this State. Section 1.3 also requires the Division to designate, as part of the statewide standard, a protocol for determining whether a person is a person with autism spectrum disorder. Section 1.3 further requires the Division to collect certain information relating to persons with autism spectrum disorders and to document the services provided to and the progress of those persons.

The Department of Health and Human Services provides various programs for persons with disabilities, including, without limitation, mental health services, early intervention services and services for persons who are disabled. (NRS 232.300) ~~Section 1.5~~ of this bill establishes the Autism Treatment Assistance Program within the Aging and Disability Services Division of the Department to ~~improve programs and~~ provide and coordinate the provision of services to persons with autism spectrum disorders. ~~Section 1.5~~ also requires the Program to coordinate with other governmental entities to develop policies and programs for the treatment of persons with autism ~~;~~

~~Section 2 of this bill makes an appropriation to be used for the provision of services to certain persons with autism.~~ Section 16 of this bill requires the Health Division of the Department to refer certain children to the Program.

Section 4 of this bill requires the board of trustees of a school district or the governing body of a charter school to conduct an initial evaluation of each pupil with autism spectrum disorder and to conduct a reevaluation once every 3 years thereafter in accordance with the Individuals with Disabilities Education Act, 20 U.S.C. §§ 1400 et seq., and the regulations prescribed by the State Board of Education.

Section 17 of this bill requires: (1) the Health Division of the Department to use the statewide standard prescribed by the Aging and Disability Services Division pursuant to section 1.3 to determine whether a person is a person with autism spectrum disorder; and (2) that certain evaluations be conducted to monitor the progress of persons with autism spectrum disorders receiving services through the Health Division.

Sections 5, 15 and 18 of this bill require the Department of Education, the Health Division and the Department of Employment, Training and

**Rehabilitation to submit to the Aging and Disability Services Division information relating to persons with autism spectrum disorders.**

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

**Section 1.** Chapter 427A of NRS is hereby amended by adding thereto ~~[a new section to read as follows:]~~ **the provisions set forth as sections 1.3 and 1.5 of this act.**

**Sec. 1.3. 1. The Division, in cooperation and guidance with the Department of Education, representatives of the school districts in this State and the Nevada Autism Task Force created by section 40 of chapter 348, Statutes of Nevada 2007, or its successor organization, shall prescribe by regulation a statewide standard for measuring outcomes and assessing and evaluating persons with autism spectrum disorders through the age of 21 years who receive services through the State or a local government or an agency thereof. The regulations must designate a protocol based upon accepted best practices guidelines which includes at least one standardized assessment instrument that requires direct observation by the professional conducting the assessment for determining whether a person is a person with autism spectrum disorder, which must be used by personnel employed by the State or a local government or an agency thereof who provide assessments, interventions and diagnoses of persons with autism spectrum disorders through the age of 21 years and by the persons with whom the State or a local government or an agency thereof contracts to provide assessments, interventions and diagnoses of persons with autism spectrum disorders through the age of 21 years. The protocol must require that the direct observation conducted by a professional pursuant to this subsection include, without limitation, an evaluation to measure behaviors of the person which are consistent with autism spectrum disorder, cognitive functioning, language functioning and adaptive functioning.**

**2. The protocol designated pursuant to subsection 1 must be used upon intake of a person suspected of having autism spectrum disorder or at any later time if a person is suspected of having autism spectrum disorder after intake. The results of an assessment must be provided to the parent or legal guardian of the person, if applicable.**

**3. The Division shall prescribe the form and content of reports relating to persons with autism spectrum disorders through the age of 21 years that must be reported to the Division pursuant to sections 5, 15 and 18 of this act. Except as otherwise provided in section 5 of this act, the Division shall ensure that the information is reported in a manner which:**

**(a) Allows the Division to document the services provided to and monitor the progress of each person with autism spectrum disorder through the age of 21 years who receives services from the State or an agency thereof; and**

**(b) Ensures that information reported for each person who receives services which identifies the person is kept confidential, consistent with the**



Family Educational Rights and Privacy Act of 1974, 20 U.S.C. § 1232g, and any other applicable state and federal privacy laws.

4. The Division shall prepare annually a summary of the reports submitted pursuant to sections 5, 15 and 18 of this act and make the summary publicly available. The Division shall ensure that information contained in the summary does not identify a person who received services.

Sec. 1.5. 1. There is hereby established the Autism Treatment Assistance Program within the Division to serve as the primary autism program within the Department and to ~~improve programs,~~ provide and coordinate the provision of services ~~and treatment for~~ to persons with autism spectrum disorders through the age of 19 years, ~~and their families.~~

2. The Autism Treatment Assistance Program shall ~~coordinate with other governmental agencies to develop policies and programs for the treatment of persons with autism through the age of 19 years.~~

~~3. The policies and programs of the Autism Treatment Assistance Program which concern the provision of services to persons with autism must be submitted for review to the Nevada Autism Task Force created by section 40 of chapter 348, Statutes of Nevada 2007, or its successor organization. Such a policy or program must not become effective until approved by the Task Force or its successor organization.~~

(a) Prescribe an application process for parents and guardians of persons with autism spectrum disorders to participate in the Program.

(b) Provide for the development of a plan of treatment for persons who participate in the Program.

(c) Promote the use of evidence-based treatments which are cost effective and have been proven to improve treatment of autism spectrum disorders.

(d) Educate parents and guardians of persons with autism spectrum disorders on autism spectrum disorders and the assistance that may be provided by the parent or guardian to improve treatment outcomes.

(e) Establish and use a system for assessing persons with autism spectrum disorders to determine a baseline to measure the progress of and prepare a plan for the treatment of such persons.

(f) Assist parents and guardians of persons with autism spectrum disorders in obtaining public services that are available for the treatment of autism spectrum disorders.

3. A plan of treatment developed for a person who participates in the Program pursuant to paragraph (b) of subsection 2 must:

(a) Identify the specific behaviors of the person to be addressed and the expected outcomes.

(b) Include, without limitation, preparations for transitioning the person from one provider of treatment to another or from one public program to another, as the needs of the person require through the age of 19 years.

(c) Be revised to address any change in the needs of the person.

**4. The policies of the Autism Treatment Assistance Program and any services provided by the Program must be developed in cooperation with and be approved by the Nevada Autism Task Force created by section 40 of chapter 348, Statutes of Nevada 2007, or its successor organization.**

**5. As used in this section, “autism spectrum disorder” means a neurobiological medical condition including, without limitation, autistic disorder, Asperger’s Disorder and Pervasive Developmental Disorder Not Otherwise Specified.**

~~Sec. 2. 1. There is hereby appropriated from the State General Fund to the Autism Treatment Assistance Program established pursuant to section 1 of this act within the Aging and Disability Services Division of the Department of Health and Human Services the sum of \$1,486,285 for the provision of services to persons with autism who are on the waiting list, if any, to participate in the Autism Treatment Assistance Program or on the waiting list, if any, of the Desert Regional Center, Sierra Regional Center or Rural Regional Center.~~

~~2. Any remaining balance of the appropriation made by subsection 1 must not be committed for expenditure after June 30, 2013, by the entity to which the appropriation is made or any entity to which money from the appropriation is granted or otherwise transferred in any manner, and any portion of the appropriated money remaining must not be spent for any purpose after September 20, 2013, by either the entity to which the money was appropriated or the entity to which the money was subsequently granted or transferred, and must be reverted to the State General Fund on or before September 20, 2013.] (Deleted by amendment.)~~

**Sec. 3. Chapter 388 of NRS is hereby amended by adding thereto the provisions set forth as sections 4 and 5 of this act.**

**Sec. 4. 1. The board of trustees of a school district or the governing body of a charter school shall conduct an initial evaluation of each pupil with autism spectrum disorder in accordance with the Individuals with Disabilities Education Act, 20 U.S.C. §§ 1400 et seq., and the regulations prescribed by the State Board pursuant to NRS 388.520 and shall, once every 3 years thereafter, conduct a reevaluation in accordance with the Individuals with Disabilities Education Act and the regulations of the State Board. The individualized education program for the pupil must be reviewed, and amended as appropriate, in compliance with the Individuals with Disabilities Education Act and the regulations of the State Board.**

**2. The board of trustees of a school district or the governing body of a charter school shall ensure that each person who conducts an evaluation of a pupil with autism spectrum disorder is provided with technical assistance and training to improve the accuracy and efficiency in conducting such evaluations.**

**Sec. 5. 1. The Department of Education shall report annually to the Aging and Disability Services Division of the Department of Health and**

**Human Services information relating to pupils with autism spectrum disorders. The information must:**

**(a) Be submitted in the form required by the Aging and Disability Services Division; and**

**(b) Include the total number of pupils with autism spectrum disorders who are enrolled in public schools in this State, including all pupils with autism spectrum disorders who have an individualized education program.**

**2. A pupil with autism spectrum disorder who is designated as a pupil with more than one physical or mental impairment or disability must be included as a pupil with autism spectrum disorder for the purposes of reporting information pursuant to this section.**

**3. The reporting made pursuant to this section must comply with the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. § 1232g, and any other applicable state and federal privacy laws.**

**Sec. 6. NRS 388.440 is hereby amended to read as follows:**

388.440 As used in NRS 388.440 to 388.5317, inclusive ~~4~~, **and sections 4 and 5 of this act:**

1. “Gifted and talented pupil” means a person under the age of 18 years who demonstrates such outstanding academic skills or aptitudes that the person cannot progress effectively in a regular school program and therefore needs special instruction or special services.

2. “Pupil who receives early intervening services” means a person enrolled in kindergarten or grades 1 to 12, inclusive, who is not a pupil with a disability but who needs additional academic and behavioral support to succeed in a regular school program.

3. “Pupil with a disability” means a person under the age of 22 years who deviates either educationally, physically, socially or emotionally so markedly from normal patterns that the person cannot progress effectively in a regular school program and therefore needs special instruction or special services.

**Sec. 7. NRS 388.520 is hereby amended to read as follows:**

388.520 1. The Department shall:

(a) Prescribe a form that contains the basic information necessary for the uniform development, review and revision of an individualized education program for a pupil with a disability in accordance with 20 U.S.C. § 1414(d); and

(b) Make the form available on a computer disc for use by school districts and, upon request, in any other manner deemed reasonable by the Department.

2. Except as otherwise provided in this subsection, each school district shall ensure that the form prescribed by the Department is used for the development, review and revision of an individualized education program for each pupil with a disability who receives special education in the school district. A school district may use an expanded form that contains additions to the form prescribed by the Department if the basic information contained in the expanded form complies with the form prescribed by the Department.

3. The State Board:

(a) Shall prescribe minimum standards for the special education of pupils with disabilities and gifted and talented pupils.

(b) May prescribe minimum standards for the provision of early intervening services.

4. The minimum standards prescribed by the State Board must include standards for programs of instruction or special services maintained for the purpose of serving pupils with:

(a) Hearing impairments, including, but not limited to, deafness.

(b) Visual impairments, including, but not limited to, blindness.

(c) Orthopedic impairments.

(d) Speech and language impairments.

(e) Mental retardation.

(f) Multiple impairments.

(g) Serious emotional disturbances.

(h) Other health impairments.

(i) Specific learning disabilities.

(j) Autism ~~and~~ **spectrum disorders.**

(k) Traumatic brain injuries.

(l) Developmental delays.

(m) Gifted and talented abilities.

5. No apportionment of state money may be made to any school district or charter school for the instruction of pupils with disabilities and gifted and talented pupils until the program of instruction maintained therein for such pupils is approved by the Superintendent of Public Instruction as meeting the minimum standards prescribed by the State Board.

6. The Department shall, upon the request of the board of trustees of a school district, provide information to the board of trustees concerning the identification and evaluation of pupils with disabilities in accordance with the standards prescribed by the State Board.

7. As used in this section, "individualized education program" has the meaning ascribed to it in 20 U.S.C. § 1414(d)(1)(A).

**Sec. 8. NRS 391.400 is hereby amended to read as follows:**

391.400 As used in NRS 391.400 to 391.420, inclusive, unless the context otherwise requires, "Grant Fund" means the Grant Fund for the Training and Education of Personnel Who Work With Pupils With Autism ~~and~~ **Spectrum Disorders.**

**Sec. 9. NRS 391.405 is hereby amended to read as follows:**

391.405 1. There is hereby created the Grant Fund for the Training and Education of Personnel Who Work With Pupils With Autism **Spectrum Disorders** to be administered by the Department. The Department may accept gifts, grants and donations from any source for deposit in the Grant Fund.

2. The money in the Grant Fund must be used only for the distribution of money to school districts and charter schools for programs of training as set

forth in NRS 391.410, 391.415 and 391.420 and to provide assistance to licensed educational personnel who work with pupils with autism spectrum disorders in obtaining an appropriate endorsement to teach those pupils.

3. The board of trustees of a school district or the governing body of a charter school may apply to the Department on a form prescribed by the Department for a grant of money from the Grant Fund. The application must include a description of the program of training for which the grant of money will be used.

**Sec. 10. NRS 391.410 is hereby amended to read as follows:**

391.410 1. To the extent money is available from the Grant Fund, the board of trustees of each school district and the governing body of each charter school shall ensure that the licensed educational personnel employed by the school district or charter school who work with pupils with autism spectrum disorders receive the appropriate preparation and training necessary to serve those pupils. The training may include, without limitation:

(a) The characteristics of autism ~~and~~ spectrum disorders, including, without limitation, behavioral and communication characteristics;

(b) Methods for determining, on a regular and consistent basis, the specific needs of a pupil with autism spectrum disorder to ensure the pupil is meeting the objectives and goals described in the individualized education program of the pupil or other educational plan prepared for the pupil;

(c) The procedure for evaluating pupils who demonstrate behaviors which are consistent with autism ~~and~~ spectrum disorders;

(d) Approaches for use in the classroom to assist a pupil with autism spectrum disorder with communication and social development; and

(e) Methods of providing support to pupils with autism spectrum disorders and their families.

2. To the extent money is available from the Grant Fund, the board of trustees of a school district or the governing body of a charter school may enter into an agreement with a local corporation, business, organization or other entity to provide training for licensed educational personnel employed by the school district or charter school who work with pupils with autism spectrum disorders in accordance with this section.

**Sec. 11. NRS 391.415 is hereby amended to read as follows:**

391.415 To the extent money is available from the Grant Fund, the board of trustees of each school district and the governing body of each charter school shall ensure that the licensed educational personnel employed by the school district or charter school who are assigned to assist a parent or legal guardian of a pupil with autism spectrum disorder in making decisions about the services and programs available for the pupil receive the appropriate preparation and training:

1. On using the 2008 Report of the Nevada Autism Task Force and any subsequent report issued by the Nevada Autism Task Force created pursuant to chapter 348, Statutes of Nevada 2007, or its successor organization, to

determine best practices in the development of programs for pupils with autism ~~and~~ spectrum disorders; and

2. To provide the parent or legal guardian with information on all options for treatment and intervention that may assist the pupil in the pupil's development and advancement.

**Sec. 12. NRS 391.420 is hereby amended to read as follows:**

391.420 1. To the extent money is available from the Grant Fund, the board of trustees of each school district and the governing body of each charter school shall ensure that a paraprofessional who is employed by the school district or charter school to provide assistance to pupils with autism spectrum disorders receives the appropriate preparation and training to acquire:

(a) Knowledge of autism ~~and~~ spectrum disorder, including, without limitation:

(1) The characteristics of autism and the range of spectrum disorders within a diagnosis of autism;

(2) An understanding of the importance of building relationships between pupils with autism ~~and~~ spectrum disorders, other pupils and teachers or adults to encourage the independence of a pupil with autism ~~and~~ spectrum disorder; and

(3) The ability to determine the patterns of behavior of pupils with autism ~~and~~ spectrum disorders;

(b) The ability to provide structure and predictability through the consistent use of methods that support prior learning and continued development;

(c) The ability to adapt, modify or structure the environment based upon an understanding of the auditory, visual or other sensory stimuli which may be reinforcing, calming or distracting to the pupil;

(d) The ability to use positive behavioral supports, including, without limitation, the use of discrete trial, structured teaching methods, reinforcement and generalized approaches to enhance the pupil's education and prevent behavioral problems, as directed by the pupil's teacher or other appropriate personnel;

(e) The ability to accurately collect and record data on the progress of a pupil with autism spectrum disorder and report to the pupil's teacher in a timely manner if a particular strategy or program is not producing the planned outcome for the pupil; and

(f) The ability to communicate effectively and consistently with pupils with autism spectrum disorders using communication techniques designed for those pupils.

2. To the extent money is available from the Grant Fund, the board of trustees of a school district or the governing body of a charter school may enter into an agreement with a local corporation, business, organization or other entity to provide training for a paraprofessional who provides

assistance to pupils with autism spectrum disorders in accordance with this section.

**Sec. 13. Chapter 442 of NRS is hereby amended by adding thereto the provisions set forth as sections 14, 15 and 16 of this act.**

**Sec. 14. As used in this section and NRS 442.750 and sections 15 and 16 of this act, "early intervention services" has the meaning ascribed to it in 20 U.S.C. § 1432.**

**Sec. 15. 1. The Health Division shall report annually to the Aging and Disability Services Division of the Department information relating to children with autism spectrum disorders. The information must:**

**(a) Be submitted in the form required by the Aging and Disability Services Division;**

**(b) Include the information required by the Aging and Disability Services Division pursuant to section 1.3 of this act;**

**(c) Include the total number of children with autism spectrum disorders and the total number of children who may have autism spectrum disorders who are enrolled in early intervention services through the Health Division; and**

**(d) Include the total number of hours and the type of early intervention services received by each child with autism spectrum disorder.**

**2. A child with autism spectrum disorder who is designated as a child with more than one physical or mental impairment or disability must be included as a child with autism spectrum disorder for the purposes of reporting information pursuant to this section.**

**3. The Health Division shall review the information submitted to the Aging and Disability Services Division pursuant to this section and any other data collected by the Health Division which demonstrates the ongoing outcomes of specific programs and treatments for children with autism spectrum disorders.**

**Sec. 16. For an infant or toddler with a disability who has autism spectrum disorder and is eligible for early intervention services, the Health Division shall refer the infant or toddler to the Autism Treatment Assistance Program established by section 1.5 of this act and coordinate with the Program to develop a plan of treatment for the infant or toddler pursuant to that section.**

**Sec. 17. NRS 442.750 is hereby amended to read as follows:**

442.750 1. The Health Division shall ensure that the personnel employed by the Health Division who provide early intervention services to children with autism spectrum disorders and the persons with whom the Health Division contracts to provide early intervention services to children with autism spectrum disorders possess the knowledge and skills necessary to serve children with autism spectrum disorders, including, without limitation:

(a) The screening of a child for autism spectrum disorder at the age levels and frequency recommended by the American Academy of Pediatrics, or its successor organization;

(b) The procedure for evaluating children who demonstrate behaviors ~~which~~ *that* are consistent with autism ~~+~~ spectrum disorders, which procedure must require the use of the statewide standard for measuring outcomes and assessing and evaluating persons with autism spectrum disorders through the age of 21 years prescribed pursuant to section 1.3 of this act;

(c) The procedure for enrolling a child in early intervention services upon determining that the child has autism ~~+~~ spectrum disorder;

(d) Methods of providing support to children with autism spectrum disorders and their families; and

(e) The procedure for developing an individualized family service plan in accordance with Part C of the Individuals with Disabilities Education Act, 20 U.S.C. §§ 1431 et seq., or other appropriate plan for the child.

2. The Health Division shall ensure that the personnel employed by the Health Division to provide early intervention services to children with autism spectrum disorders and the persons with whom the Health Division contracts to provide early intervention services to children with autism ~~+~~ spectrum disorders:

(a) Possess the knowledge and understanding of the scientific research and support for the methods and approaches for serving children with autism spectrum disorders and the ability to recognize the difference between an approach or method that is scientifically validated and one that is not;

(b) Possess the knowledge to accurately describe to parents and guardians the research supporting the methods and approaches, including, without limitation, the knowledge necessary to provide an explanation that a method or approach is experimental if it is not supported by scientific evidence;

(c) Immediately notify a parent or legal guardian if a child is identified as being at risk for a diagnosis of autism spectrum disorder and refer the parent or legal guardian to the appropriate professionals for further evaluation and simultaneously refer the parent or legal guardian to any appropriate early intervention services and strategies; and

(d) Provide the parent or legal guardian with information on evidence-based treatments and interventions that may assist the child in the child's development and advancement.

3. The Health Division shall ensure that the personnel employed by the Health Division who provide early intervention screenings to children and the persons with whom the Health Division contracts to provide early intervention screenings to children perform screenings of children for autism spectrum disorders at the age levels and frequency recommended by the American Academy of Pediatrics, or its successor organization.

**4. The Health Division shall ensure that:**



(a) For a child who may have autism spectrum disorder, the personnel employed by the Health Division who provide early intervention screenings to children and the persons with whom the Health Division contracts to provide early intervention screenings to children use the protocol designated pursuant to section 1.3 of this act for determining whether a child has autism spectrum disorder.

(b) An initial evaluation of the cognitive, communicative, social, emotional and behavioral condition and adaptive skill level of a child with autism spectrum disorder is conducted to determine the baseline of the child.

(c) A subsequent evaluation is conducted upon the child's conclusion of the early intervention services to determine the progress made by the child from the time of his or her initial screening.

Sec. 18. Chapter 615 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The Department shall report annually to the Aging and Disability Services Division of the Department of Health and Human Services information relating to persons with autism spectrum disorders who receive vocational rehabilitation services. The information must:

(a) Be submitted in the form required by the Aging and Disability Services Division;

(b) Include the information required by the Aging and Disability Services Division pursuant to section 1.3 of this act;

(c) Include the total number of persons with autism spectrum disorders who are receiving vocational rehabilitation services from the Division;

(d) Include information concerning the types of vocational rehabilitation services provided to persons with autism spectrum disorders, the effectiveness of those services and the reasons for the ineffectiveness of those services, if applicable; and

(e) Include information concerning the technical assistance and training provided to personnel of the Division who work with persons with autism spectrum disorders to improve the effectiveness of vocational rehabilitation services.

2. A person with autism spectrum disorder who is designated as a person with more than one physical or mental impairment or disability must be included as a person with autism spectrum disorder for the purposes of reporting information pursuant to this section.

~~{Sec. 3-}~~ Sec. 19. This act becomes effective on July 1, 2011.

Assemblyman Hickey moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed, and to third reading.

## MOTIONS, RESOLUTIONS AND NOTICES

Assemblywoman Kirkpatrick moved to withdraw Assembly Amendment No. 877 to Assembly Bill No. 574.

Motion carried.

Assemblywoman Kirkpatrick moved that Assembly Bill No. 574 be taken from the General File and placed on the Chief Clerk's desk.

Remarks by Assemblywoman Kirkpatrick.

Motion carried.

## GENERAL FILE AND THIRD READING

Senate Bill No. 168.

Bill read third time.

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

Amendment No. 881.

AN ACT relating to public health; revising provisions governing access to certain medical records; ~~requiring a physician or an osteopathic physician who performs an autopsy to submit a written report of the findings of the autopsy to the Board of Medical Examiners or the State Board of Osteopathic Medicine in certain circumstances;~~ revising provisions governing the submission of certain reports concerning surgeries requiring conscious sedation, deep sedation or general anesthesia; revising provisions governing reports to the Board of Medical Examiners and the State Board of Osteopathic Medicine of a change in the privileges of certain providers of health care; revising provisions governing the standard of proof in any disciplinary hearing before the Board of Medical Examiners; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

**Section 1** of this bill provides that if the health care records of a patient are located within this State, a provider of health care must make the records available for physical inspection within 5 working days after they are requested.

~~Section 2 of this bill requires a physician who performs an autopsy and who determines that the death of the decedent is the result of an overdose of a controlled substance or dangerous drug to submit a written report of such findings to the Board of Medical Examiners. Section 2 also requires the Board, upon receipt of such a report, to investigate the death of the decedent to determine whether the conduct of any physician contributed to the death. Section 18 of this bill imposes similar requirements concerning an autopsy performed by an osteopathic physician.~~

Existing law requires any hospital, clinic or other medical facility or medical society to report to the Board of Medical Examiners any change in the privileges of a physician, perfusionist, physician assistant or practitioner of respiratory care while the person is under investigation and the outcome of

any disciplinary action taken within 30 days after the change in privileges is made or disciplinary action is taken. A hospital, clinic or other medical facility or medical society is also required to report such information to the State Board of Osteopathic Medicine concerning a change in the privileges of an osteopathic physician who is under investigation. (NRS 630.307, 633.533) **Section 8** of this bill requires that such a report concerning a change in the privileges of a physician, perfusionist, physician assistant or practitioner of respiratory care be made within 5 days after the change in privileges is made if the change in privileges is based on an investigation of the mental, medical or psychological competency of the person or suspected or alleged substance abuse by the person. **Section 21** of this bill imposes similar reporting requirements concerning a change in the privileges of a physician assistant who is under investigation and a change in the privileges of an osteopathic physician or physician assistant if the change in privileges is based on an investigation of the mental, medical or psychological competency of the osteopathic physician or physician assistant or suspected or alleged substance abuse by the osteopathic physician or physician assistant.

**Section 10** of this bill provides that in any disciplinary hearing before the Board of Medical Examiners, a finding of the Board must be supported by a preponderance of the evidence.

Existing law requires persons who are licensed to practice medicine by the Board of Medical Examiners and persons who are licensed to practice osteopathic medicine by the State Board of Osteopathic Medicine to make certain reports concerning surgeries requiring conscious sedation, deep sedation or general anesthesia performed by the holder of the license and the occurrence of any sentinel events arising from those surgeries. Persons who are licensed to practice medicine are required to submit the reports to the Board of Medical Examiners and persons who are licensed to practice osteopathic medicine are required to submit the reports to the State Board of Osteopathic Medicine. The boards are required to submit the reports to the Health Division of the Department of Health and Human Services which then reviews the reports. (NRS 449.447, 630.30665, 633.524) **Section 7.5** of this bill revises these reporting requirements as they pertain to a physician and requires a physician to report the occurrence of any sentinel event arising from a surgery requiring conscious sedation, deep sedation or general anesthesia within 14 days after the occurrence of the sentinel event. **Section 20** of this bill imposes a similar reporting requirement on an osteopathic physician.

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

**Section 1.** NRS 629.061 is hereby amended to read as follows:

629.061 1. Each provider of health care shall make the health care records of a patient available for physical inspection by:

(a) The patient or a representative with written authorization from the patient;

(b) The personal representative of the estate of a deceased patient;

(c) Any trustee of a living trust created by a deceased patient;

(d) The parent or guardian of a deceased patient who died before reaching the age of majority;

(e) An investigator for the Attorney General or a grand jury investigating an alleged violation of NRS 200.495, 200.5091 to 200.50995, inclusive, or 422.540 to 422.570, inclusive;

(f) An investigator for the Attorney General investigating an alleged violation of NRS 616D.200, 616D.220, 616D.240 or 616D.300 to 616D.440, inclusive, or any fraud in the administration of chapter 616A, 616B, 616C, 616D or 617 of NRS or in the provision of benefits for industrial insurance; or

(g) Any authorized representative or investigator of a state licensing board during the course of any investigation authorized by law.

↪ The records must be made available at a place within the depository convenient for physical inspection. ~~[-, and inspection must be permitted at all reasonable office hours and for a reasonable length of time.]~~ ***If the records are located within this State, the provider shall make any records requested pursuant to this section available for inspection within 5 working days after the request.*** If the records are located outside this State, the provider shall make any records requested pursuant to this section available in this State for inspection within 10 working days after the request.

2. Except as otherwise provided in subsection 3, the provider of health care shall also furnish a copy of the records to each person described in subsection 1 who requests it and pays the actual cost of postage, if any, the costs of making the copy, not to exceed 60 cents per page for photocopies and a reasonable cost for copies of X-ray photographs and other health care records produced by similar processes. No administrative fee or additional service fee of any kind may be charged for furnishing such a copy.

3. The provider of health care shall also furnish a copy of any records that are necessary to support a claim or appeal under any provision of the Social Security Act, 42 U.S.C. §§ 301 et seq., or under any federal or state financial needs-based benefit program, without charge, to a patient, or a representative with written authorization from the patient, who requests it, if the request is accompanied by documentation of the claim or appeal. A copying fee, not to exceed 60 cents per page for photocopies and a reasonable cost for copies of X-ray photographs and other health care records produced by similar processes, may be charged by the provider of health care for furnishing a second copy of the records to support the same claim or appeal. No administrative fee or additional service fee of any kind may be charged for furnishing such a copy. The provider of health care shall furnish the copy of the records requested pursuant to this subsection within 30 days after the date of receipt of the request, and the provider of health care shall

not deny the furnishing of a copy of the records pursuant to this subsection solely because the patient is unable to pay the fees established in this subsection.

4. Each person who owns or operates an ambulance in this State shall make the records regarding a sick or injured patient available for physical inspection by:

(a) The patient or a representative with written authorization from the patient;

(b) The personal representative of the estate of a deceased patient;

(c) Any trustee of a living trust created by a deceased patient;

(d) The parent or guardian of a deceased patient who died before reaching the age of majority; or

(e) Any authorized representative or investigator of a state licensing board during the course of any investigation authorized by law.

↪ The records must be made available at a place within the depository convenient for physical inspection, and inspection must be permitted at all reasonable office hours and for a reasonable length of time. The person who owns or operates an ambulance shall also furnish a copy of the records to each person described in this subsection who requests it and pays the actual cost of postage, if any, and the costs of making the copy, not to exceed 60 cents per page for photocopies. No administrative fee or additional service fee of any kind may be charged for furnishing a copy of the records.

5. Records made available to a representative or investigator must not be used at any public hearing unless:

(a) The patient named in the records has consented in writing to their use; or

(b) Appropriate procedures are utilized to protect the identity of the patient from public disclosure.

6. Subsection 5 does not prohibit:

(a) A state licensing board from providing to a provider of health care or owner or operator of an ambulance against whom a complaint or written allegation has been filed, or to his or her attorney, information on the identity of a patient whose records may be used in a public hearing relating to the complaint or allegation, but the provider of health care or owner or operator of an ambulance and the attorney shall keep the information confidential.

(b) The Attorney General from using health care records in the course of a civil or criminal action against the patient or provider of health care.

7. A provider of health care or owner or operator of an ambulance and his or her agents and employees are immune from any civil action for any disclosures made in accordance with the provisions of this section or any consequential damages.

8. For the purposes of this section:

(a) "Guardian" means a person who has qualified as the guardian of a minor pursuant to testamentary or judicial appointment, but does not include a guardian ad litem.

(b) “Living trust” means an inter vivos trust created by a natural person:

(1) Which was revocable by the person during the lifetime of the person; and

(2) Who was one of the beneficiaries of the trust during the lifetime of the person.

(c) “Parent” means a natural or adoptive parent whose parental rights have not been terminated.

(d) “Personal representative” has the meaning ascribed to it in NRS 132.265.

**Sec. 2.** ~~Chapter 630 of NRS is hereby amended by adding thereto a new section to read as follows:~~

~~1. Any physician who performs an autopsy in this State and who determines that the death of the decedent is the result of an overdose of a controlled substance or a dangerous drug shall, within 30 days after making the determination, submit to the Board a written report of the findings of the autopsy, and provide to the Board any other information requested by the Board.~~

~~2. Upon receipt of a report submitted pursuant to subsection 1, the Board shall investigate the death of the decedent to determine whether the conduct of any physician contributed to the death of the decedent.~~

~~3. As used in this section, “dangerous drug” has the meaning ascribed to it in NRS 454.201. (Deleted by amendment.)~~

**Sec. 3.** NRS 630.130 is hereby amended to read as follows:

630.130 1. In addition to the other powers and duties provided in this chapter, the Board shall, in the interest of the public, judiciously:

(a) Enforce the provisions of this chapter;

(b) Establish by regulation standards for licensure under this chapter;

(c) Conduct examinations for licensure and establish a system of scoring for those examinations;

(d) Investigate the character of each applicant for a license and issue licenses to those applicants who meet the qualifications set by this chapter and the Board; and

(e) Institute a proceeding in any court to enforce its orders or the provisions of this chapter.

2. On or before February 15 of each odd-numbered year, the Board shall submit to the Governor and to the Director of the Legislative Counsel Bureau for transmittal to the next regular session of the Legislature a written report compiling:

(a) Disciplinary action taken by the Board during the previous biennium against physicians for malpractice or negligence;

(b) Information reported to the Board during the previous biennium pursuant to NRS 630.3067, 630.3068, subsections 3 and ~~4~~ 6 of NRS 630.307 and NRS 690B.250 and 690B.260; and

(c) Information reported to the Board during the previous biennium pursuant to NRS 630.30665, including, without limitation, the number and

types of surgeries performed by each holder of a license to practice medicine and the occurrence of sentinel events arising from such surgeries, if any.

↪ The report must include only aggregate information for statistical purposes and exclude any identifying information related to a particular person.

3. The Board may adopt such regulations as are necessary or desirable to enable it to carry out the provisions of this chapter.

**Sec. 4.** NRS 630.267 is hereby amended to read as follows:

630.267 1. Each holder of a license to practice medicine must, on or before July 1 , ***or if July 1 is a Saturday, Sunday or legal holiday, on the next business day after July 1,*** of each ~~alternate~~ **odd-numbered** year:

(a) Submit a list of all actions filed or claims submitted to arbitration or mediation for malpractice or negligence against him or her during the previous 2 years.

(b) Pay to the Secretary-Treasurer of the Board the applicable fee for biennial registration. This fee must be collected for the period for which a physician is licensed.

(c) Submit all information required to complete the biennial registration.

2. When a holder of a license fails to pay the fee for biennial registration and submit all information required to complete the biennial registration after they become due, his or her license to practice medicine in this State ~~is automatically suspended.~~ **expires.** The holder may, within 2 years after the date the license ~~is suspended.~~ **expires,** upon payment of twice the amount of the current fee for biennial registration to the Secretary-Treasurer and submission of all information required to complete the biennial registration and after he or she is found to be in good standing and qualified under the provisions of this chapter, be reinstated to practice.

3. The Board shall make such reasonable attempts as are practicable to notify a licensee:

(a) At least once that the fee for biennial registration and all information required to complete the biennial registration are due; and

(b) That his or her license ~~is suspended.~~ **has expired.**

↪ A copy of this notice must be sent to the Drug Enforcement Administration of the United States Department of Justice or its successor agency.

**Sec. 5.** (Deleted by amendment.)

**Sec. 6.** NRS 630.2695 is hereby amended to read as follows:

630.2695 1. Each license issued pursuant to NRS 630.2694 expires on July 1 , ***or if July 1 is a Saturday, Sunday or legal holiday, on the next business day after July 1,*** of every odd-numbered year and may be renewed if, before the license expires, the holder of the license submits to the Board:

(a) A completed application for renewal on a form prescribed by the Board;

(b) Proof of completion of the requirements for continuing education prescribed by regulations adopted by the Board pursuant to NRS 630.269; and

(c) The applicable fee for renewal of the license prescribed by the Board pursuant to NRS 630.2691.

2. A license that expires pursuant to this section not more than 2 years before an application for renewal is made ~~is automatically suspended and~~ may be reinstated only if the applicant:

(a) Complies with the provisions of subsection 1; and

(b) Submits to the Board the fees:

(1) For the reinstatement of an expired license, prescribed by regulations adopted by the Board pursuant to NRS 630.269; and

(2) For each biennium that the license was expired, for the renewal of the license.

3. If a license has been expired for more than 2 years, a person may not renew or reinstate the license but must apply for a new license and submit to the examination required pursuant to NRS 630.2692.

4. The Board shall send a notice of renewal to each licensee not later than 60 days before his or her license expires. The notice must include the amount of the fee for renewal of the license.

**Sec. 7.** NRS 630.277 is hereby amended to read as follows:

630.277 1. Every person who wishes to practice respiratory care in this State must:

(a) Have a high school diploma or general equivalency diploma;

(b) Complete an educational program for respiratory care which has been approved by the Commission on Accreditation of Allied Health Education Programs or its successor organization or the Committee on Accreditation for Respiratory Care or its successor organization;

(c) Pass the examination as an entry-level or advanced practitioner of respiratory care administered by the ~~[Commission on Accreditation of Allied Health Education Programs or its successor organization or the Committee on Accreditation]~~ **National Board** for Respiratory Care or its successor organization;

(d) Be certified by the ~~[Commission on Accreditation of Allied Health Education Programs or its successor organization or the Committee on Accreditation]~~ **National Board** for Respiratory Care or its successor organization; and

(e) Be licensed to practice respiratory care by the Board and have paid the required fee for licensure.

2. Except as otherwise provided in subsection 3, a person shall not:

(a) Practice respiratory care; or

(b) Hold himself or herself out as qualified to practice respiratory care, ↪ in this State without complying with the provisions of subsection 1.

3. Any person who has completed the educational requirements set forth in paragraphs (a) and (b) of subsection 1 may practice respiratory care pursuant to a program of practical training as an intern in respiratory care for not more than 12 months after completing those educational requirements.

**Sec. 7.5.** NRS 630.30665 is hereby amended to read as follows:



630.30665 1. The Board shall require each holder of a license to practice medicine to submit ~~annually~~ to the Board, on a form provided by the Board, a report stating the number and type of surgeries requiring conscious sedation, deep sedation or general anesthesia performed by the holder of the license at his or her office or any other facility, excluding any surgical care performed:

- (a) At a medical facility as that term is defined in NRS 449.0151; or
- (b) Outside of this State.

2. In addition to the report required pursuant to subsection 1, the Board shall require each holder of a license to practice medicine to submit a report ~~annually~~ to the Board concerning the occurrence of any sentinel event arising from any surgery described in subsection 1. The report must be submitted in the manner prescribed by the Board which must be substantially similar to the manner prescribed by the State Board of Health for reporting information pursuant to NRS 439.835.

3. Each holder of a license to practice medicine shall submit the reports required pursuant to subsections 1 and 2 ~~whether~~:

- (a) *At the time the holder of a license renews his or her license; and*
- (b) *Whether* or not the holder of the license performed any surgery described in subsection 1. Failure to submit a report or knowingly filing false information in a report constitutes grounds for initiating disciplinary action pursuant to subsection 9 of NRS 630.306.

4. *In addition to the reports required pursuant to subsections 1 and 2, the Board shall require each holder of a license to practice medicine to submit a report to the Board concerning the occurrence of any sentinel event arising from any surgery described in subsection 1 within 14 days after the occurrence of the sentinel event. The report must be submitted in the manner prescribed by the Board.*

5. The Board shall:

- (a) Collect and maintain reports received pursuant to subsections 1 ~~and 2~~, *2 and 4*;

- (b) Ensure that the reports, and any additional documents created from the reports, are protected adequately from fire, theft, loss, destruction and other hazards, and from unauthorized access; and

- (c) Submit to the Health Division a copy of the report submitted pursuant to subsection 1. The Health Division shall maintain the confidentiality of such reports in accordance with subsection ~~5~~ *6*.

~~5~~ *6*. Except as otherwise provided in NRS 239.0115, a report received pursuant to subsection 1, ~~or~~ *2 or 4* is confidential, not subject to subpoena or discovery, and not subject to inspection by the general public.

~~6~~ *7*. The provisions of this section do not apply to surgical care requiring only the administration of oral medication to a patient to relieve the patient's anxiety or pain, if the medication is not given in a dosage that is sufficient to induce in a patient a controlled state of depressed consciousness

or unconsciousness similar to general anesthesia, deep sedation or conscious sedation.

~~{7-}~~ 8. In addition to any other remedy or penalty, if a holder of a license to practice medicine fails to submit a report or knowingly files false information in a report submitted pursuant to this section, the Board may, after providing the holder of a license to practice medicine with notice and opportunity for a hearing, impose against the holder of a license to practice medicine an administrative penalty for each such violation. The Board shall establish by regulation a sliding scale based on the severity of the violation to determine the amount of the administrative penalty to be imposed against the holder of the license pursuant to this subsection. The regulations must include standards for determining the severity of the violation and may provide for a more severe penalty for multiple violations.

~~{8-}~~ 9. As used in this section:

- (a) “Conscious sedation” has the meaning ascribed to it in NRS 449.436.
- (b) “Deep sedation” has the meaning ascribed to it in NRS 449.437.
- (c) “General anesthesia” has the meaning ascribed to it in NRS 449.438.
- (d) “Health Division” has the meaning ascribed to it in NRS 449.009.
- (e) “Sentinel event” means an unexpected occurrence involving death or serious physical or psychological injury or the risk thereof, including, without limitation, any process variation for which a recurrence would carry a significant chance of serious adverse outcome. The term includes loss of limb or function.

**Sec. 8.** NRS 630.307 is hereby amended to read as follows:

630.307 1. Except as otherwise provided in subsection 2, any person may file with the Board a complaint against a physician, perfusionist, physician assistant or practitioner of respiratory care on a form provided by the Board. The form may be submitted in writing or electronically. If a complaint is submitted anonymously, the Board may accept the complaint but may refuse to consider the complaint if the lack of the identity of the complainant makes processing the complaint impossible or unfair to the person who is the subject of the complaint.

2. Any licensee, medical school or medical facility that becomes aware that a person practicing medicine, perfusion or respiratory care in this State has, is or is about to become engaged in conduct which constitutes grounds for initiating disciplinary action shall file a written complaint with the Board within 30 days after becoming aware of the conduct.

3. ~~{Any}~~ **Except as otherwise provided in subsection 4, any** hospital, clinic or other medical facility licensed in this State, or medical society, shall report to the Board any change in the privileges of a physician, perfusionist, physician assistant or practitioner of respiratory care to practice while the physician, perfusionist, physician assistant or practitioner of respiratory care is under investigation and the outcome of any disciplinary action taken by that facility or society against the physician, perfusionist, physician assistant or practitioner of respiratory care concerning the care of a patient or the

competency of the physician, perfusionist, physician assistant or practitioner of respiratory care within 30 days after the change in privileges is made or disciplinary action is taken.

**4. A hospital, clinic or other medical facility licensed in this State, or medical society, shall report to the Board within 5 days after a change in the privileges of a physician, perfusionist, physician assistant or practitioner of respiratory care to practice that is based on:**

**(a) An investigation of the mental, medical or psychological competency of the physician, perfusionist, physician assistant or practitioner of respiratory care; or**

**(b) Suspected or alleged substance abuse in any form by the physician, perfusionist, physician assistant or practitioner of respiratory care.**

5. The Board shall report any failure to comply with ~~this~~ subsection 3 or 4 by a hospital, clinic or other medical facility licensed in this State to the Health Division of the Department of Health and Human Services. If, after a hearing, the Health Division determines that any such facility or society failed to comply with the requirements of this subsection, the Division may impose an administrative fine of not more than \$10,000 against the facility or society for each such failure to report. If the administrative fine is not paid when due, the fine must be recovered in a civil action brought by the Attorney General on behalf of the Division.

~~4.~~ 6. The clerk of every court shall report to the Board any finding, judgment or other determination of the court that a physician, perfusionist, physician assistant or practitioner of respiratory care:

(a) Is mentally ill;

(b) Is mentally incompetent;

(c) Has been convicted of a felony or any law governing controlled substances or dangerous drugs;

(d) Is guilty of abuse or fraud under any state or federal program providing medical assistance; or

(e) Is liable for damages for malpractice or negligence,

↪ within 45 days after such a finding, judgment or determination is made.

~~5.~~ 7. On or before January 15 of each year, the clerk of each court shall submit to the Office of Court Administrator created pursuant to NRS 1.320 a written report compiling the information that the clerk reported during the previous year to the Board regarding physicians pursuant to paragraph (e) of subsection ~~4.~~

~~6.~~ 6.

8. The Board shall retain all complaints filed with the Board pursuant to this section for at least 10 years, including, without limitation, any complaints not acted upon.

**Sec. 9.** NRS 630.336 is hereby amended to read as follows:

630.336 1. Any deliberations conducted or vote taken by the Board or any investigative committee of the Board regarding its ordering of a physician, perfusionist, physician assistant or practitioner of respiratory care

to undergo a physical or mental examination or any other examination designated to assist the Board or committee in determining the fitness of a physician, perfusionist, physician assistant or practitioner of respiratory care are not subject to the requirements of NRS 241.020.

2. Except as otherwise provided in subsection 3 or 4, all applications for a license to practice medicine, perfusion or respiratory care, any charges filed by the Board, financial records of the Board, formal hearings on any charges heard by the Board or a panel selected by the Board, records of such hearings and any order or decision of the Board or panel must be open to the public.

3. Except as otherwise provided in NRS 239.0115, the following may be kept confidential:

(a) Any statement, evidence, credential or other proof submitted in support of or to verify the contents of an application;

(b) Any report concerning the fitness of any person to receive or hold a license to practice medicine, perfusion or respiratory care; and

(c) Any communication between:

(1) The Board and any of its committees or panels; and

(2) The Board or its staff, investigators, experts, committees, panels, hearing officers, advisory members or consultants and counsel for the Board.

4. Except as otherwise provided in subsection 5 and NRS 239.0115, a complaint filed with the Board pursuant to NRS 630.307, all documents and other information filed with the complaint and all documents and other information compiled as a result of an investigation conducted to determine whether to initiate disciplinary action are confidential.

5. The *formal* complaint or other document filed by the Board to initiate disciplinary action and all documents and information considered by the Board when determining whether to impose discipline are public records.

6. This section does not prevent or prohibit the Board from communicating or cooperating with any other licensing board or agency or any agency which is investigating a licensee, including a law enforcement agency. Such cooperation may include, without limitation, providing the board or agency with minutes of a closed meeting, transcripts of oral examinations and the results of oral examinations.

**Sec. 10.** NRS 630.346 is hereby amended to read as follows:

630.346 In any disciplinary hearing:

1. The Board, a panel of the members of the Board and a hearing officer are not bound by formal rules of evidence and a witness must not be barred from testifying solely because the witness was or is incompetent. ~~[Any fact that is the basis of a finding, conclusion or ruling must be based upon the reliable, probative and substantial evidence on the whole record of the matter.]~~

2. *A finding of the Board must be supported by a preponderance of the evidence.*

3. Proof of actual injury need not be established.

~~3.~~ 4. A certified copy of the record of a court or a licensing agency showing a conviction or plea of nolo contendere or the suspension, revocation, limitation, modification, denial or surrender of a license to practice medicine, perfusion or respiratory care is conclusive evidence of its occurrence.

Sec. 11. (Deleted by amendment.)

Sec. 12. (Deleted by amendment.)

Sec. 13. (Deleted by amendment.)

Sec. 14. (Deleted by amendment.)

Sec. 15. (Deleted by amendment.)

Sec. 16. (Deleted by amendment.)

Sec. 17. (Deleted by amendment.)

Sec. 18. ~~[Chapter 633 of NRS is hereby amended by adding thereto a new section to read as follows:~~

~~1. Any osteopathic physician who performs an autopsy in this State and who determines that the death of the decedent is the result of an overdose of a controlled substance or a dangerous drug shall, within 30 days after making the determination, submit to the Board a written report of the findings of the autopsy, and provide to the Board any other information requested by the Board.~~

~~2. Upon receipt of a report submitted pursuant to subsection 1, the Board shall investigate the death of the decedent to determine whether the conduct of any osteopathic physician contributed to the death of the decedent.~~

~~3. As used in this section, "dangerous drug" has the meaning ascribed to it in NRS 454.201.~~ (Deleted by amendment.)

Sec. 19. NRS 633.286 is hereby amended to read as follows:

633.286 1. On or before February 15 of each odd-numbered year, the Board shall submit to the Governor and to the Director of the Legislative Counsel Bureau for transmittal to the next regular session of the Legislature a written report compiling:

(a) Disciplinary action taken by the Board during the previous biennium against osteopathic physicians for malpractice or negligence;

(b) Information reported to the Board during the previous biennium pursuant to NRS 633.526, 633.527, subsections 3 and ~~4~~ 6 of NRS 633.533 and NRS 690B.250 and 690B.260; and

(c) Information reported to the Board during the previous biennium pursuant to NRS 633.524, including, without limitation, the number and types of surgeries performed by each holder of a license to practice osteopathic medicine and the occurrence of sentinel events arising from such surgeries, if any.

2. The report must include only aggregate information for statistical purposes and exclude any identifying information related to a particular person.

Sec. 20. NRS 633.524 is hereby amended to read as follows:

633.524 1. The Board shall require each holder of a license to practice osteopathic medicine issued pursuant to this chapter to submit ~~annually~~ to the Board, on a form provided by the Board, and in the format required by the Board by regulation, a report stating the number and type of surgeries requiring conscious sedation, deep sedation or general anesthesia performed by the holder of the license at his or her office or any other facility, excluding any surgical care performed:

- (a) At a medical facility as that term is defined in NRS 449.0151; or
- (b) Outside of this State.

2. In addition to the report required pursuant to subsection 1, the Board shall require each holder of a license to practice osteopathic medicine to submit a report ~~annually~~ to the Board concerning the occurrence of any sentinel event arising from any surgery described in subsection 1. The report must be submitted in the manner prescribed by the Board which must be substantially similar to the manner prescribed by the State Board of Health for reporting information pursuant to NRS 439.835.

3. Each holder of a license to practice osteopathic medicine shall submit the reports required pursuant to subsections 1 and 2 ~~whether~~:

- (a) ***At the time the holder of the license renews his or her license; and***
- (b) ***Whether*** or not the holder of the license performed any surgery described in subsection 1. Failure to submit a report or knowingly filing false information in a report constitutes grounds for initiating disciplinary action pursuant to NRS 633.511.

4. ***In addition to the reports required pursuant to subsections 1 and 2, the Board shall require each holder of a license to practice osteopathic medicine to submit a report to the Board concerning the occurrence of any sentinel event arising from any surgery described in subsection 1 within 14 days after the occurrence of the sentinel event. The report must be submitted in the manner prescribed by the Board.***

5. The Board shall:

- (a) Collect and maintain reports received pursuant to subsections 1 ~~and 2~~, ***2 and 4***;

(b) Ensure that the reports, and any additional documents created from the reports, are protected adequately from fire, theft, loss, destruction and other hazards, and from unauthorized access; and

(c) Submit to the Health Division a copy of the report submitted pursuant to subsection 1. The Health Division shall maintain the confidentiality of such reports in accordance with subsection ~~5~~ ***6***.

~~5~~ ***6***. Except as otherwise provided in NRS 239.0115, a report received pursuant to subsection 1, ~~or~~ ***2 or 4*** is confidential, not subject to subpoena or discovery, and not subject to inspection by the general public.

~~6~~ ***7***. The provisions of this section do not apply to surgical care requiring only the administration of oral medication to a patient to relieve the patient's anxiety or pain, if the medication is not given in a dosage that is sufficient to induce in a patient a controlled state of depressed consciousness

or unconsciousness similar to general anesthesia, deep sedation or conscious sedation.

~~{7-}~~ 8. In addition to any other remedy or penalty, if a holder of a license to practice osteopathic medicine fails to submit a report or knowingly files false information in a report submitted pursuant to this section, the Board may, after providing the holder of a license to practice osteopathic medicine with notice and opportunity for a hearing, impose against the holder of a license an administrative penalty for each such violation. The Board shall establish by regulation a sliding scale based on the severity of the violation to determine the amount of the administrative penalty to be imposed against the holder of the license to practice osteopathic medicine. The regulations must include standards for determining the severity of the violation and may provide for a more severe penalty for multiple violations.

~~{8-}~~ 9. As used in this section:

- (a) "Conscious sedation" has the meaning ascribed to it in NRS 449.436.
- (b) "Deep sedation" has the meaning ascribed to it in NRS 449.437.
- (c) "General anesthesia" has the meaning ascribed to it in NRS 449.438.
- (d) "Health Division" has the meaning ascribed to it in NRS 449.009.
- (e) "Sentinel event" means an unexpected occurrence involving death or serious physical or psychological injury or the risk thereof, including, without limitation, any process variation for which a recurrence would carry a significant chance of serious adverse outcome. The term includes loss of limb or function.

**Sec. 21.** NRS 633.533 is hereby amended to read as follows:

633.533 1. Except as otherwise provided in subsection 2, any person may file with the Board a complaint against an osteopathic physician *or physician assistant* on a form provided by the Board. The form may be submitted in writing or electronically. If a complaint is submitted anonymously, the Board may accept the complaint but may refuse to consider the complaint if the lack of the identity of the complainant makes processing the complaint impossible or unfair to the person who is the subject of the complaint.

2. Any licensee, medical school or medical facility that becomes aware that a person practicing osteopathic medicine in this State has, is or is about to become engaged in conduct which constitutes grounds for initiating disciplinary action shall file a written complaint with the Board within 30 days after becoming aware of the conduct.

3. ~~{Any}~~ **Except as otherwise provided in subsection 4, any** hospital, clinic or other medical facility licensed in this State, or medical society, shall report to the Board any change in ~~{an osteopathic physician's}~~ **the privileges of an osteopathic physician or physician assistant** to practice ~~{osteopathic medicine}~~ while the osteopathic physician *or physician assistant* is under investigation and the outcome of any disciplinary action taken by that facility or society against the osteopathic physician *or physician assistant* concerning the care of a patient or the competency of the osteopathic

physician *or physician assistant* within 30 days after the change in privileges is made or disciplinary action is taken.

**4. A hospital, clinic or other medical facility licensed in this State, or medical society, shall report to the Board within 5 days after a change in the privileges of an osteopathic physician or physician assistant that is based on:**

**(a) An investigation of the mental, medical or psychological competency of the osteopathic physician or physician assistant; or**

**(b) Suspected or alleged substance abuse in any form by the osteopathic physician or physician assistant.**

**5.** The Board shall report any failure to comply with ~~this~~ subsection **3 or 4** by a hospital, clinic or other medical facility licensed in this State to the Health Division of the Department of Health and Human Services. If, after a hearing, the Health Division determines that any such facility or society failed to comply with the requirements of this subsection, the Division may impose an administrative fine of not more than \$10,000 against the facility or society for each such failure to report. If the administrative fine is not paid when due, the fine must be recovered in a civil action brought by the Attorney General on behalf of the Division.

~~4~~ **6.** The clerk of every court shall report to the Board any finding, judgment or other determination of the court that an osteopathic physician or physician assistant:

(a) Is a person with mental illness;

(b) Is a person with mental incompetence;

(c) Has been convicted of a felony or any law governing controlled substances or dangerous drugs;

(d) Is guilty of abuse or fraud under any state or federal program providing medical assistance; or

(e) Is liable for damages for malpractice or negligence,

↪ within 45 days after such a finding, judgment or determination is made.

~~5~~ **7.** On or before January 15 of each year, the clerk of every court shall submit to the Office of Court Administrator created pursuant to NRS 1.320 a written report compiling the information that the clerk reported during the previous year to the Board regarding osteopathic physicians pursuant to paragraph (e) of subsection ~~4~~ **6**.

**Sec. 22.** (Deleted by amendment.)

Assemblyman Atkinson moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed, and to third reading.

Assembly Bill No. 380.

Bill read third time.

Roll call on Assembly Bill No. 380:

YEAS—41.

NAYS—None.

EXCUSED—Brooks.



Assembly Bill No. 380 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 503.

Bill read third time.

Roll call on Assembly Bill No. 503:

YEAS—36.

NAYS—Hambrick, Hansen, Hardy, Kite, Livermore—5.

EXCUSED—Brooks.

Assembly Bill No. 503 having received a two-thirds majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

#### MOTIONS, RESOLUTIONS AND NOTICES

Assemblywoman Smith moved that Assembly Bill No. 123 be taken from the General File and placed on the Chief Clerk's desk.

Motion carried.

#### GENERAL FILE AND THIRD READING

Assembly Bill No. 383.

Bill read third time.

Roll call on Assembly Bill No. 383:

YEAS—41.

NAYS—None.

EXCUSED—Brooks.

Assembly Bill No. 383 having received a constitutional majority, Mr. Speaker declared it passed.

Bill ordered transmitted to the Senate.

Assembly Bill No. 575.

Bill read third time.

Roll call on Assembly Bill No. 575:

YEAS—41.

NAYS—None.

EXCUSED—Brooks.

Assembly Bill No. 575 having received a constitutional majority, Mr. Speaker declared it passed.

Bill ordered transmitted to the Senate.

#### UNFINISHED BUSINESS

#### CONSIDERATION OF SENATE AMENDMENTS

Assembly Bill No. 376.

The following Senate amendment was read:

Amendment No. 632.

AN ACT relating to tourism improvement districts; making various changes regarding the financing of certain local improvements with revenue

pledged from sales and use taxes; providing a procedure for the selection of subcontractors on certain contracts; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes the governing body of any city or county to create a tourism improvement district (TID) and to pledge revenue from several sales and use taxes imposed in that district to finance certain projects within the district. The projects may be owned by the municipality, another governmental entity or any person and may be financed through the issuance of bonds or the entry into agreements for the reimbursement of the costs of the projects. (Chapter 271A of NRS) **Section 2** of this bill requires the independent auditing of claims made under agreements to provide such financing. **Section 2** also prohibits the use of such financing, with respect to a TID created on or after July 1, 2011, to pay various fees and costs and for the relocation within the TID of a retailer from another location within 3 miles outside of the boundary of the TID, and excludes the use for such financing of the tax revenue from such a retailer. **Section 6 of this bill prohibits the provision of such financing to certain governmental entities if a nongovernmental entity obtained any of the original financing in the TID, and prohibits such financing, without the consent of the entities which obtained the original financing in the TID, to an entity that did not obtain any of the original financing in the TID.** **Section 3** of this bill specifies the procedure required for the selection of subcontractors by contractors and developers who enter into certain construction contracts on financed projects or on property within a TID which benefits from financed infrastructure improvements. **Section 4** of this bill requires a municipality that creates a TID to prepare and submit to the Legislature annual reports regarding the TID, and requires the Department of Taxation to prepare and submit to the Legislature and the municipality semiannual reports regarding businesses within a TID. **Section ~~6~~ 7** of this bill applies the prevailing wage provisions applicable to public works to construction contracts for financed projects within a TID to the same extent as if the contracts were awarded by the municipality and the projects constituted public works.

Existing law does not allow the creation of a TID unless the pertinent governing body makes a written finding at a public hearing, based upon reports from independent consultants, as to whether the proposed project and financing will have a positive fiscal effect on the provision of local governmental services. (NRS 271A.080) **Section 5** of this bill requires the selection of those independent consultants from a list provided by the Commission on Tourism.

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

**Section 1.** Chapter 271A of NRS is hereby amended by adding thereto the provisions set forth as sections 2, 3 and 4 of this act.

**Sec. 2. *The governing body of a municipality:***

**1. *Shall require the review of each claim submitted pursuant to any contract or other agreement made with the governing body to provide any financing or reimbursement pursuant to NRS 271A.120, by an independent auditor.***

**2. *Shall not, with respect to any district created on or after July 1, 2011, provide any financing or reimbursement pursuant to NRS 271A.120 for:***

**(a) *Any legal fees, accounting fees, costs of insurance, fees for legal notices or costs to amend any ordinances.***

**(b) *Any project that includes the relocation on or after July 1, 2011, to the district of any retail facilities of a retailer from another location outside of and within 3 miles of the boundary of the district. Each pledge of money pursuant to NRS 271A.070 shall be deemed to exclude any amounts attributable to any tangible personal property sold at retail, or stored, used or otherwise consumed, in the district during a fiscal year by a retailer who, on or after July 1, 2011, relocates any of its retail facilities to the district from another location outside of and within 3 miles of the boundary of the district.***

**Sec. 3. 1. *Except as otherwise provided in subsection 2, a contractor or developer who enters into a contract for original construction or a contract for benefited construction shall:***

**(a) *Advertise for at least 7 calendar days for bids on each subcontract for the performance of any portion of the contract;***

**(b) *At least 2 business days before the first day of that advertisement, provide notice of that advertisement to the governing body of the municipality;***

**(c) *Make available to all prospective bidders on the subcontract a written set of plans and specifications for the pertinent work;***

**(d) *Provide public notice of the name and address of each person who submits a bid on the subcontract; and***

**(e) *After closing the period for the solicitation of bids and receiving at least three timely and responsive bids, select any subcontractor from those timely and responsive bids that the contractor or developer, in his or her sole discretion, determines to be appropriate, except that the contractor or developer shall ensure that each subcontractor who will perform any portion of the contract is appropriately licensed pursuant to chapter 624 of NRS.***

**2. *The provisions of subsection 1 do not apply to:***

**(a) *Any contract which is awarded by a municipality; or***

**(b) *Any project which is constructed or maintained by a governmental entity on any property while the governmental entity owns that property.***

**3. *A governing body of a municipality that receives a notice of an advertisement for bids pursuant to paragraph (b) of subsection 1:***

*(a) Shall, upon such receipt, post notice of the advertisement on an Internet website maintained by the municipality; and*

*(b) May otherwise provide notice of the advertisement to local trade organizations and the general public.*

*4. As used in this section:*

*(a) “Contract for benefited construction”:*

*(1) Except as otherwise provided in subparagraphs (2) and (3), means any contract or other agreement for the construction, improvement, repair, demolition or reconstruction of any property which is located within a district and which benefits from any infrastructure improvements paid for in whole or in part:*

*(I) From the proceeds of bonds or notes issued pursuant to paragraph (a) of subsection 1 of NRS 271A.120; or*

*(II) Pursuant to an agreement for reimbursement entered into pursuant to paragraph (b) of subsection 1 of NRS 271A.120.*

*(2) Except as otherwise provided in subparagraph (3) and unless the work is paid for in whole or in part with any public funding, does not include any:*

*(I) Contract or other agreement for the improvement, repair, demolition or reconstruction of any project;*

*(II) Contract or other agreement with the original tenant of any leased property for any improvement of the property which is to be undertaken more than 60 months after the property is first made available for lease; or*

*(III) Contract or other agreement for the improvement of any leased property made with any tenant of the property other than the original tenant.*

*(3) Does not include any contract for original construction.*

*(b) “Contract for original construction” means any contract or other agreement for the construction, improvement, repair, demolition or reconstruction of any project that is paid for in whole or in part:*

*(1) From the proceeds of bonds or notes issued pursuant to paragraph (a) of subsection 1 of NRS 271A.120; or*

*(2) Pursuant to an agreement for reimbursement entered into pursuant to paragraph (b) of subsection 1 of NRS 271A.120.*

*(c) “Original tenant” means the first tenant of any leased property after the property is first made available for lease.*

**Sec. 4. 1.** *On or before September 1 of each year, the governing body of a municipality that creates a district before, on or after July 1, 2011, shall prepare and submit to the Director of the Legislative Counsel Bureau for submission to the Legislature, or to the Legislative Commission when the Legislature is not in regular session, an annual report containing:*

*(a) A statement of the status of each project located or expected to be located in the district, and of any changes in that status since the last annual report.*

*(b) An assessment of the financial impact of the district on the provision of local governmental services, including, without limitation, services for police protection and fire protection.*

*2. If the governing body of a municipality creates a district before, on or after July 1, 2011, the Department of Taxation shall:*

*(a) On or before April 1 and October 1 of each year, prepare and submit to the Director of the Legislative Counsel Bureau for submission to the Legislature, or to the Legislative Commission when the Legislature is not in regular session, and to the governing body of the municipality a semiannual report which states:*

*(1) The amount of revenue from the taxable sales made each month by each business within the district;*

*(2) To the extent that the pertinent information is available, the portion of that revenue which is attributable to persons who are not residents of this State;*

*(3) The amount of the wages paid each month by each business within the district; and*

*(4) The number of full-time and part-time employees employed each month by each business within the district.*

*(b) Require each business within the district to report to the Department of Taxation, at such times as the Department may specify on a form provided by the Department, such information as the Department determines to be necessary to carry out the provisions of paragraph (a).*

*3. Except as otherwise provided in subsection 2 or another specific statute, the Department of Taxation shall not disclose any information reported to the Department pursuant to subsection 2.*

*4. As used in this section, "taxable sales" means any sales that are taxable pursuant to chapter 372 of NRS.*

**Sec. 5.** NRS 271A.080 is hereby amended to read as follows:

271A.080 The governing body of a municipality shall not adopt an ordinance pursuant to NRS 271A.070 unless:

1. If the ordinance:

(a) Creates a district, the governing body has determined that no retailers will have maintained or will be maintaining a fixed place of business within the district on or within the 120 days immediately preceding the date of the adoption of the ordinance; or

(b) Amends the boundaries of the district to add any additional area, the governing body has determined that no retailers will have maintained or will be maintaining a fixed place of business within that area on or within 120 days immediately preceding the date of the adoption of the ordinance.

2. The governing body has made a written finding at a public hearing that the project will benefit the district.

3. The governing body has made a written finding at a public hearing, based upon reports from independent consultants which were addressed to the governing body, to the board of county commissioners, if the governing

body is not the board of county commissioners for the county in which the tourism *improvement* district is or will be located, and to the board of trustees of the school district in which the tourism improvement district is or will be located, as to whether the project and the financing thereof pursuant to this chapter will have a positive fiscal effect on the provision of local governmental services, after considering:

(a) The amount of the proceeds of all taxes and other governmental revenue projected to be received as a result of the properties and businesses expected to be located in the district;

(b) The use of any money proposed to be pledged pursuant to NRS 271A.070;

(c) Any increase in costs for the provision of local governmental services, including, without limitation, services for education, including operational and capital costs, and services for police protection and fire protection, as a result of the project and the development of land within the district; and

(d) Estimates of any increases in the proceeds from sales and use taxes collected by retailers located outside of the district and of any displacement of the proceeds from sales and use taxes collected by those retailers, as a result of the properties and businesses expected to be located in the district.

↪ ***The reports required from independent consultants pursuant to this subsection must be obtained from independent consultants selected by the governing body from a list of independent consultants provided by the Commission on Tourism. For the purposes of this subsection, the Commission shall, upon the request of a governing body, provide the governing body with a list of at least three qualified independent consultants, each of whom must be located outside of this State.***

4. The governing body has, at least 45 days before making the written finding required by subsection 3, provided to the board of trustees of the school district in which the tourism improvement district is or will be located:

(a) Written notice of the time and place of the meeting at which the governing body will consider making that written finding; and

(b) Each analysis prepared by or for or presented to the governing body regarding the fiscal effect of the project and the use of any money proposed to be pledged pursuant to NRS 271A.070 on the provision of local governmental services, including education.

↪ After the receipt of the notice required by this subsection and before the date of the meeting at which the governing body will consider making the written finding required by subsection 3, the board of trustees shall conduct a hearing regarding the fiscal effect on the school district, if any, of the project and the use of any money proposed to be pledged pursuant to NRS 271A.070, and may submit to the governing body of the municipality any comments regarding that fiscal effect. The governing body shall consider those comments when making any written finding pursuant to subsection 3

and shall consider those comments when considering the terms of any agreement pursuant to NRS 271A.110.

5. If the governing body is not the board of county commissioners for the county in which the tourism *improvement* district is or will be located, the governing body has, at least 45 days before making the written finding required by subsection 3, provided to the board of county commissioners in the county in which the tourism improvement district is or will be located:

(a) Written notice of the time and place of the meeting at which the governing body will consider making that written finding; and

(b) Each analysis prepared by or for or presented to the governing body regarding the fiscal effect of the project and the use of any money proposed to be pledged pursuant to NRS 271A.070 on the provision of local governmental services.

➤ After the receipt of the notice required by this subsection and before the date of the meeting at which the governing body will consider making the written finding required by subsection 3, the board of county commissioners may conduct a hearing regarding the fiscal effect on local governmental services, if any, of the project and the use of any money proposed to be pledged pursuant to NRS 271A.070, and may submit to the governing body of the municipality any comments regarding that fiscal effect. The governing body may consider those comments when making any written finding pursuant to subsection 3 and shall consider those comments when considering the terms of any agreement pursuant to NRS 271A.110.

6. The governing body has determined, at a public hearing conducted at least 15 days after providing notice of the hearing by publication, that:

(a) As a result of the project:

(1) Retailers will locate their businesses as such in the district; and

(2) There will be a substantial increase in the proceeds from sales and use taxes remitted by retailers with regard to tangible personal property sold at retail, or stored, used or otherwise consumed, in the district; and

(b) A preponderance of that increase in the proceeds from sales and use taxes will be attributable to transactions with tourists who are not residents of this State.

7. The Commission on Tourism has determined, at a public hearing conducted at least 15 days after providing notice of the hearing by publication, that a preponderance of the increase in the proceeds from sales and use taxes identified pursuant to subsection 6 will be attributable to transactions with tourists who are not residents of this State.

8. The Governor has determined that the project and the use of any money proposed to be pledged pursuant to NRS 271A.070 will contribute significantly to economic development and tourism in this State. Before making that determination, the Governor:

(a) Must consider the fiscal effects of the pledge of money on educational funding, including any fiscal effects described in comments provided pursuant to subsection 4 by the school district in which the tourism

improvement district is or will be located, and for that purpose may require the Department of Education or the Department of Taxation, or both, to provide an appropriate fiscal report; and

(b) If the Governor determines that the pledge of money will have a substantial adverse fiscal effect on educational funding, may require a commitment from the municipality for the provision of specified payments to the school district in which the tourism improvement district is or will be located during the term of the use of any money pledged pursuant to NRS 271A.070. The payments may be provided pursuant to agreements with owners of property within the district authorized by NRS 271A.110 or from sources other than the owners of property within the district. Such a commitment by a municipality is not subject to the limitations of subsection 1 of NRS 354.626 and, notwithstanding any other law to the contrary, is binding on the municipality for the term of the use of any money pledged pursuant to NRS 271A.070.

9. If any property within the boundaries of the district is also included within the boundaries of any other tourism improvement district or any improvement district for which any money has been pledged pursuant to NRS 271.650, all of the governing bodies which created those districts have entered into an interlocal agreement providing for:

(a) The apportionment of any money pledged pursuant to NRS 271.650 and 271A.070 with respect to such property; and

(b) The priority of the application of that money between:

(1) Bonds issued pursuant to chapter 271 of NRS; and

(2) Bonds and notes issued, and agreements entered into, pursuant to NRS 271A.120.

↪ Any such agreement for the priority of the application of that money may be made irrevocable during the term of any bonds issued pursuant to chapter 271 of NRS to which all or any portion of that money is pledged, or during the term of any bonds or notes issued or any agreements entered into pursuant to NRS 271A.120 to which all or any portion of that money is pledged.

**Sec. 6. NRS 271A.120 is hereby amended to read as follows:**

271A.120 1. Except as otherwise provided in this section, if the governing body of a municipality adopts an ordinance pursuant to NRS 271A.070, the municipality may:

(a) Issue, at one time or from time to time, bonds or notes as special obligations under the Local Government Securities Law to finance or refinance projects for the benefit of the district. Any such bonds or notes may be secured by a pledge of, and be payable from, any money pledged pursuant to NRS 271A.070 and received by the municipality with respect to the district, any revenue received by the municipality from any revenue-producing projects in the district, or any combination thereof.

(b) Enter into an agreement with one or more governmental entities or other persons to reimburse that entity or person for the cost of acquiring,



improving or equipping, or any combination thereof, any project, which may contain such terms as are determined to be desirable by the governing body of the municipality, including the payment of reasonable interest and other financing costs incurred by such entity or other person. Any such reimbursements may be secured by a pledge of, and be payable from, any money pledged pursuant to NRS 271A.070 and received by the municipality with respect to the district, any revenue received by the municipality from any revenue-producing projects in the district, or any combination thereof. Such an agreement is not subject to the limitations of subsection 1 of NRS 354.626 and may, at the option of the governing body, be binding on the municipality beyond the fiscal year in which it was made, only if the agreement pertains solely to one or more projects that are owned by the municipality or another governmental entity.

**2. The governing body of a municipality shall not, with respect to any district created before, on or after July 1, 2011, provide any financing or reimbursement pursuant to this section:**

**(a) Except as otherwise provided in this paragraph, to any governmental entity for any project within the district if any nongovernmental entity is or was entitled to receive any financing or reimbursement from the municipality pursuant to this section under the original financing agreements for the initial projects within the district. This paragraph does not prohibit the provision of such financing or reimbursement to:**

**(1) A school district; or**

**(2) A governmental entity that is or was entitled to receive such financing or reimbursement under the original financing agreements for the initial projects within the district.**

**(b) To any person or other entity for any project within the district, other than a person or other entity that is or was entitled to receive such financing or reimbursement from the municipality under the original financing agreements for the initial projects within the district, without the consent of all the persons and other entities that were entitled to receive such financing or reimbursement under the original financing agreements for the initial projects within the district.**

**3.** Before the issuance of any bonds or notes pursuant to this section, the municipality must obtain the results of a feasibility study, commissioned by the municipality, which shows that a sufficient amount will be generated from money pledged pursuant to NRS 271A.070 to make timely payment on the bonds or notes, taking into account the revenue from any other revenue-producing projects also pledged for the payment of the bonds or notes, if any. A failure to make payments of any amounts due:

(a) With respect to any bonds or notes issued pursuant to subsection 1; or

(b) Under any agreements entered into pursuant to subsection 1,

↪ because of any insufficiency in the amount of money pledged pursuant to NRS 271A.070 to make those payments shall be deemed not to constitute a default on those bonds, notes or agreements.

~~[3.]~~ 4. No bond, note or other agreement issued or entered into pursuant to this section may be secured by or payable from the general fund of the municipality, the power of the municipality to levy ad valorem property taxes, or any source other than any money pledged pursuant to NRS 271A.070 and received by the municipality with respect to the district, any revenue received by the municipality from any revenue-producing projects in the district, or any combination thereof. No bond, note or other agreement issued or entered into pursuant to this section may ever become a general obligation of the municipality or a charge against its general credit or taxing powers, nor may any such bond, note or other agreement become a debt of the municipality for purposes of any limitation on indebtedness.

~~[4.]~~ 5. Any bond or note issued pursuant to this section, including any bond or note issued to refund any such bond or note, must mature on or before, and any agreement entered pursuant to this section must automatically terminate on or before, the end of the fiscal year in which the 20th anniversary of the adoption of the ordinance creating the district occurs.

~~[Sec. 6.]~~ **Sec. 7.** NRS 271A.130 is hereby amended to read as follows:  
271A.130 1. Except as otherwise provided in this section ~~[.]~~ **and section 3 of this act and** notwithstanding any other law to the contrary, any contract or other agreement relating to or providing for the construction, improvement, repair, demolition, reconstruction, other acquisition, equipment, operation or maintenance of any project financed in whole or in part pursuant to this chapter is exempt from any law requiring competitive bidding or otherwise specifying procedures for the award of contracts for construction or other contracts, or specifying procedures for the procurement of goods or services. The governing body of the municipality shall require a quarterly report on the demography of the workers employed by any contractor or subcontractor for each such project.

2. The provisions of subsection 1 do not apply to any project which is constructed or maintained by a governmental entity on any property while the governmental entity owns that property.

3. ~~[The provisions of NRS 338.010 to 338.090, inclusive, apply to]~~ **A person who enters into** any contract or other agreement for the construction, improvement, repair, demolition or reconstruction of any project that is paid for in whole or in part:

(a) From the proceeds of bonds or notes issued pursuant to paragraph (a) of subsection 1 of NRS 271A.120; or

(b) Pursuant to an agreement for reimbursement entered into pursuant to paragraph (b) of subsection 1 of NRS 271A.120,

~~[regardless of whether the project is publicly or privately owned.]~~ **shall include in the contract or other agreement the contractual provisions and stipulations that are required to be included in a contract for a public work pursuant to the provisions of NRS 338.013 to 338.090, inclusive. The governing body of the municipality, the contractor who is awarded the contract or enters into the agreement to perform the construction,**

*improvement, repair, demolition or reconstruction, and any subcontractor who performs any portion of the contract or agreement shall comply with the provisions of NRS 338.013 to 338.090, inclusive, in the same manner as if the governing body of the municipality had undertaken the project or had awarded the contract.*

*4. The governing body of the municipality shall ensure that each contractor and developer to whom the provisions of section 3 of this act apply complies with those provisions.*

~~Sec. 7.]~~ **Sec. 8.** NRS 372.750 is hereby amended to read as follows:

372.750 1. Except as otherwise provided in this section or NRS 360.247 ~~]~~ **or section 4 of this act**, it is a misdemeanor for any member of the Tax Commission or officer, agent or employee of the Department to make known in any manner whatever the business affairs, operations or information obtained by an investigation of records and equipment of any retailer or any other person visited or examined in the discharge of official duty, or the amount or source of income, profits, losses, expenditures or any particular of them, set forth or disclosed in any return, or to permit any return or copy of a return, or any book containing any abstract or particulars of it to be seen or examined by any person not connected with the Department.

2. The Tax Commission may agree with any county fair and recreation board or the governing body of any county, city or town for the continuing exchange of information concerning taxpayers.

3. The Governor may, by general or special order, authorize the examination of the records maintained by the Department under this chapter by other state officers, by tax officers of another state, by the Federal Government, if a reciprocal arrangement exists, or by any other person. The information so obtained may not be made public except to the extent and in the manner that the order may authorize that it be made public.

4. Upon written request made by a public officer of a local government, the Executive Director shall furnish from the records of the Department, the name and address of the owner of any seller or retailer who must file a return with the Department. The request must set forth the social security number of the owner of the seller or retailer about which the request is made and contain a statement signed by the proper authority of the local government certifying that the request is made to allow the proper authority to enforce a law to recover a debt or obligation owed to the local government. Except as otherwise provided in NRS 239.0115, the information obtained by the local government is confidential and may not be used or disclosed for any purpose other than the collection of a debt or obligation owed to that local government. The Executive Director may charge a reasonable fee for the cost of providing the requested information.

5. Successors, receivers, trustees, executors, administrators, assignees and guarantors, if directly interested, may be given information as to the items included in the measure and amounts of any unpaid tax or amounts of tax required to be collected, interest and penalties.

6. Relevant information that the Tax Commission has determined is not proprietary or confidential information in a hearing conducted pursuant to NRS 360.247 may be disclosed as evidence in an appeal by the taxpayer from a determination of tax due.

7. At any time after a determination, decision or order of the Executive Director or other officer of the Department imposing upon a person a penalty for fraud or intent to evade the tax imposed by this chapter on the sale, storage, use or other consumption of any vehicle, vessel or aircraft becomes final or is affirmed by the Commission, any member of the Commission or officer, agent or employee of the Department may publicly disclose the identity of that person and the amount of tax assessed and penalties imposed against that person.

~~[Sec. 8.]~~ **Sec. 9.** NRS 374.755 is hereby amended to read as follows:

374.755 1. Except as otherwise provided in this section or NRS 360.247 ~~[.]~~ **or section 4 of this act**, it is a misdemeanor for any member of the Nevada Tax Commission or officer, agent or employee of the Department to make known in any manner whatever the business affairs, operations or information obtained by an investigation of records and equipment of any retailer or any other person visited or examined in the discharge of official duty, or the amount or source of income, profits, losses, expenditures or any particular thereof, set forth or disclosed in any return, or to permit any return or copy thereof, or any book containing any abstract or particulars thereof to be seen or examined by any person not connected with the Department.

2. The Nevada Tax Commission may agree with any county fair and recreation board or the governing body of any county, city or town for the continuing exchange of information concerning taxpayers.

3. The Governor may, however, by general or special order, authorize the examination of the records maintained by the Department under this chapter by other state officers, by tax officers of another state, by the Federal Government, if a reciprocal arrangement exists, or by any other person. The information so obtained pursuant to the order of the Governor may not be made public except to the extent and in the manner that the order may authorize that it be made public.

4. Upon written request made by a public officer of a local government, the Executive Director shall furnish from the records of the Department, the name and address of the owner of any seller or retailer who must file a return with the Department. The request must set forth the social security number of the owner of the seller or retailer about which the request is made and contain a statement signed by the proper authority of the local government certifying that the request is made to allow the proper authority to enforce a law to recover a debt or obligation owed to the local government. Except as otherwise provided in NRS 239.0115, the information obtained by the local government is confidential and may not be used or disclosed for any purpose other than the collection of a debt or obligation owed to that local

government. The Executive Director may charge a reasonable fee for the cost of providing the requested information.

5. Successors, receivers, trustees, executors, administrators, assignees and guarantors, if directly interested, may be given information as to the items included in the measure and amounts of any unpaid tax or amounts of tax required to be collected, interest and penalties.

6. Relevant information that the Nevada Tax Commission has determined is not proprietary or confidential information in a hearing conducted pursuant to NRS 360.247 may be disclosed as evidence in an appeal by the taxpayer from a determination of tax due.

7. At any time after a determination, decision or order of the Executive Director or other officer of the Department imposing upon a person a penalty for fraud or intent to evade the tax imposed by this chapter on the sale, storage, use or other consumption of any vehicle, vessel or aircraft becomes final or is affirmed by the Commission, any member of the Commission or officer, agent or employee of the Department may publicly disclose the identity of that person and the amount of tax assessed and penalties imposed against that person.

~~{Sec. 9.}~~ **Sec. 10.** 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. 10.}~~ **Sec. 11.** 1. This section and sections 5 and ~~{9}~~ **10** of this act become effective upon passage and approval.

2. Sections 1 to 4, inclusive, ~~and 6, 7 and 8~~ **to 9, inclusive,** of this act become effective on July 1, 2011.

Assemblywoman Kirkpatrick moved that the Assembly do not concur in the Senate Amendment No. 632 to Assembly Bill No. 376.

Remarks by Assemblywoman Kirkpatrick.

Motion carried.

Bill ordered transmitted to Senate.

Assembly Bill No. 410.

The following Senate amendment was read:

Amendment No. 590.

AN ACT relating to water; requiring that protests against the granting of certain applications relating to water rights by a government, governmental agency or political subdivision of a government be verified or signed by the person in charge of the government, agency or political subdivision; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, any interested person, including a governmental entity, is authorized to file a written protest with the State Engineer against the granting of an application for a permit to appropriate water or to change the place of diversion, the manner of use or the place of use of water already appropriated. (NRS 533.010, 533.325, 533.365) In addition, any person,

including a governmental entity, who may be adversely affected by a project for the recharge, storage and recovery of water is authorized under existing law to file a written protest with the State Engineer against the granting of an application for a permit to operate the project. (NRS 534.014, 534.250, 534.270)

This bill requires that any protest which is filed by a government, governmental agency or political subdivision against the granting of an application for a permit to change the place of diversion, the manner of use or the place of use of water already appropriated within the same basin or for a permit to operate a project for the recharge, storage and recovery of water be verified or signed by the director, administrator, chief, head or other person in charge of that government, governmental agency or political subdivision. However, this bill does not change the requirements under existing law for a protest by a government, governmental agency or political subdivision against the granting of an application for a permit to appropriate water or an application that involves an interbasin transfer of groundwater. (NRS 533.365)

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

**Section 1.** NRS 533.365 is hereby amended to read as follows:

533.365 1. Any person interested may, within 30 days after the date of last publication of the notice of application, file with the State Engineer a written protest against the granting of the application, setting forth with reasonable certainty the grounds of such protest, which, *except as otherwise provided in subsection 2*, must be verified by the affidavit of the protestant, or an agent or attorney thereof.

2. *If the application is for a permit to change the place of diversion, manner of use or place of use of water already appropriated within the same basin, a protest filed against the granting of such an application by a government, governmental agency or political subdivision of a government must be verified by the affidavit of:*

(a) *Except as otherwise provided in paragraph (b), the director, administrator, chief, head or other person in charge of the government, governmental agency or political subdivision; or*

(b) *If the governmental agency or political subdivision is a division or other part of a department, the director or other person in charge of that department in this State, including, without limitation:*

(1) *The ~~Forest Supervisor for the Humboldt-Toiyabe National Forest,~~ Regional Forester for the Intermountain Region, if the protest is filed by the United States Forest Service;*

(2) *The State Director of the Nevada State Office of the Bureau of Land Management, if the protest is filed by the Bureau of Land Management;*

*(3) The Regional Director of the Pacific Southwest Region, if the protest is filed by the United States Fish and Wildlife Service;*

*(4) The Regional Director of the Pacific West Region, if the protest is filed by the National Park Service;*

*(5) The Director of the State Department of Conservation and Natural Resources, if the protest is filed by any division of that Department; or*

*~~[(5)]~~ (6) The chair of the board of county commissioners, if the protest is filed by a county.*

3. On receipt of a protest ~~[-]~~ *that complies with the requirements of subsection 1 or 2*, the State Engineer shall advise the applicant whose application has been protested of the fact that the protest has been filed with the State Engineer, which advice must be sent by certified mail.

~~[-]~~ 4. The State Engineer shall consider the protest, and may, in his or her discretion, hold hearings and require the filing of such evidence as the State Engineer may deem necessary to a full understanding of the rights involved. The State Engineer shall give notice of the hearing by certified mail to both the applicant and the protestant. The notice must state the time and place at which the hearing is to be held and must be mailed at least 15 days before the date set for the hearing.

~~[-]~~ 5. Each applicant and each protestant shall, in accordance with a schedule established by the State Engineer, provide to the State Engineer and to each protestant and each applicant information required by the State Engineer relating to the application or protest.

~~[-]~~ 6. If the State Engineer holds a hearing pursuant to subsection ~~[-]~~ 4, the State Engineer shall render a decision on each application not later than 240 days after the later of:

(a) The date all transcripts of the hearing become available to the State Engineer; or

(b) The date specified by the State Engineer for the filing of any additional information, evidence, studies or compilations requested by the State Engineer. The State Engineer may, for good cause shown, extend any applicable period.

~~[-]~~ 7. The State Engineer shall adopt rules of practice regarding the conduct of a hearing held pursuant to subsection ~~[-]~~ 4. The rules of practice must be adopted in accordance with the provisions of NRS 233B.040 to 233B.120, inclusive, and codified in the Nevada Administrative Code. The technical rules of evidence do not apply at such a hearing.

~~[-]~~ 8. The provisions of this section do not prohibit the noticing of a new period of 45 days in which a person may file with the State Engineer a written protest against the granting of the application, if such notification is required to be given pursuant to subsection 8 of NRS 533.370.

**Sec. 2.** NRS 534.270 is hereby amended to read as follows:

534.270 1. Upon receipt of an application for a permit to operate a project, the State Engineer shall endorse on the application the date it was received and keep a record of the application. The State Engineer shall

conduct an initial review of the application within 45 days after receipt of the application. If the State Engineer determines in the initial review that the application is incomplete, the State Engineer shall notify the applicant. The application is incomplete until the applicant files all the information requested in the application. The State Engineer shall determine whether the application is correct within 180 days after receipt of a complete application. The State Engineer may request additional information from the applicant. The State Engineer may conduct such independent investigations as are necessary to determine whether the application should be approved or rejected.

2. If the application is determined to be complete and correct, the State Engineer, within 30 days after such a determination or a longer period if requested by the applicant, shall cause notice of the application to be given once each week for 2 consecutive weeks in a newspaper of general circulation in the county or counties in which persons reside who could reasonably be expected to be affected by the project. The notice must state:

- (a) The legal description of the location of the proposed project;
- (b) A brief description of the proposed project including its capacity;
- (c) That any person who may be adversely affected by the project may file a written protest with the State Engineer within 30 days after the last publication of the notice;
- (d) The date of the last publication;
- (e) That the grounds for protesting the project are limited to whether the project would be in compliance with subsection 2 of NRS 534.250;
- (f) The name of the applicant; and
- (g) That a protest must:
  - (1) State the name and mailing address of the protester;
  - (2) Clearly set forth the reason why the permit should not be issued; and
  - (3) Be signed by the protester or the protester's agent or attorney ~~or~~, ***if the protester is a government, governmental agency or political subdivision of a government, be approved and signed in the manner specified in paragraph (g) of subsection 3.***

3. A protest to a proposed project:

- (a) May be made by any person who may be adversely affected by the project;
- (b) Must be in writing;
- (c) Must be filed with the State Engineer within 30 days after the last publication of the notice;
- (d) Must be upon a ground listed in subsection 2 of NRS 534.250;
- (e) Must state the name and mailing address of the protester;
- (f) Must clearly set forth the reason why the permit should not be issued; and
- (g) ~~Must~~ ***Except as otherwise provided in this paragraph, must*** be signed by the protester or the protester's agent or attorney. ***If the protester is***



*a government, governmental agency or political subdivision of a government, the protest must be:*

*(1) Except as otherwise provided in subparagraph (2), approved and signed by the director, administrator, chief, head or other person in charge of the government, governmental agency or political subdivision; or*

*(2) If the governmental agency or political subdivision is a division or other part of a department, approved and signed by the director or other person in charge of that department in this State, including, without limitation:*

*(I) ~~The Forest Supervisor for the Humboldt Toiyabe National Forest,~~ Regional Forester for the Intermountain Region, if the protest is filed by the United States Forest Service;*

*(II) The State Director of the Nevada State Office of the Bureau of Land Management, if the protest is filed by the Bureau of Land Management;*

*(III) The Regional Director of the Pacific Southwest Region, if the protest is filed by the United States Fish and Wildlife Service;*

*(IV) The Regional Director of the Pacific West Region, if the protest is filed by the National Park Service;*

*(V) The Director of the State Department of Conservation and Natural Resources, if the protest is filed by any division of that Department; or*

*~~+(VI)~~ (VI) The chair of the board of county commissioners, if the protest is filed by a county.*

4. Upon receipt of a protest, the State Engineer shall advise the applicant by certified mail that a protest has been filed.

5. Upon receipt of a protest, or upon the motion of the State Engineer, the State Engineer may hold a hearing. Not less than 30 days before the hearing, the State Engineer shall send by certified mail notice of the hearing to the applicant and any person who filed a protest.

6. The State Engineer shall either approve or deny each application within 1 year after the final date for filing a protest, unless the State Engineer has received a written request from the applicant to postpone making a decision or, in the case of a protested application, from both the protester and the applicant. The State Engineer may delay action on the application pursuant to paragraph (c) of subsection 2 of NRS 533.370.

7. Any person aggrieved by any decision of the State Engineer made pursuant to subsection 6 may appeal that decision to the district court pursuant to NRS 533.450.

**Sec. 3.** This act becomes effective on July 1, 2011.

Assemblywoman Kirkpatrick moved that the Assembly concur in the Senate Amendment No. 590 to Assembly Bill No. 410.

Remarks by Assemblywoman Kirkpatrick.

Motion carried by a constitutional majority.

Bill ordered enrolled.

Assembly Bill No. 360.

The following Senate amendment was read:

Amendment No. 748.

SUMMARY—Revises provisions governing ~~the imposition of civil penalties for violations of~~ city or county ordinances regarding the abatement of certain conditions and nuisances on property within the city or county. (BDR 21-266)

AN ACT relating to local governments; **requiring a city or county to provide by ordinance that property owners have 30 days to abate a nuisance or dangerous or noxious condition under certain circumstances**; authorizing a city or county to collect civil penalties imposed for failure to abate certain conditions and nuisances on property within the city or county as a special assessment against the property under certain circumstances; revising provisions relating to the maximum amount of a civil penalty that may be imposed for failure to abate certain nuisances on property within the city or county under certain circumstances; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, if an owner of property within a city fails to abate a dangerous or noxious condition, a chronic nuisance or, in larger counties, an abandoned nuisance on the property after being directed to do so, the owner may be required to pay civil penalties as well as any costs incurred by the city to abate the condition or nuisance. In addition to any other reasonable means of recovering its abatement costs, the city is authorized to make those costs a special assessment against the property and collect the special assessment in the same manner as ordinary county taxes are collected. (NRS 268.4122-268.4126) Existing law sets forth parallel authority for counties to abate chronic nuisances and public nuisances and provides that abatement costs for public nuisances must be received as a special assessment against the affected property. (NRS 244.3603, 244.3605) **This bill provides that a city or county must allow a property owner at least 30 days to abate a condition or nuisance if the condition or nuisance: (1) is not an immediate danger to the public health, safety or welfare; and (2) was caused by the criminal activity of another person.** This bill authorizes a city or county to also collect any civil penalties imposed against the owner of the property as a special assessment against the property if the amount of the uncollected civil penalties after 12 months is more than \$5,000.

Under existing law, the maximum civil penalty that is authorized to be imposed on an owner of property in a city or county for failure to abate a chronic nuisance on the property is \$500 per day. (NRS 244.3603, 268.4124) **Sections 2 and 5** of this bill increase that maximum authorized civil penalty to ~~[\$1,000]~~ **\$750** per day if the relevant property is nonresidential property. **Section 3** of this bill provides a maximum civil penalty that a city may impose for the failure to abate an abandoned nuisance of ~~[\$1,000]~~ **\$750** per

day against an owner of nonresidential property and \$500 per day against an owner of residential property.

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

**Section 1.** NRS 268.4122 is hereby amended to read as follows:

268.4122 1. The governing body of a city may adopt by ordinance procedures pursuant to which the governing body or its designee may order an owner of property within the city to:

- (a) Repair, safeguard or eliminate a dangerous structure or condition;
  - (b) Clear debris, rubbish, refuse, litter, garbage, abandoned or junk vehicles or junk appliances which are not subject to the provisions of chapter 459 of NRS; or
  - (c) Clear weeds and noxious plant growth,
- ↳ to protect the public health, safety and welfare of the residents of the city.

2. An ordinance adopted pursuant to subsection 1 must:

- (a) Contain procedures pursuant to which the owner of the property is:
  - (1) Sent a notice, by certified mail, return receipt requested, of the existence on the property of a condition set forth in subsection 1 and the date by which the owner must abate the condition. ~~[- and]~~
  - (2) **If the condition is not an immediate danger to the public health, safety or welfare and was caused by the criminal activity of a person other than the owner, afforded a minimum of 30 days to abate the condition.**
  - (3) Afforded an opportunity for a hearing before the designee of the governing body and an appeal of that decision. The ordinance must specify whether all such appeals are to be made to the governing body or to a court of competent jurisdiction.
- (b) Provide that the date specified in the notice by which the owner must abate the condition is tolled for the period during which the owner requests a hearing and receives a decision.
- (c) Provide the manner in which the city will recover money expended for labor and materials used to abate the condition on the property if the owner fails to abate the condition.
- (d) Provide for civil penalties for each day that the owner did not abate the condition after the date specified in the notice by which the owner was requested to abate the condition.

(e) If the county board of health, city board of health or district board of health in whose jurisdiction the incorporated city is located has adopted a definition of garbage, use the definition of garbage adopted by the county board of health, city board of health or district board of health, as applicable.

3. The governing body or its designee may direct the city to abate the condition on the property and may recover the amount expended by the city for labor and materials used to abate the condition if:

(a) The owner has not requested a hearing within the time prescribed in the ordinance adopted pursuant to subsection 1 and has failed to abate the condition on the property within the period specified in the notice;

(b) After a hearing in which the owner did not prevail, the owner has not filed an appeal within the time prescribed in the ordinance adopted pursuant to subsection 1 and has failed to abate the condition within the period specified in the order; or

(c) The governing body or a court of competent jurisdiction has denied the appeal of the owner and the owner has failed to abate the condition within the period specified in the order.

4. In addition to any other reasonable means ~~for~~ *for* recovering money expended by the city to abate the condition ~~and~~ *and, except as otherwise provided in subsection 5, for collecting civil penalties imposed pursuant to the ordinance adopted pursuant to subsection 1,* the governing body may make the expense *and civil penalties* a special assessment against the property upon which the condition is or was located. The special assessment may be collected at the same time and in the same manner as ordinary county taxes are collected, and is subject to the same penalties and the same procedure and sale in case of delinquency as provided for ordinary county taxes. All laws applicable to the levy, collection and enforcement of county taxes are applicable to such a special assessment.

5. *Any civil penalties that have not been collected from the owner of the property may not be made a special assessment against the property pursuant to subsection 4 by the governing body unless:*

*(a) At least 12 months have elapsed after the date specified in the notice by which the owner must abate the condition or the date specified in the order of the governing body or court by which the owner must abate the condition, whichever is later;*

*(b) The owner has been billed, served or otherwise notified that the civil penalties are due; and*

*(c) The amount of the uncollected civil penalties is more than \$5,000.*

6. As used in this section, “dangerous structure or condition” means a structure or condition that may cause injury to or endanger the health, life, property, safety or welfare of the general public or the occupants, if any, of the real property on which the structure or condition is located. The term includes, without limitation, a structure or condition that:

(a) Does not meet the requirements of a code or regulation adopted pursuant to NRS 268.413 with respect to minimum levels of health, maintenance or safety; or

(b) Violates an ordinance, rule or regulation regulating health and safety enacted, adopted or passed by the governing body of a city, the violation of which is designated as a nuisance in the ordinance, rule or regulation.

**Sec. 2.** NRS 268.4124 is hereby amended to read as follows:

268.4124 1. The governing body of a city may, by ordinance, to protect the public health, safety and welfare of the residents of the city, adopt

procedures pursuant to which the city attorney may file an action in a court of competent jurisdiction to:

(a) Seek the abatement of a chronic nuisance that is located or occurring within the city;

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

(c) If applicable, seek penalties against the owner of the property within the city and any other appropriate relief.

2. An ordinance adopted pursuant to subsection 1 must:

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

(1) Sent notice, by certified mail, return receipt requested, by the city police or other person authorized to issue a citation, of the existence on the property of two or more nuisance activities and the date by which the owner must abate the condition to prevent the matter from being submitted to the city attorney for legal action. ~~and~~

(2) **If the nuisance is not an immediate danger to the public health, safety and welfare and was caused by the criminal activity of a person other than the owner, afforded a minimum of 30 days to abate the nuisance.**

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

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

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

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

(a) Impose a civil penalty :

(1) ***If the property is nonresidential property***, of not more than ~~+\$1,000+~~ ***\$750 per day; or***

(2) ***If the property is residential property, of not more than \$500 per day,***

➡ for each day that the condition was not abated after the date specified in the notice by which the owner was required to abate the condition;

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

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

(d) Order any other appropriate relief.

4. In addition to any other reasonable means authorized by the court for the recovery of money expended by the city to abate the chronic nuisance ~~§~~ **and, except as otherwise provided in subsection 5, for the collection of civil penalties imposed pursuant to subsection 3**, the governing body may make the expense **and civil penalties** a special assessment against the property upon which the chronic nuisance is or was located or occurring. The special assessment may be collected at the same time and in the same manner as ordinary county taxes are collected, and is subject to the same penalties and the same procedure and sale in case of delinquency as provided for ordinary county taxes. All laws applicable to the levy, collection and enforcement of county taxes are applicable to such a special assessment.

5. **Any civil penalties that have not been collected from the owner of the property may not be made a special assessment against the property pursuant to subsection 4 by the governing body unless:**

**(a) At least 12 months have elapsed after the date specified in the order of the court by which the owner must abate the chronic nuisance or, if the owner appeals that order, the date specified in the order of the appellate court by which the owner must abate the chronic nuisance, whichever is later;**

**(b) The owner has been billed, served or otherwise notified that the civil penalties are due; and**

**(c) The amount of the uncollected civil penalties is more than \$5,000.**

6. As used in this section:

(a) A “chronic nuisance” exists:

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

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

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

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

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

(I) The building or place has not been deemed safe for habitation by a governmental entity; or

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

(b) **“Commercial real estate” has the meaning ascribed to it in NRS 645.8711.**

(c) “Controlled substance analog” has the meaning ascribed to it in NRS 453.043.

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

~~(d)~~ (e) “Nuisance activity” means:

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

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

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

↪ a property or a person present on the property.

~~(f)~~ (g) **“Residential property” means:**

(1) ***Improved real estate that consists of not more than four residential units;***

(2) ***Unimproved real estate for which not more than four residential units may be developed or constructed pursuant to any zoning regulations or any development plan applicable to the real estate; or***

(3) ***A single-family residential unit, including, without limitation, a condominium, townhouse or home within a subdivision, if the unit is sold, leased or otherwise conveyed unit by unit, regardless of whether the unit is part of a larger building or parcel that consists of more than four units.***

↪ **The term does not include commercial real estate.**

**Sec. 3.** NRS 268.4126 is hereby amended to read as follows:

268.4126 1. The governing body of each city which is located in a county whose population is 100,000 or more may, by ordinance, to protect the public health, safety and welfare of the residents of the city, adopt procedures pursuant to which the city attorney may file an action in a court of competent jurisdiction to seek:

(a) The abatement of an abandoned nuisance that is located or occurring within the city;

(b) The repair, safeguarding or demolition of any structure or property where an abandoned nuisance is located or occurring within the city;

(c) Authorization for the city to take the actions described in paragraphs (a) and (b);

(d) Civil penalties against an owner of any structure or property where an abandoned nuisance is located or occurring within the city; and

(e) Any other appropriate relief.

2. An ordinance adopted pursuant to subsection 1 must:

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

(1) Sent notice, by certified mail, return receipt requested, by a person authorized by the city to issue a citation, of the existence on the property of two or more abandoned nuisance activities and the date by which the owner must abate the abandoned nuisance to prevent the matter from being submitted to the city attorney for legal action. ~~}; and~~

(2) **If the abandoned nuisance is not an immediate danger to the public health, safety or welfare and was caused by the criminal activity of a person other than the owner, afforded a minimum of 30 days to abate the abandoned nuisance.**

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

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

(c) Provide the manner in which the city will, if the owner fails to abate the abandoned nuisance, recover money expended for labor and materials used to:

(1) Abate the abandoned nuisance on the property; or

(2) If applicable, repair, safeguard or demolish a structure or property where the abandoned nuisance is located or occurring.

3. If the court finds that an abandoned nuisance exists, the court shall order the owner of the property to abate the abandoned nuisance or repair, safeguard or demolish any structure or property where the abandoned nuisance is located or occurring, and may:

(a) **Impose a civil penalty:**

(1) ***If the property is nonresidential property, of not more than ~~1,000~~ \$750 per day; or***

(2) ***If the property is residential property, of not more than \$500 per day,***

***↪ for each day that the abandoned nuisance was not abated after the date specified in the notice by which the owner was required to abate the abandoned nuisance;***

(b) If applicable, order the owner of the property to pay reasonable expenses for the relocation of any tenants who occupy the property legally and who are affected by the abandoned nuisance;

~~(c)~~ (c) If the owner of the property fails to comply with the order:

(1) Direct the city to abate the abandoned nuisance or repair, safeguard or demolish any structure or property where the abandoned nuisance is located or occurring; and

(2) Order the owner of the property to pay the city for the cost incurred by the city in taking the actions described in subparagraph (1); and

~~(d)~~ (d) Order any other appropriate relief.



4. In addition to any other reasonable means authorized by the court for the recovery of money expended by the city to abate the abandoned nuisance ~~and~~ **and, except as otherwise provided in subsection 5, for the collection of civil penalties imposed pursuant to subsection 3**, the governing body of the city may make the expense **and civil penalties** a special assessment against the property upon which the abandoned nuisance is or was located or occurring. The special assessment may be collected at the same time and in the same manner as ordinary county taxes are collected, and is subject to the same penalties and the same procedure and sale in case of delinquency as provided for ordinary county taxes. All laws applicable to the levy, collection and enforcement of county taxes are applicable to such a special assessment.

5. **Any civil penalties that have not been collected from the owner of the property may not be made a special assessment against the property pursuant to subsection 4 by the governing body unless:**

**(a) At least 12 months have elapsed after the date specified in the order of the court by which the owner must abate the abandoned nuisance or, if the owner appeals that order, the date specified in the order of the appellate court by which the owner must abate the abandoned nuisance, whichever is later;**

**(b) The owner has been billed, served or otherwise notified that the civil penalties are due; and**

**(c) The amount of the uncollected civil penalties is more than \$5,000.**

6. As used in this section:

(a) An “abandoned nuisance” exists on any property where a building or other structure is located on the property, the property is located in a city that is in a county whose population is 100,000 or more, the property has been vacant or substantially vacant for 12 months or more and:

(1) Two or more abandoned nuisance activities exist or have occurred on the property during any 12-month period; or

(2) A person associated with the property has caused or engaged in two or more abandoned nuisance activities during any 12-month period on the property or within 100 feet of the property.

(b) “Abandoned nuisance activity” means:

(1) Instances of unlawful breaking and entering or occupancy by unauthorized persons;

(2) The presence of graffiti, debris, litter, garbage, rubble, abandoned materials, inoperable vehicles or junk appliances;

(3) The presence of unsanitary conditions or hazardous materials;

(4) The lack of adequate lighting, fencing or security;

(5) Indicia of the presence or activities of gangs;

(6) Environmental hazards;

(7) Violations of city codes, ordinances or other adopted policy; or

(8) Any other activity, behavior, conduct or condition defined by the governing body of the city to constitute a threat to the public health, safety or welfare of the residents of or visitors to the city.

(c) **“Commercial real estate” has the meaning ascribed to it in NRS 645.8711.**

**(d)** “Person associated with the property” means a person who, on the occasion of an abandoned nuisance activity, has:

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

↳ a property or a person present on the property.

~~##(d)~~ **(e)** **“Residential property” means:**

**(1) Improved real estate that consists of not more than four residential units;**

**(2) Unimproved real estate for which not more than four residential units may be developed or constructed pursuant to any zoning regulations or any development plan applicable to the real estate; or**

**(3) A single-family residential unit, including, without limitation, a condominium, townhouse or home within a subdivision, if the unit is sold, leased or otherwise conveyed unit by unit, regardless of whether the unit is part of a larger building or parcel that consists of more than four units.**

↳ **The term does not include commercial real estate.**

**Sec. 4.** NRS 244.3601 is hereby amended to read as follows:

244.3601 1. Notwithstanding the abatement procedures set forth in NRS 244.360 or 244.3605, a board of county commissioners may, by ordinance, provide for a reasonable means to secure or summarily abate a dangerous structure or condition that at least three persons who enforce building codes, housing codes, zoning ordinances or local health regulations, or who are members of a local law enforcement agency or fire department, determine in a signed, written statement to be an imminent danger.

2. Except as otherwise provided in subsection 3, the owner of the property on which the structure or condition is located must be given reasonable written notice that is:

(a) If practicable, hand-delivered or sent prepaid by United States mail to the owner of the property; or

(b) Posted on the property,

↳ before the structure or condition is so secured. The notice must state clearly that the owner of the property may challenge the action to secure or summarily abate the structure or condition and must provide a telephone number and address at which the owner may obtain additional information.

3. If it is determined in the signed, written statement provided pursuant to subsection 1 that the structure or condition is an imminent danger and the result of the imminent danger is likely to occur before the notice and an opportunity to challenge the action can be provided pursuant to subsection 2, then the structure or condition which poses such an imminent danger that presents an immediate hazard may be summarily abated. A structure or condition summarily abated pursuant to this section may only be abated to the extent necessary to remove the imminent danger that presents an

immediate hazard. The owner of the structure or condition which is summarily abated must be given written notice of the abatement after its completion. The notice must state clearly that the owner of the property may seek judicial review of the summary abatement and must provide an address and telephone number at which the owner may obtain additional information concerning the summary abatement.

4. The costs of securing or summarily abating the structure or condition may be made a special assessment against the real property on which the structure or condition is located and may be collected pursuant to the provisions set forth in subsection 4 of NRS 244.360.

5. As used in this section:

(a) "Dangerous structure or condition" has the meaning ascribed to it in subsection ~~{5}~~ 6 of NRS 244.3605.

(b) "Imminent danger" means the existence of any structure or condition that could reasonably be expected to cause injury or endanger the life, safety, health or property of:

(1) The occupants, if any, of the real property on which the structure or condition is located; or

(2) The general public.

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

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

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

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

(c) If applicable, seek penalties against the owner of the property within the unincorporated area of the county and any other appropriate relief.

2. An ordinance adopted pursuant to subsection 1 must:

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

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

(2) **If the chronic nuisance is not an immediate danger to the public health, safety or welfare and was caused by the criminal activity of a person other than the owner, afforded a minimum of 30 days to abate the chronic nuisance.**

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

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

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

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

(a) Impose a civil penalty :

(1) *If the property is nonresidential property*, of not more than ~~[\$1,000]~~ \$750 per day; or

(2) *If the property is residential property, of not more than* \$500 per day ,

↳ for each day that the condition was not abated after the date specified in the notice by which the owner was required to abate the condition;

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

(c) Order any other appropriate relief.

4. In addition to any other reasonable means authorized by the court for the recovery of money expended by the county to abate the chronic nuisance ~~[,]~~ *and, except as otherwise provided in subsection 5, for the collection of civil penalties imposed pursuant to subsection 3*, the board may make the expense *and civil penalties* a special assessment against the property upon which the chronic nuisance is located or occurring. The special assessment may be collected pursuant to the provisions set forth in subsection 4 of NRS 244.360.

5. *Any civil penalties that have not been collected from the owner of the property may not be made a special assessment against the property pursuant to subsection 4 by the board unless:*

(a) *At least 12 months have elapsed after the date specified in the order of the court by which the owner must abate the chronic nuisance or, if the owner appeals that order, the date specified in the order of the appellate court by which the owner must abate the chronic nuisance, whichever is later;*

(b) *The owner has been billed, served or otherwise notified that the civil penalties are due; and*

(c) *The amount of the uncollected civil penalties is more than \$5,000.*

6. As used in this section:

(a) A “chronic nuisance” exists:

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

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

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

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

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

(I) The building or place has not been deemed safe for habitation by a governmental entity; or

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

(b) “Commercial real estate” has the meaning ascribed to it in NRS 645.8711.

(c) “Controlled substance analog” has the meaning ascribed to it in NRS 453.043.

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

~~(e)~~ (e) “Nuisance activity” means:

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

~~(f)~~ (f) “Person associated with the property” means:

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

→ the property or a person present on the property.

~~(g)~~ (g) “Residential property” means:

(1) *Improved real estate that consists of not more than four residential units;*

(2) *Unimproved real estate for which not more than four residential units may be developed or constructed pursuant to any zoning regulations or any development plan applicable to the real estate; or*

(3) *A single-family residential unit, including, without limitation, a condominium, townhouse or home within a subdivision, if the unit is sold, leased or otherwise conveyed unit by unit, regardless of whether the unit is part of a larger building or parcel that consists of more than four units.*

**↪ The term does not include commercial real estate.**

**Sec. 6.** NRS 244.3605 is hereby amended to read as follows:

244.3605 1. Notwithstanding the provisions of NRS 244.360 and 244.3601, the board of county commissioners of a county may, to abate public nuisances, adopt by ordinance procedures pursuant to which the board or its designee may order an owner of property within the county to:

(a) Repair, safeguard or eliminate a dangerous structure or condition;

(b) Clear debris, rubbish and refuse which is not subject to the provisions of chapter 459 of NRS;

(c) Clear weeds and noxious plant growth; or

(d) Repair, clear, correct, rectify, safeguard or eliminate any other public nuisance as defined in the ordinance adopted pursuant to this section,

↪ to protect the public health, safety and welfare of the residents of the county.

2. An ordinance adopted pursuant to subsection 1 must:

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

(1) Sent notice, by certified mail, return receipt requested, of the existence on the owner's property of a public nuisance set forth in subsection 1 and the date by which the owner must abate the public nuisance. ~~[, and]~~

(2) **If the public nuisance is not an immediate danger to the public health, safety or welfare and was caused by the criminal activity of a person other than the owner, afforded a minimum of 30 days to abate the public nuisance.**

(3) Afforded an opportunity for a hearing before the designee of the board and an appeal of that decision either to the board or to a court of competent jurisdiction, as determined by the ordinance adopted pursuant to subsection 1.

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

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

(d) Provide for civil penalties for each day that the owner did not abate the public nuisance after the date specified in the notice by which the owner was required to abate the public nuisance.

3. The county may abate the public nuisance on the property and may recover the amount expended by the county for labor and materials used to abate the public nuisance if:

(a) The owner has not requested a hearing within the time prescribed in the ordinance adopted pursuant to subsection 1 and has failed to abate the public nuisance on the owner's property within the period specified in the notice;

(b) After a hearing in which the owner did not prevail, the owner has not filed an appeal within the time prescribed in the ordinance adopted pursuant to subsection 1 and has failed to abate the public nuisance within the period specified in the order; or

(c) The board or a court of competent jurisdiction has denied the appeal of the owner and the owner has failed to abate the public nuisance within the period specified in the order.

4. In addition to any other reasonable means ~~for~~ *for* recovering money expended by the county to abate the public nuisance ~~and, except as otherwise provided in subsection 5, for collecting civil penalties imposed pursuant to the ordinance adopted pursuant to subsection 1,~~ the expense ~~is~~ *is* and civil penalties are a special assessment against the property upon which the public nuisance is located, and this special assessment may be collected pursuant to the provisions set forth in subsection 4 of NRS 244.360.

5. *Any civil penalties that have not been collected from the owner of the property are not a special assessment against the property pursuant to subsection 4 unless:*

*(a) At least 12 months have elapsed after the date specified in the notice by which the owner must abate the public nuisance or the date specified in the order of the board or court by which the owner must abate the public nuisance, whichever is later;*

*(b) The owner has been billed, served or otherwise notified that the civil penalties are due; and*

*(c) The amount of the uncollected civil penalties is more than \$5,000.*

6. As used in this section, "dangerous structure or condition" means a structure or condition that is a public nuisance which may cause injury to or endanger the health, life, property or safety of the general public or the occupants, if any, of the real property on which the structure or condition is located. The term includes, without limitation, a structure or condition that:

(a) Does not meet the requirements of a code or regulation adopted pursuant to NRS 244.3675 with respect to minimum levels of health or safety; or

(b) Violates an ordinance, rule or regulation regulating health and safety enacted, adopted or passed by the board of county commissioners of a county, the violation of which is designated by the board as a public nuisance in the ordinance, rule or regulation.

**Sec. 7.** This act becomes effective upon passage and approval.

Assemblywoman Kirkpatrick moved that the Assembly concur in the Senate Amendment No. 748 to Assembly Bill No. 360.

Remarks by Assemblywoman Kirkpatrick.

Motion carried by a constitutional majority.

Bill ordered enrolled.

Assembly Bill No. 301.

The following Senate amendment was read:

Amendment No. 688.

AN ACT relating to civil rights; revising provisions governing the restoration of the right to vote to persons who have been convicted of a felony; revising provisions governing the registration to vote of a person convicted of a felony; revising provisions governing the cancellation of the registration to vote of a person convicted of a felony; revising provisions governing a challenge to the right to vote of a person convicted of a felony; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires a county clerk to cancel the registration to vote of a person who has been convicted of a felony unless the person's right to vote has been restored: (1) under the laws of this State; or (2) if the conviction occurred in another state, under the laws of that state. (NRS 293.540) Under existing law, unless a person has been convicted of certain specified felonies, a person who has been convicted of a felony is restored to the right to vote upon: (1) an honorable discharge from probation; (2) the sealing of his or her records by a court; (3) the granting of a pardon ~~with~~ **with the restoration of the right to vote**; (4) an honorable discharge from parole; or (5) being released from prison because of the expiration of his or her sentence. (NRS 176A.850, 179.285, 213.090, 213.155, 213.157) **Sections 4, 5 and 7** of this bill remove all exceptions to the restoration of the right to vote of a person convicted of a felony so that any person convicted of a felony in this State is restored to the right to vote upon: (1) an honorable discharge from probation; (2) the sealing of his or her records by a court; (3) the granting of a pardon ~~with~~ **with the restoration of the right to vote**; (4) an honorable discharge from parole; or (5) the completion of his or her sentence and release from prison.

**Sections 10-15** of this bill revise provisions relating to voter registration. Under existing law, the civil right to vote of a person who is resident of this State and who has been convicted of a felony in another state is determined by the law of that other state. (NRS 293.540) **Section 10.3** of this bill provides that a resident of this State who was convicted of a felony in another state is restored to the right to vote in this State if he or she: (1) has been released from prison because of the expiration of his or her sentence; (2) has received a discharge from probation or parole which is not a dishonorable discharge; or (3) has received a pardon, or an order from a court of competent jurisdiction, which restores the person's civil right to vote.



**Section 10.5** of this bill prohibits a county clerk from requiring a person seeking to register to vote to present documentation indicating that the person's right to vote has been restored following a conviction for a felony ~~under the laws of~~ **in** this State or another state. **Section 10.7** of this bill provides for an appeal to the Secretary of State and the district court if the county clerk cancels the voter registration of, or refuses to register, a person on the ground that the person is ineligible to vote because the person: (1) has been convicted of a felony ~~under the laws of~~ **in** this State or another state; and (2) has not had his or her civil right to vote restored. **Section 12** revises the procedures to be followed by a county clerk upon a determination based on specific evidence that a person is ineligible to vote because the person: (1) has been convicted of a felony ~~under the laws of~~ **in** this State or another state; and (2) has not had his or her civil right to vote restored. **Section 13** revises the procedure for reregistering a person to vote after a cancellation of the person's right to vote because of a felony conviction. **Section 14** revises the procedures to be followed by a county clerk, district attorney or court upon a receipt of a challenge providing that a person is ineligible to vote because the person: (1) has been convicted of a felony ~~under the laws of~~ **in** this State or another state; and (2) has not had his or her civil right to vote restored.

**Section 16 of this bill specifies that the civil right to vote is restored to residents of this State who: (1) have not had their right to vote restored; (2) are not on probation or parole or serving a sentence of imprisonment on July 1, 2011; and (3) before July 1, 2011, were honorably discharged from probation or parole, pardoned with the restoration of the right to vote or released from prison after serving their sentences. Section 16 further provides that notification to such persons of the restoration of the civil right to vote is not required.**

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. 3.** (Deleted by amendment.)

**Sec. 4.** NRS 213.155 is hereby amended to read as follows:

213.155 1. ~~{Except as otherwise provided in subsection 2, a}~~ A person who receives an honorable discharge from parole pursuant to NRS 213.154:

(a) Is immediately restored to the ~~{following}~~ civil ~~{rights}~~:

~~(1) The~~ right to vote. ~~{; and~~

~~(2) The~~

**(b) Except as otherwise provided in subsection 2:**

**(1) Is immediately restored to the** right to serve as a juror in a civil action.

~~{(b)}~~ **(2)** Four years after the date of his or her honorable discharge from parole, is restored to the right to hold office.

~~[(e)]~~ (3) Six years after the date of his or her honorable discharge from parole, is restored to the right to serve as a juror in a criminal action.

2. Except as otherwise provided in this subsection, the civil rights set forth in *paragraph (b) of subsection 1* are not restored to a person who has received an honorable discharge from parole if the person has previously been convicted in this State:

(a) Of a category A felony.

(b) Of an offense that would constitute a category A felony if committed as of the date of his or her honorable discharge from parole.

(c) Of a category B felony involving the use of force or violence that resulted in substantial bodily harm to the victim.

(d) Of an offense involving the use of force or violence that resulted in substantial bodily harm to the victim and that would constitute a category B felony if committed as of the date of his or her honorable discharge from parole.

(e) Two or more times of a felony, unless a felony for which the person has been convicted arose out of the same act, transaction or occurrence as another felony, in which case the convictions for those felonies shall be deemed to constitute a single conviction for the purposes of this paragraph.

↪ A person described in this subsection may petition a court of competent jurisdiction for an order granting the restoration of his or her civil rights as set forth in *paragraph (b) of subsection 1*.

3. ~~Except for a person subject to the limitations set forth in subsection 2,~~  
~~upon~~ *Upon* his or her honorable discharge from parole, a person so discharged must be given an official document which provides:

(a) That the person has received an honorable discharge from parole;

(b) That the person has been restored to his or her civil ~~rights~~ *right* to vote ~~and~~ *as of the date of his or her honorable discharge from parole;*  
*and*

(c) *If the person is not subject to the limitations set forth in subsection 2:*

(1) *That the person has been restored to his or her civil right* to serve as a juror in a civil action as of the date of his or her honorable discharge from parole;

~~[(e)]~~ (2) The date on which his or her civil right to hold office will be restored to the person pursuant to *subparagraph (2) of paragraph (b) of subsection 1*; and

~~[(d)]~~ (3) The date on which his or her civil right to serve as a juror in a criminal action will be restored to the person pursuant to *subparagraph (3) of paragraph (b) of subsection 1*.

4. Subject to the limitations set forth in subsection 2, a person who has been honorably discharged from parole in this State or elsewhere and whose official documentation of his or her honorable discharge from parole is lost, damaged or destroyed may file a written request with ~~the court of competent jurisdiction to restore~~ *the district court in and for the county in which the person resides for the issuance of an order declaring that* his or her civil

rights *have been restored* pursuant to this section. Upon verification that the person has been honorably discharged from parole and is eligible to be restored to *any of* the civil rights set forth in subsection 1, the court shall issue an order restoring the person to the civil rights ~~set forth in~~ *to which the person is entitled to be restored pursuant to subsection 1, this section.* A person must not be required to pay a fee to receive such an order.

5. A person who has been honorably discharged from parole in this State or elsewhere may present:

(a) Official documentation of his or her honorable discharge from parole, if it contains the provisions set forth in subsection 3; or

(b) A court order restoring his or her civil rights,  
 ↪ as proof that the person has been restored to *any of* the civil rights set forth in ~~subsection 1,~~ *this section.*

6. The Board may adopt regulations necessary or convenient for the purposes of this section.

**Sec. 5.** NRS 213.157 is hereby amended to read as follows:

213.157 1. ~~Except as otherwise provided in subsection 2, a~~ A person convicted of a felony in the State of Nevada who has ~~served~~ *completed* his or her sentence and has been released from prison:

(a) Is immediately restored to the ~~following~~ civil ~~rights:~~

~~(1) The~~ right to vote. ~~and~~

~~(2) The~~

*(b) Except as otherwise provided in subsection 2:*

*(1) Is immediately restored to the* right to serve as a juror in a civil action.

~~(b)~~ *(2)* Four years after the date of his or her release from prison, is restored to the right to hold office.

~~(c)~~ *(3)* Six years after the date of his or her release from prison, is restored to the right to serve as a juror in a criminal action.

2. Except as otherwise provided in this subsection, the civil rights set forth in *paragraph (b) of* subsection 1 are not restored to a person who has been released from prison if the person has previously been convicted in this State:

(a) Of a category A felony.

(b) Of an offense that would constitute a category A felony if committed as of the date of his or her release from prison.

(c) Of a category B felony involving the use of force or violence that resulted in substantial bodily harm to the victim.

(d) Of an offense involving the use of force or violence that resulted in substantial bodily harm to the victim and that would constitute a category B felony if committed as of the date of his or her release from prison.

(e) Two or more times of a felony, unless a felony for which the person has been convicted arose out of the same act, transaction or occurrence as another felony, in which case the convictions for those felonies shall be deemed to constitute a single conviction for the purposes of this paragraph.

↪ A person described in this subsection may petition a court of competent jurisdiction for an order granting the restoration of his or her civil rights as set forth in **paragraph (b) of subsection 1**.

3. ~~Except for a person subject to the limitations set forth in subsection 2, upon~~ **Upon** his or her release from prison, a person so released must be given an official document which provides:

(a) That the person has been released from prison;

(b) That the person has been restored to his or her civil ~~rights~~ **right** to vote ~~and~~ **as of the date of his or her release from prison; and**

(c) **If the person is not subject to the limitations set forth in subsection 2:**

(1) **That the person has been restored to his or her civil right** to serve as a juror in a civil action as of the date of his or her release from prison;

~~(e)~~ (2) The date on which his or her civil right to hold office will be restored to the person pursuant to **subparagraph (2) of paragraph (b)** of subsection 1; and

~~(d)~~ (3) The date on which his or her civil right to serve as a juror in a criminal action will be restored to the person pursuant to **subparagraph (3) of paragraph (e) (b)** of subsection 1.

4. Subject to the limitations set forth in subsection 2, a person who has **completed his or her sentence and has** been released from prison in this State or elsewhere and whose official documentation of his or her release from prison is lost, damaged or destroyed may file a written request with ~~a court of competent jurisdiction to restore~~ **the district court in and for the county in which the person resides for the issuance of an order declaring that his or her civil rights have been restored** pursuant to this section. Upon verification that the person has **completed his or her sentence, has** been released from prison and is eligible to be restored to **any of** the civil rights set forth in subsection 1, the court shall issue an order restoring the person to the civil rights ~~set forth in~~ **to which the person is entitled to be restored pursuant to subsection 1, this section**. A person must not be required to pay a fee to receive such an order.

5. A person who has **completed his or her sentence and has** been released from prison in this State or elsewhere may present:

(a) Official documentation of his or her **completion of sentence and** release from prison, if it contains the provisions set forth in subsection 3; or

(b) A court order restoring his or her civil rights,

↪ as proof that the person has been restored to **any of** the civil rights set forth in ~~subsection 1,~~ **this section**.

**Sec. 6.** (Deleted by amendment.)

**Sec. 7.** NRS 176A.850 is hereby amended to read as follows:

176A.850 1. A person who:

(a) Has fulfilled the conditions of probation for the entire period thereof;

(b) Is recommended for earlier discharge by the Division; or

(c) Has demonstrated fitness for honorable discharge but because of economic hardship, verified by the Division, has been unable to make restitution as ordered by the court,

↪ may be granted an honorable discharge from probation by order of the court.

2. Any amount of restitution remaining unpaid constitutes a civil liability arising upon the date of discharge.

3. ~~Except as otherwise provided in subsection 4, a~~ A person who has been honorably discharged from probation:

(a) Is free from the terms and conditions of probation.

(b) Is immediately restored to the ~~following~~ civil ~~rights:~~

~~(1) The~~ right to vote. ~~;~~ and

~~(2) The~~

*(c) Except as otherwise provided in subsection 4:*

*(1) Is immediately restored to the* right to serve as a juror in a civil action.

~~(e)~~ *(2)* Four years after the date of honorable discharge from probation, is restored to the right to hold office.

~~(d)~~ *(3)* Six years after the date of honorable discharge from probation, is restored to the right to serve as a juror in a criminal action.

~~(e)~~ *(d)* If the person meets the requirements of NRS 179.245, may apply to the court for the sealing of records relating to the conviction.

~~(f)~~ *(e)* Must be informed of the provisions of this section and NRS 179.245 in the person's probation papers.

~~(g)~~ *(f)* Is exempt from the requirements of chapter 179C of NRS, but is not exempt from the requirements of chapter 179D of NRS.

~~(h)~~ *(g)* Shall disclose the conviction to a gaming establishment and to the State and its agencies, departments, boards, commissions and political subdivisions, if required in an application for employment, license or other permit. As used in this paragraph, "establishment" has the meaning ascribed to it in NRS 463.0148.

~~(i)~~ *(h)* Except as otherwise provided in paragraph ~~(h)~~, *(g)*, need not disclose the conviction to an employer or prospective employer.

4. Except as otherwise provided in this subsection, the civil rights set forth in *paragraph (c) of* subsection 3 are not restored to a person honorably discharged from probation if the person has previously been convicted in this State:

(a) Of a category A felony.

(b) Of an offense that would constitute a category A felony if committed as of the date of the honorable discharge from probation.

(c) Of a category B felony involving the use of force or violence that resulted in substantial bodily harm to the victim.

(d) Of an offense involving the use of force or violence that resulted in substantial bodily harm to the victim and that would constitute a category B felony if committed as of the date of honorable discharge from probation.

(e) Two or more times of a felony, unless a felony for which the person has been convicted arose out of the same act, transaction or occurrence as another felony, in which case the convictions for those felonies shall be deemed to constitute a single conviction for the purposes of this paragraph.

↪ A person described in this subsection may petition a court of competent jurisdiction for an order granting the restoration of civil rights as set forth in **paragraph (c) of subsection 3.**

5. The prior conviction of a person who has been honorably discharged from probation may be used for purposes of impeachment. In any subsequent prosecution of the person, the prior conviction may be pleaded and proved if otherwise admissible.

6. ~~Except for a person subject to the limitations set forth in subsection 4, upon~~ **Upon** honorable discharge from probation, the person so discharged must be given an official document which provides:

(a) That the person has received an honorable discharge from probation;

(b) That the person has been restored to his or her civil ~~rights~~ **right** to vote ~~and~~ **as of the date of honorable discharge from probation; and**

(c) **If the person is not subject to the limitations set forth in subsection 4:**

(1) **That the person has been restored to his or her civil right** to serve as a juror in a civil action as of the date of honorable discharge from probation;

~~(e)~~ (2) The date on which the person's civil right to hold office will be restored pursuant to **subparagraph (2) of paragraph (c) of subsection 3;** and

~~(d)~~ (3) The date on which the person's civil right to serve as a juror in a criminal action will be restored pursuant to **subparagraph (3) of paragraph (c) of subsection 3.**

7. Subject to the limitations set forth in subsection 4, a person who has been honorably discharged from probation in this State or elsewhere and whose official documentation of honorable discharge from probation is lost, damaged or destroyed may file a written request with ~~a court of competent jurisdiction to restore the person's~~ **the district court in and for the county in which the person resides for the issuance of an order declaring that his or her civil rights have been restored** pursuant to this section. Upon verification that the person has been honorably discharged from probation and is eligible to be restored to **any of** the civil rights set forth in subsection 3, the court shall issue an order restoring the person to the civil rights ~~set forth in~~ **to which the person is entitled to be restored pursuant to subsection 3.** ~~this section.~~ A person must not be required to pay a fee to receive such an order.

8. A person who has been honorably discharged from probation in this State or elsewhere may present:

(a) Official documentation of honorable discharge from probation, if it contains the provisions set forth in subsection 6; or

(b) A court order restoring the person's civil rights,

↪ as proof that the person has been restored to **any of** the civil rights set forth in ~~subsection 3.~~ **this section.**

**Sec. 8.** (Deleted by amendment.)

**Sec. 9.** (Deleted by amendment.)

**Sec. 10.** Chapter 293 of NRS is hereby amended by adding thereto the provisions set forth as sections 10.3, 10.5 and 10.7 of this act.

**Sec. 10.3.** *A person who is a resident of this State and who has been convicted of a felony ~~under the law of~~ in another state is restored to the civil right to vote in this State if the person:*

*1. Has been released from prison because of the completion of his or her sentence;*

*2. Has received a discharge from probation or parole which is not a dishonorable discharge or the equivalent thereof; or*

*3. Has received a pardon or an order from a court of competent jurisdiction which restores his or her civil right to vote.*

**Sec. 10.5.** *A county clerk shall not ask or require a person seeking to register to vote to present:*

*1. A court order indicating that the person's civil right to vote has been restored following a conviction for a felony ~~under the laws of~~ in this State or another state; or*

*2. Any other documentation indicating that the person's civil right to vote has been restored following a conviction for a felony ~~under the laws of~~ in this State or another state.*

**Sec. 10.7.** *1. If a county clerk cancels the registration of a registrant pursuant to subsection 3 of NRS 293.540 or refuses to reregister an elector for a reason stated in subsection 2 of NRS 293.543, the registrant or elector may appeal to the Secretary of State by providing to the Secretary of State written notice of the appeal and any relevant evidence, which may include, without limitation, an affirmation under penalty of perjury that the registrant or elector is a lawful resident of this State and:*

*(a) Has never been convicted of a felony ~~under the laws of~~ in this State or another state; or*

*(b) Has been convicted of a felony ~~under the laws of~~ in this State but has been restored to the civil right to vote pursuant to the provisions of NRS 176A.850, 179.285, 213.090, 213.155 or 213.157 or has been convicted of a felony ~~under the laws of~~ in another state but has been restored to the civil right to vote in this State pursuant to the provisions of section 10.3 of this act.*

*2. If the Secretary of State receives relevant evidence pursuant to subsection 1 and no other evidence exists to support the cancellation of the registration of the appellant or the refusal to reregister the appellant, the Secretary of State must issue an order that the appellant be registered to vote in the county of which the appellant is a resident.*

*3. If:*

*(a) The cancellation of the registration or refusal to reregister occurred more than 60 days before the date of any election and the Secretary of State does not issue an order pursuant to subsection 2 within 60 days after*

receipt of a notice of appeal and relevant evidence pursuant to subsection 1; or

(b) The cancellation of the registration or refusal to reregister occurred 60 days or less before the date of any election and the Secretary of State does not issue an order pursuant to subsection 2 within 40 days after receipt of a notice of appeal and relevant evidence pursuant to subsection 1,

↳ the registrant or elector who filed the appeal with the Secretary of State may bring a civil action for declaratory or injunctive relief in the district court in and for the county where the registrant or elector resides. The court shall give the civil action priority over other civil matters to which priority is not given by other provisions of NRS.

4. If, within 30 days before any election, a county clerk cancels the registration of a registrant pursuant to subsection 3 of NRS 293.540 or refuses to reregister an elector for a reason stated in subsection 2 of NRS 293.543, the registrant or elector may, without submitting an appeal to the Secretary of State pursuant to subsection 1, bring a civil action for declaratory or injunctive relief in the district court in and for the county where the registrant or elector resides. The court shall give the civil action priority over other civil matters to which priority is not given by other provisions of NRS.

Sec. 11. NRS 293.177 is hereby amended to read as follows:

293.177 1. Except as otherwise provided in NRS 293.165, a name may not be printed on a ballot to be used at a primary election unless the person named has filed a declaration of candidacy or an acceptance of candidacy, and has paid the fee required by NRS 293.193 not earlier than:

(a) For a candidate for judicial office, the first Monday in January of the year in which the election is to be held nor later than 5 p.m. on the second Friday after the first Monday in January; and

(b) For all other candidates, the first Monday in March of the year in which the election is to be held nor later than 5 p.m. on the second Friday after the first Monday in March.

2. A declaration of candidacy or an acceptance of candidacy required to be filed by this section must be in substantially the following form:

(a) For partisan office:

DECLARATION OF CANDIDACY OF ..... FOR THE  
OFFICE OF .....

State of Nevada

County of .....

For the purpose of having my name placed on the official ballot as a candidate for the ..... Party nomination for the office of ....., I, the undersigned ....., do swear or affirm under penalty of perjury that I actually, as opposed to constructively, reside at ....., in the City or Town of ....., County of ....., State of Nevada; that my actual, as opposed to



constructive, residence in the State, district, county, township, city or other area prescribed by law to which the office pertains began on a date at least 30 days immediately preceding the date of the close of filing of declarations of candidacy for this office; that my telephone number is ....., and the address at which I receive mail, if different than my residence, is .....; that I am registered as a member of the ..... Party; that I am a qualified elector pursuant to Section 1 of Article 2 of the Constitution of the State of Nevada; that if I have ever been convicted of treason or a felony, my civil rights have been restored ; ~~by a court of competent jurisdiction;~~ that I have not, in violation of the provisions of NRS 293.176, changed the designation of my political party or political party affiliation on an official application to register to vote in any state since December 31 before the closing filing date for this election; that I generally believe in and intend to support the concepts found in the principles and policies of that political party in the coming election; that if nominated as a candidate of the ..... Party at the ensuing election, I will accept that nomination and not withdraw; that I will not knowingly violate any election law or any law defining and prohibiting corrupt and fraudulent practices in campaigns and elections in this State; that I will qualify for the office if elected thereto, including, but not limited to, complying with any limitation prescribed by the Constitution and laws of this State concerning the number of years or terms for which a person may hold the office; and that I understand that my name will appear on all ballots as designated in this declaration.

(Designation of name)

(Signature of candidate for office)

Subscribed and sworn to before me  
this ..... day of the month of ..... of the year .....

Notary Public or other person  
authorized to administer an oath  
(b) For nonpartisan office:

DECLARATION OF CANDIDACY OF ..... FOR THE  
OFFICE OF .....

State of Nevada  
County of .....

For the purpose of having my name placed on the official ballot as a candidate for the office of ....., I, the undersigned ....., do swear or affirm under penalty of perjury that I actually, as opposed to constructively, reside at ....., in the City or Town of ....., County of ....., State of Nevada; that my actual, as opposed to constructive, residence in the State, district, county, township, city or other area prescribed by law to which the office pertains began on a date at least 30 days

immediately preceding the date of the close of filing of declarations of candidacy for this office; that my telephone number is ....., and the address at which I receive mail, if different than my residence, is .....; that I am a qualified elector pursuant to Section 1 of Article 2 of the Constitution of the State of Nevada; that if I have ever been convicted of treason or a felony, my civil rights have been restored ; ~~by a court of competent jurisdiction;~~ that if nominated as a nonpartisan candidate at the ensuing election, I will accept the nomination and not withdraw; that I will not knowingly violate any election law or any law defining and prohibiting corrupt and fraudulent practices in campaigns and elections in this State; that I will qualify for the office if elected thereto, including, but not limited to, complying with any limitation prescribed by the Constitution and laws of this State concerning the number of years or terms for which a person may hold the office; and my name will appear on all ballots as designated in this declaration.

(Designation of name)

(Signature of candidate for office)

Subscribed and sworn to before me  
 this ..... day of the month of ..... of the year .....

Notary Public or other person  
 authorized to administer an oath

3. The address of a candidate which must be included in the declaration of candidacy or acceptance of candidacy pursuant to subsection 2 must be the street address of the residence where the candidate actually, as opposed to constructively, resides in accordance with NRS 281.050, if one has been assigned. The declaration or acceptance of candidacy must not be accepted for filing if:

- (a) The candidate’s address is listed as a post office box unless a street address has not been assigned to his or her residence; or
- (b) The candidate does not present to the filing officer:

- (1) A valid driver’s license or identification card issued by a governmental agency that contains a photograph of the candidate and the candidate’s residential address; or

- (2) A current utility bill, bank statement, paycheck, or document issued by a governmental entity, including a check which indicates the candidate’s name and residential address, but not including a voter registration card issued pursuant to NRS 293.517.

4. The filing officer shall retain a copy of the proof of identity and residency provided by the candidate pursuant to paragraph (b) of subsection

3. Such a copy:

- (a) May not be withheld from the public; and

(b) Must not contain the social security number or driver's license or identification card number of the candidate.

5. By filing the declaration or acceptance of candidacy, the candidate shall be deemed to have appointed the filing officer for the office as his or her agent for service of process for the purposes of a proceeding pursuant to NRS 293.182. Service of such process must first be attempted at the appropriate address as specified by the candidate in the declaration or acceptance of candidacy. If the candidate cannot be served at that address, service must be made by personally delivering to and leaving with the filing officer duplicate copies of the process. The filing officer shall immediately send, by registered or certified mail, one of the copies to the candidate at the specified address, unless the candidate has designated in writing to the filing officer a different address for that purpose, in which case the filing officer shall mail the copy to the last address so designated.

6. If the filing officer receives credible evidence indicating that a candidate has been convicted of a felony and has not had his or her civil rights restored, ~~[by a court of competent jurisdiction,]~~ the filing officer:

(a) May conduct an investigation to determine whether the candidate has been convicted of a felony and, if so, whether the candidate has had his or her civil rights restored; ~~[by a court of competent jurisdiction,]~~ and

(b) Shall transmit the credible evidence and the findings from such investigation to the Attorney General, if the filing officer is the Secretary of State, or to the district attorney, if the filing officer is a person other than the Secretary of State.

7. The receipt of information by the Attorney General or district attorney pursuant to subsection 6 must be treated as a challenge of a candidate pursuant to subsections 4 and 5 of NRS 293.182. If the ballots are printed before a court of competent jurisdiction makes a determination that a candidate has been convicted of a felony and has not had his or her civil rights restored, ~~[by a court of competent jurisdiction,]~~ the filing officer must post a notice at each polling place where the candidate's name will appear on the ballot informing the voters that the candidate is disqualified from entering upon the duties of the office for which the candidate filed the declaration of candidacy or acceptance of candidacy.

**Sec. 12.** NRS 293.540 is hereby amended to read as follows:

293.540 The county clerk shall cancel the registration:

1. If the county clerk has personal knowledge of the death of the person registered, or if an authenticated certificate of the death of any elector is filed in the county clerk's office.

2. If the insanity or mental incompetence of the person registered is legally established.

3. Upon ~~the~~ a determination *based on specific evidence* that the person registered has been convicted of a felony unless:

(a) If the person registered was convicted of a felony in this State, the right to vote of the person has been restored pursuant to the provisions of NRS 176A.850, 179.285, 213.090, 213.155 or 213.157.

(b) If the person registered was convicted of a felony in another state, the right to vote of the person has been restored pursuant to the ~~laws of the state in which the person was convicted.~~ *provisions of section 10.3 of this act.*

*↪ Before cancelling a registration pursuant to this subsection, the county clerk shall notify the registrant and provide to the registrant an affidavit which allows the registrant to affirm under penalty of perjury that he or she is a lawful resident of this State and that he or she has never been convicted of a felony ~~under the laws of~~ in this State or another state or, if so, has had his or her civil right to vote in this State restored pursuant to the provisions of NRS 176A.850, 179.285, 213.090, 213.155 or 213.157 or pursuant to the provisions of section 10.3 of this act. If the registrant so affirms or presents a court order or official documentation indicating that he or she has had his or her civil right to vote in this State restored pursuant to the provisions of NRS 176A.850, 179.285, 213.090, 213.155 or 213.157 or pursuant to the provisions of section 10.3 of this act, the county clerk may not cancel the registration unless the county clerk has specific, documentary evidence that the registrant is ineligible to vote in this State. If the registrant fails to respond within 30 days after receiving the notice pursuant to this subsection, the county clerk may cancel the registration.*

4. Upon the production of a certified copy of the judgment of any court directing the cancellation to be made.

5. Upon the request of any registered voter to affiliate with any political party or to change affiliation, if that change is made before the end of the last day to register to vote in the election.

6. At the request of the person registered.

7. If the county clerk has discovered an incorrect registration pursuant to the provisions of NRS 293.5235, 293.530 or 293.535 and the elector has failed to respond or appear to vote within the required time.

8. As required by NRS 293.541.

9. Upon verification that the application to register to vote is a duplicate if the county clerk has the original or another duplicate of the application on file in the county clerk's office.

**Sec. 13.** NRS 293.543 is hereby amended to read as follows:

293.543 1. If the registration of an elector is cancelled pursuant to subsection 2 of NRS 293.540, the county clerk shall reregister the elector upon notice from the clerk of the district court that the elector has been declared sane or mentally competent by the district court.

2. If the registration of an elector is cancelled pursuant to subsection 3 of NRS 293.540, the elector may reregister ~~after presenting satisfactory evidence which demonstrates that the elector's:~~ *if:*

(a) ~~Conviction~~ *The elector's conviction* has been overturned; or

(b) ~~Civil rights have been restored:~~

(1) ~~If the elector was convicted in this State, pursuant to the provisions of NRS 213.090, 213.155 or 213.157.~~

(2) ~~If the elector was convicted in another state, pursuant to the laws of the state in which he or she was convicted.]~~ *The elector has been restored to his or her civil right to vote in this State pursuant to the provisions of NRS 176A.850, 179.285, 213.090, 213.155 or 213.157 or pursuant to the provisions of section 10.3 of this act.*

*↪ A county clerk shall not require an elector seeking to reregister pursuant to this subsection to present any information or documentation other than the information and documentation required for a person to register to vote pursuant to this chapter, unless the county clerk has specific evidence that the elector has been convicted of a felony ~~under the laws of~~ in this State or another state and has not had his or her civil right to vote in this State restored pursuant to the provisions of NRS 176A.850, 179.285, 213.090, 213.155 or 213.157 or pursuant to the provisions of section 10.3 of this act. If the county clerk has or receives such specific evidence, the county clerk must notify the elector of that evidence and provide to the elector an affidavit which allows the elector to affirm under penalty of perjury that he or she is a lawful resident of this State and that he or she has never been convicted of a felony ~~under the laws of~~ in this State or another state or, if so, has had his or her civil right to vote in this State restored pursuant to the provisions of NRS 176A.850, 179.285, 213.090, 213.155 or 213.157 or pursuant to the provisions of section 10.3 of this act. If the registrant so affirms or presents a court order or official documentation indicating that he or she has had his or her civil right to vote in this State restored pursuant to the provisions of NRS 176A.850, 179.285, 213.090, 213.155 or 213.157 or pursuant to the provisions of section 10.3 of this act, the county clerk must reregister the elector.*

3. If the registration of an elector is cancelled pursuant to the provisions of subsection 5 of NRS 293.540, the elector may reregister immediately.

4. If the registration of an elector is cancelled pursuant to the provisions of subsection 6 of NRS 293.540, after the close of registration for a primary election, the elector may not reregister until after the primary election.

**Sec. 14.** NRS 293.547 is hereby amended to read as follows:

293.547 1. After the 30th day but not later than the 25th day before any election, a written challenge may be filed with the county clerk.

2. A registered voter may file a written challenge if:

(a) He or she is registered to vote in the same precinct as the person whose right to vote is challenged; and

(b) The challenge is based on the personal knowledge of the registered voter.

3. The challenge must be signed and verified by the registered voter and name the person whose right to vote is challenged and the ground of the challenge.

4. A challenge filed pursuant to this section must not contain the name of more than one person whose right to vote is challenged. The county clerk shall not accept for filing any challenge which contains more than one such name.

5. The county clerk shall:

(a) File the challenge in the registrar of voters' register and:

(1) In counties where records of registration are not kept by computer, he or she shall attach a copy of the challenge to the challenged registration in the election board register.

(2) In counties where records of registration are kept by computer, he or she shall have the challenge printed on the computer entry for the challenged registration and add a copy of it to the election board register.

(b) Within 5 days after a challenge is filed, mail a notice in the manner set forth in NRS 293.530 to the person whose right to vote has been challenged pursuant to this section informing the person of the challenge. ***If the person's right to vote is challenged on the grounds that the person has been convicted of a felony ~~under the laws of~~ in this State or another state and has not had his or her civil right to vote in this State restored pursuant to the provisions of NRS 176A.850, 179.285, 213.090, 213.155 or 213.157 or pursuant to the provisions of section 10.3 of this act, the notice must be accompanied by an affidavit which allows the person whose right to vote has been challenged to affirm under penalty of perjury that he or she is a lawful resident of this State and that he or she has never been convicted of a felony ~~under the laws of~~ in this State or another state or, if so, has had his or her civil right to vote in this State restored pursuant to the provisions of NRS 176A.850, 179.285, 213.090, 213.155 or 213.157 or pursuant to the provisions of section 10.3 of this act. If the person so affirms or presents a court order or official documentation indicating that he or she has had his or her civil right to vote in this State restored pursuant to the provisions of NRS 176A.850, 179.285, 213.090, 213.155 or 213.157 or pursuant to the provisions of section 10.3 of this act, the county clerk may not cancel the registration of the person whose right to vote has been challenged unless the county clerk has specific, documentary evidence that the person is ineligible to vote in this State.*** If the person fails to respond or appear to vote within the required time, the county clerk shall cancel the person's registration. A copy of the challenge and information describing how to reregister properly must accompany the notice.

(c) Immediately notify the district attorney. A copy of the challenge must accompany the notice.

6. Upon receipt of a notice pursuant to this section, the district attorney shall investigate the challenge within 14 days and, if appropriate, cause proceedings to be instituted and prosecuted in a court of competent jurisdiction without delay. ***If the right to vote of a person has been challenged on the grounds that the person has been convicted of a felony ~~under the laws of~~ in this State or another state and has not had his or her***

*civil right to vote in this State restored pursuant to the provisions of NRS 176A.850, 179.285, 213.090, 213.155 or 213.157 or pursuant to the provisions of section 10.3 of this act, and if the person presents to the district attorney or the court the affidavit signed by the person pursuant to paragraph (b) of subsection 5 or a court order or other documentation indicating that he or she has had his or her civil right to vote in this State restored pursuant to the provisions of NRS 176A.850, 179.285, 213.090, 213.155 or 213.157 or pursuant to the provisions of section 10.3 of this act, the district attorney or the court must find that the person is entitled to the civil right to vote in this State unless the district attorney or the court has specific, documentary evidence that the person is ineligible to vote in this State.* The court shall give such proceedings priority over other civil matters that are not expressly given priority by law. Upon court order, the county clerk shall cancel the registration of the person whose right to vote has been challenged pursuant to this section.

**Sec. 15.** NRS 293C.185 is hereby amended to read as follows:

293C.185 1. Except as otherwise provided in NRS 293C.115 and 293C.190, a name may not be printed on a ballot to be used at a primary city election unless the person named has filed a declaration of candidacy or an acceptance of candidacy and has paid the fee established by the governing body of the city not earlier than 70 days before the primary city election and not later than 5 p.m. on the 60th day before the primary city election.

2. A declaration of candidacy required to be filed by this section must be in substantially the following form:

DECLARATION OF CANDIDACY OF ..... FOR THE  
OFFICE OF .....

State of Nevada  
City of .....

For the purpose of having my name placed on the official ballot as a candidate for the office of ....., I, ....., the undersigned do swear or affirm under penalty of perjury that I actually, as opposed to constructively, reside at ....., in the City or Town of ....., County of ....., State of Nevada; that my actual, as opposed to constructive, residence in the city, township or other area prescribed by law to which the office pertains began on a date at least 30 days immediately preceding the date of the close of filing of declarations of candidacy for this office; that my telephone number is ....., and the address at which I receive mail, if different than my residence, is .....; that I am a qualified elector pursuant to Section 1 of Article 2 of the Constitution of the State of Nevada; that if I have ever been convicted of treason or a felony, my civil rights have been restored ; ~~[by a court of competent jurisdiction,]~~ that if nominated as a candidate at the ensuing election I will accept the nomination and not withdraw; that I will not knowingly violate any election law or any law defining and prohibiting corrupt and fraudulent practices in campaigns

and elections in this State; that I will qualify for the office if elected thereto, including, but not limited to, complying with any limitation prescribed by the Constitution and laws of this State concerning the number of years or terms for which a person may hold the office; and my name will appear on all ballots as designated in this declaration.

(Designation of name)

(Signature of candidate for office)

Subscribed and sworn to before me  
this ..... day of the month of ..... of the year .....

Notary Public or other person  
authorized to administer an oath

3. The address of a candidate that must be included in the declaration or acceptance of candidacy pursuant to subsection 2 must be the street address of the residence where the candidate actually, as opposed to constructively, resides in accordance with NRS 281.050, if one has been assigned. The declaration or acceptance of candidacy must not be accepted for filing if:

(a) The candidate's address is listed as a post office box unless a street address has not been assigned to the residence; or

(b) The candidate does not present to the filing officer:

(1) A valid driver's license or identification card issued by a governmental agency that contains a photograph of the candidate and the candidate's residential address; or

(2) A current utility bill, bank statement, paycheck, or document issued by a governmental entity, including a check which indicates the candidate's name and residential address, but not including a voter registration card issued pursuant to NRS 293.517.

4. The filing officer shall retain a copy of the proof of identity and residency provided by the candidate pursuant to paragraph (b) of subsection 3. Such a copy:

(a) May not be withheld from the public; and

(b) Must not contain the social security number or driver's license or identification card number of the candidate.

5. By filing the declaration or acceptance of candidacy, the candidate shall be deemed to have appointed the city clerk as his or her agent for service of process for the purposes of a proceeding pursuant to NRS 293C.186. Service of such process must first be attempted at the appropriate address as specified by the candidate in the declaration or acceptance of candidacy. If the candidate cannot be served at that address, service must be made by personally delivering to and leaving with the city clerk duplicate copies of the process. The city clerk shall immediately send, by registered or certified mail, one of the copies to the candidate at the



specified address, unless the candidate has designated in writing to the city clerk a different address for that purpose, in which case the city clerk shall mail the copy to the last address so designated.

6. If the city clerk receives credible evidence indicating that a candidate has been convicted of a felony and has not had his or her civil rights restored, ~~by a court of competent jurisdiction,~~ the city clerk:

(a) May conduct an investigation to determine whether the candidate has been convicted of a felony and, if so, whether the candidate has had his or her civil rights restored; ~~by a court of competent jurisdiction;~~ and

(b) Shall transmit the credible evidence and the findings from such investigation to the city attorney.

7. The receipt of information by the city attorney pursuant to subsection 6 must be treated as a challenge of a candidate pursuant to subsections 4 and 5 of NRS 293C.186. If the ballots are printed before a court of competent jurisdiction makes a determination that a candidate has been convicted of a felony and has not had his or her civil rights restored, ~~by a court of competent jurisdiction,~~ the city clerk must post a notice at each polling place where the candidate's name will appear on the ballot informing the voters that the candidate is disqualified from entering upon the duties of the office for which the candidate filed the declaration of candidacy or acceptance of candidacy.

**Sec. 16. 1. Any person residing in this State who, before July 1, 2011:**

**(a) Was honorably discharged from probation pursuant to NRS 176A.850;**

**(b) Was granted a pardon with the restoration of the right to vote pursuant to NRS 213.090;**

**(c) Was honorably discharged from parole pursuant to NRS 213.155;**  
**or**

**(d) Completed his or her sentence and was released from prison pursuant to NRS 213.157,**

**↪ who is not on probation or parole or serving a sentence of imprisonment on July 1, 2011, and who has not had his or her civil right to vote restored is hereby restored to the civil right to vote.**

**2. The provisions of this act do not require any notification to a person described in subsection 1 of the restoration of his or her civil right to vote.**

**Sec. 17. This act becomes effective on July 1, 2011.**

Assemblyman Segerblom moved that the Assembly concur in the Senate Amendment No. 688 to Assembly Bill No. 301.

Remarks by Assemblyman Segerblom.

Motion carried by a constitutional majority.

Bill ordered enrolled.

Assembly Bill No. 473.

The following Senate amendment was read:

Amendment No. 836.

AN ACT relating to elections; ~~amending the requirements of a declaration or acceptance of candidacy for certain offices;~~ revising the deadline for preparing and sending absent ballots to certain voters; revising the hours of operation during the final days of voter registration; ~~requiring online voter registration to remain open until midnight on the day before early voting begins;~~ requiring that complaints challenging initiatives or referenda be given priority over all other matters pending before the court, except for criminal proceedings; revising the filing deadline for candidates for the Board of the Virgin Valley Water District; making various other changes relating to elections; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

~~[ Under existing law, a person declaring or accepting candidacy must declare of which political party he or she is a registered member. (NRS 293.177) Section 1 of this bill requires a person declaring or accepting candidacy to declare that he or she is currently registered as a member of a particular party. ]~~

Under existing law, the name of the political party of a partisan candidate must follow the name of the candidate on the ballot and the word "nonpartisan" must follow the name of a nonpartisan candidate. **Section 3** of this bill authorizes the use of abbreviations of the party name or "independent" or "nonpartisan," as applicable.

Under existing law, a person who registers to vote by mail must provide certain identification before voting at a polling place or by mail. (NRS 293.2725) **Section 4** of this bill requires that a photo identification used for this purpose shows the physical address of the person.

Under existing law, the county clerk of each county is required to prepare absent ballots for registered voters who have requested them. (NRS 293.309) **Sections 5 and 10** of this bill require the county or city clerk, as applicable, to prepare and have ready for distribution absent ballots for persons who applied for absent ballots pursuant to the Uniformed and Overseas Citizens Absentee Voting Act, 42 U.S.C. §§ 1973ff et seq., not later than 45 days before an election.

Under existing law, a county clerk is required to consider a request for an absent ballot on a form provided by the Federal Government as a request for an absent ballot for the two primary and general elections following receipt of the request. (NRS 293.313) **Sections 6 and 11** of this bill remove the requirement that the request be considered for two elections.

**Sections 7 and 12** of this bill remove the requirement that counting board officers record the number of votes received by each candidate or for and against any question submitted to the electors in words and figures.

~~[ Existing law authorizes a county to establish a system for using a computer to register voters. (NRS 293.506) Section 8 of this bill requires a county that~~

~~establishes a system for online voter registration to keep online registration open until midnight on the day before early voting begins.]~~

Existing law requires that city and county clerk offices be open at certain times during the registration period. (NRS 293.560, 293C.527, 349.017, 710.153) **Sections 9, 13, 15 and 16** of this bill revise the hours of operation of the office of the city or county clerk during the registration period.

Under existing law, a complaint challenging an initiative or referendum receives priority over all criminal proceedings. (NRS 295.061) **Section 14** of this bill requires the court to give such a complaint priority over all other matters pending with the court, except for criminal proceedings.

**Section 17** of this bill changes the filing deadline for candidates for election to the governing board of the Virgin Valley Water District from at least 60 days before the election to not earlier than the first Monday in March of the year in which the election is to be held and not later than 5 p.m. on the second Friday after the first Monday in March.

Under existing law, political parties are authorized to recommend three registered voters to the county clerk to act as election board officers. (NRS 293.219) **Section 18** of this bill removes that requirement.

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

**Section 1.** ~~[NRS 293.177 is hereby amended to read as follows:~~

~~293.177—1.—Except as otherwise provided in NRS 293.165, a name may not be printed on a ballot to be used at a primary election unless the person named has filed a declaration of candidacy or an acceptance of candidacy, and has paid the fee required by NRS 293.193 not earlier than:~~

~~(a) For a candidate for judicial office, the first Monday in January of the year in which the election is to be held nor later than 5 p.m. on the second Friday after the first Monday in January; and~~

~~(b) For all other candidates, the first Monday in March of the year in which the election is to be held nor later than 5 p.m. on the second Friday after the first Monday in March.~~

~~2.—A declaration of candidacy or an acceptance of candidacy required to be filed by this section must be in substantially the following form:~~

~~(a) For partisan office:~~

~~DECLARATION OF CANDIDACY OF ..... FOR THE  
OFFICE OF .....~~

~~State of Nevada~~

~~County of~~

~~For the purpose of having my name placed on the official ballot as a candidate for the ..... Party nomination for the office of ....., I, the undersigned ....., do swear or affirm under penalty of perjury that I actually, as opposed to constructively, reside at ....., in the City or Town of ....., County of ....., State of Nevada; that my actual, as opposed to constructive, residence in the State, district, county, township, city or other~~

~~area prescribed by law to which the office pertains began on a date at least 30 days immediately preceding the date of the close of filing of declarations of candidacy for this office; that my telephone number is ....., and the address at which I receive mail, if different than my residence, is .....; that I am **currently** registered as a member of the ..... Party; that I am a qualified elector pursuant to Section 1 of Article 2 of the Constitution of the State of Nevada; that if I have ever been convicted of treason or a felony, my civil rights have been restored by a court of competent jurisdiction; that I have not, in violation of the provisions of NRS 293.176, changed the designation of my political party or political party affiliation on an official application to register to vote in any state since December 31 before the closing filing date for this election; that I generally believe in and intend to support the concepts found in the principles and policies of that political party in the coming election; that if nominated as a candidate of the ..... Party at the ensuing election, I will accept that nomination and not withdraw; that I will not knowingly violate any election law or any law defining and prohibiting corrupt and fraudulent practices in campaigns and elections in this State; that I will qualify for the office if elected thereto, including, but not limited to, complying with any limitation prescribed by the Constitution and laws of this State concerning the number of years or terms for which a person may hold the office; and that I understand that my name will appear on all ballots as designated in this declaration.~~

~~(Designation of name)~~

~~(Signature of candidate for office)~~

~~Subscribed and sworn to before me  
this ..... day of the month of ..... of the year .....~~

~~Notary Public or other person  
authorized to administer an oath~~

~~(b) For nonpartisan office:~~

~~DECLARATION OF CANDIDACY OF ..... FOR THE  
OFFICE OF .....~~

~~State of Nevada~~

~~County of~~

~~For the purpose of having my name placed on the official ballot as a candidate for the office of ....., I, the undersigned ....., do swear or affirm under penalty of perjury that I actually, as opposed to constructively, reside at ....., in the City or Town of ....., County of ....., State of Nevada; that my actual, as opposed to constructive, residence in the State, district, county, township, city or other area prescribed by law to which the office pertains began on a date at least 30 days immediately preceding the date of the close of filing of declarations of candidacy for this office; that my telephone number is ....., and the address at which I receive mail, if different than my residence, is .....; that~~

~~I am a qualified elector pursuant to Section 1 of Article 2 of the Constitution of the State of Nevada; that if I have ever been convicted of treason or a felony, my civil rights have been restored by a court of competent jurisdiction; that if nominated as a nonpartisan candidate at the ensuing election, I will accept the nomination and not withdraw; that I will not knowingly violate any election law or any law defining and prohibiting corrupt and fraudulent practices in campaigns and elections in this State; that I will qualify for the office if elected thereto, including, but not limited to, complying with any limitation prescribed by the Constitution and laws of this State concerning the number of years or terms for which a person may hold the office; and my name will appear on all ballots as designated in this declaration.~~

~~(Designation of name)~~

~~(Signature of candidate for office)~~

~~Subscribed and sworn to before me  
this ..... day of the month of ..... of the year .....~~

~~Notary Public or other person  
authorized to administer an oath~~

~~3.—The address of a candidate which must be included in the declaration of candidacy or acceptance of candidacy pursuant to subsection 2 must be the street address of the residence where the candidate actually, as opposed to constructively, resides in accordance with NRS 281.050, if one has been assigned. The declaration or acceptance of candidacy must not be accepted for filing if:~~

~~(a) The candidate's address is listed as a post office box unless a street address has not been assigned to his or her residence; or~~

~~(b) The candidate does not present to the filing officer;~~

~~(1) A valid driver's license or identification card issued by a governmental agency that contains a photograph of the candidate and the candidate's residential address; or~~

~~(2) A current utility bill, bank statement, paycheck, or document issued by a governmental entity, including a check which indicates the candidate's name and residential address, but not including a voter registration card issued pursuant to NRS 293.517.~~

~~4.—The filing officer shall retain a copy of the proof of identity and residency provided by the candidate pursuant to paragraph (b) of subsection 3. Such a copy:~~

~~(a) May not be withheld from the public; and~~

~~(b) Must not contain the social security number or driver's license or identification card number of the candidate.~~

~~5.—By filing the declaration or acceptance of candidacy, the candidate shall be deemed to have appointed the filing officer for the office as his or her agent for service of process for the purposes of a proceeding pursuant to~~

~~NRS 293.182. Service of such process must first be attempted at the appropriate address as specified by the candidate in the declaration or acceptance of candidacy. If the candidate cannot be served at that address, service must be made by personally delivering to and leaving with the filing officer duplicate copies of the process. The filing officer shall immediately send, by registered or certified mail, one of the copies to the candidate at the specified address, unless the candidate has designated in writing to the filing officer a different address for that purpose, in which case the filing officer shall mail the copy to the last address so designated.~~

~~6. If the filing officer receives credible evidence indicating that a candidate has been convicted of a felony and has not had his or her civil rights restored by a court of competent jurisdiction, the filing officer:~~

~~(a) May conduct an investigation to determine whether the candidate has been convicted of a felony and, if so, whether the candidate has had his or her civil rights restored by a court of competent jurisdiction; and~~

~~(b) Shall transmit the credible evidence and the findings from such investigation to the Attorney General, if the filing officer is the Secretary of State, or to the district attorney, if the filing officer is a person other than the Secretary of State.~~

~~7. The receipt of information by the Attorney General or district attorney pursuant to subsection 6 must be treated as a challenge of a candidate pursuant to subsections 4 and 5 of NRS 293.182. If the ballots are printed before a court of competent jurisdiction makes a determination that a candidate has been convicted of a felony and has not had his or her civil rights restored by a court of competent jurisdiction, the filing officer must post a notice at each polling place where the candidate's name will appear on the ballot informing the voters that the candidate is disqualified from entering upon the duties of the office for which the candidate filed the declaration of candidacy or acceptance of candidacy.] **(Deleted by amendment.)**~~

**Sec. 2.** (Deleted by amendment.)

**Sec. 3.** NRS 293.267 is hereby amended to read as follows:

293.267 1. Ballots for a general election must contain the names of candidates who were nominated at the primary election, the names of the candidates of a minor political party and the names of independent candidates.

2. Except as otherwise provided in NRS 293.2565, names of candidates must be grouped alphabetically under the title and length of term of the office for which those candidates filed.

3. Except as otherwise provided in subsection 4:

(a) Immediately following the name of each candidate for a partisan office must appear the name *or abbreviation* of his or her political party, ~~for~~ the word "independent [-]" "*or the abbreviation "IND,"*" as the case may be.

(b) Immediately following the name of each candidate for a nonpartisan office must appear the word "nonpartisan [-]" "*or the abbreviation "NP."*"

4. Where a system of voting other than by paper ballot is used, the Secretary of State may provide for any placement of the name *or abbreviation* of the political party, ~~for~~ the word "independent" or "nonpartisan" *or the abbreviation "IND" or "NP," as appropriate*, which clearly relates the designation to the name of the candidate to whom it applies.

5. If the Legislature rejects a statewide measure proposed by initiative and proposes a different measure on the same subject which the Governor approves, the measure proposed by the Legislature and approved by the Governor must be listed on the ballot before the statewide measure proposed by initiative. Each ballot and sample ballot upon which the measures appear must contain a statement that reads substantially as follows:

The following questions are alternative approaches to the same issue, and only one approach may be enacted into law. Please vote for only one.

**Sec. 4.** NRS 293.2725 is hereby amended to read as follows:

293.2725 1. Except as otherwise provided in subsection 2, in NRS 293.3081 and 293.3083 and in federal law, a person who registers by mail to vote in this State and who has not previously voted in an election for federal office in this State:

(a) May vote at a polling place only if the person presents to the election board officer at the polling place:

(1) A current and valid photo identification of the person ~~is~~, *which shows his or her physical address*; or

(2) A copy of a current utility bill, bank statement, paycheck, or document issued by a governmental entity, including a check which indicates the name and address of the person, but not including a voter registration card issued pursuant to NRS 293.517; and

(b) May vote by mail only if the person provides to the county or city clerk:

(1) A copy of a current and valid photo identification of the person ~~is~~, *which shows his or her physical address*; or

(2) A copy of a current utility bill, bank statement, paycheck, or document issued by a governmental entity, including a check which indicates the name and address of the person, but not including a voter registration card issued pursuant to NRS 293.517.

↪ *If there is a question as to the physical address of the person, the election board officer or clerk may request additional information.*

2. The provisions of this section do not apply to a person who:

(a) Registers to vote by mail and submits with an application to register to vote:

(1) A copy of a current and valid photo identification; or

(2) A copy of a current utility bill, bank statement, paycheck, or document issued by a governmental entity, including a check which indicates the name and address of the person, but not including a voter registration card issued pursuant to NRS 293.517;

(b) Registers to vote by mail and submits with an application to register to vote a driver's license number or at least the last four digits of his or her social security number, if a state or local election official has matched that information with an existing identification record bearing the same number, name and date of birth as provided by the person in the application;

(c) Is entitled to vote an absent ballot pursuant to the Uniformed and Overseas Citizens Absentee Voting Act, 42 U.S.C. §§ 1973ff et seq.;

(d) Is provided the right to vote otherwise than in person under the Voting Accessibility for the Elderly and Handicapped Act, 42 U.S.C. §§ 1973ee et seq.; or

(e) Is entitled to vote otherwise than in person under any other federal law.

**Sec. 5.** NRS 293.309 is hereby amended to read as follows:

293.309 1. The county clerk of each county shall prepare an absent ballot for the use of registered voters who have requested absent ballots. The county clerk shall make reasonable accommodations for the use of the absent ballot by a person who is elderly or disabled, including, without limitation, by providing, upon request, the absent ballot in 12-point type to a person who is elderly or disabled.

2. The ballot must be prepared and ready for distribution to a registered voter who:

(a) Resides within the State, not later than 20 days before the election in which it is to be used; ~~or~~

(b) ~~Resides~~ *Except as otherwise provided in paragraph (c), resides* outside the State, not later than 40 days before a primary or general election, if possible ~~or~~; *or*

(c) *Requested an absent ballot pursuant to the provisions of the Uniformed and Overseas Citizens Absentee Voting Act, 42 U.S.C. §§ 1973ff et seq., not later than 45 days before the election.*

3. Any legal action which would prevent the ballot from being issued pursuant to subsection 2 is moot and of no effect.

**Sec. 6.** NRS 293.313 is hereby amended to read as follows:

293.313 1. Except as otherwise provided in NRS 293.272 and 293.502, a registered voter who provides sufficient written notice to the county clerk may vote an absent ballot as provided in this chapter.

2. A registered voter who:

(a) Is at least 65 years of age; or

(b) Has a physical disability or condition which substantially impairs his or her ability to go to the polling place,  
 ↪ may request an absent ballot for all elections held during the year he or she requests an absent ballot.

3. A county clerk shall consider a request from a voter who has given sufficient written notice on a form provided by the Federal Government as a request for an absent ballot for the ~~two~~ primary and general elections immediately following the date on which the county clerk received the request.



4. It is unlawful for a person fraudulently to request an absent ballot in the name of another person or to induce or coerce another person fraudulently to request an absent ballot in the name of another person. A person who violates this subsection is guilty of a category E felony and shall be punished as provided in NRS 193.130.

5. As used in this section, "sufficient written notice" means a:

(a) Written request for an absent ballot which is signed by the registered voter and returned to the county clerk in person or by mail or facsimile machine;

(b) Form prescribed by the Secretary of State which is completed and signed by the registered voter and returned to the county clerk in person or by mail or facsimile machine; or

(c) Form provided by the Federal Government.

**Sec. 7.** NRS 293.370 is hereby amended to read as follows:

293.370 1. When all the votes have been counted, the counting board officers shall enter on the tally lists by the name of each candidate the number of votes the candidate received. ~~[The number must be expressed in words and figures.]~~ The vote for and against any question submitted to the electors must be entered in the same manner.

2. The tally lists must show the number of votes, other than absentee votes and votes in a mailing precinct, which each candidate received in each precinct at:

(a) A primary election held in an even-numbered year; or

(b) A general election.

**Sec. 8.** ~~NRS 293.506 is hereby amended to read as follows:~~

~~293.506 1. A county clerk may, with approval of the board of county commissioners, establish a system for using a computer to register voters and to keep records of registration. The county clerk may, for that purpose, issue to a voter a card, bearing the signature of the voter, attesting to the voter's registration.~~

~~2. If a county establishes a system for online voter registration pursuant to subsection 1, online voter registration must remain open until midnight on the day before early voting begins. (Deleted by amendment.)~~

**Sec. 9.** NRS 293.560 is hereby amended to read as follows:

293.560 ~~[1.]~~ Except as otherwise provided in NRS 293.502 ~~[,~~ registration must close at 9 p.m. on the third Tuesday preceding any primary or general election and at 9 p.m. on the third Saturday preceding any recall or special election, except that if a recall or special election is held on the same day as a primary or general election, registration must close at 9 p.m. on the third Tuesday preceding the day of the elections.

~~2.—The] :~~

1. *For a primary or special election, the* office of the county clerk must be open ~~[from 9 a.m. to 5 p.m. and from]~~ *until* 7 p.m. ~~[to 9 p.m., including Saturdays.]~~ during the last 2 days ~~[before the close of]~~ *on which* registration ~~[, according to the following schedule:~~

~~(a)~~ *is open.* In a county whose population is less than 100,000, the office of the county clerk ~~must be open during the last day before registration closes.~~

~~(b) In all other counties, the office of the county clerk must be open during the last 5 days before registration closes.]~~ *may close at 5 p.m. during the last 2 days before registration closes if approved by the board of county commissioners.*

**2. For a general election:**

*(a) In a county whose population is less than 100,000, the office of the county clerk must be open until 7 p.m. during the last 2 days on which registration is open. The office of the county clerk may close at 5 p.m. if approved by the board of county commissioners.*

*(b) In a county whose population is 100,000 or more, the office of the county clerk must be open during the last 4 days on which registration is open, according to the following schedule:*

*(1) On weekdays until 9 p.m.; and*

*(2) A minimum of 8 hours on Saturdays, Sundays and legal holidays.*

3. Except for a special election held pursuant to chapter 306 or 350 of NRS:

(a) The county clerk of each county shall cause a notice signed by him or her to be published in a newspaper having a general circulation in the county indicating:

(1) The day *and time* that registration will be closed; and

(2) If the county clerk has designated a county facility pursuant to NRS 293.5035, the location of that facility.

↪ If no such newspaper is published in the county, the publication may be made in a newspaper of general circulation published in the nearest county in this State.

(b) The notice must be published once each week for 4 consecutive weeks next preceding the close of registration for any election.

4. The offices of the county clerk, a county facility designated pursuant to NRS 293.5035 and other ex officio registrars may remain open on the last Friday in October in each even-numbered year.

5. For the period beginning on the fifth Sunday preceding any primary or general election and ending on the third Tuesday preceding any primary or general election, an elector may register to vote only by appearing in person at the office of the county clerk or, if open, a county facility designated pursuant to NRS 293.5035.

6. A county facility designated pursuant to NRS 293.5035 may be open during the periods described in this section for such hours of operation as the county clerk may determine, as set forth in subsection 3 of NRS 293.5035.

**Sec. 10.** NRS 293C.305 is hereby amended to read as follows:

293C.305 1. The city clerk shall prepare an absent ballot for the use of registered voters who have requested absent ballots. The city clerk shall make reasonable accommodations for the use of the absent ballot by a person

who is elderly or disabled, including, without limitation, by providing, upon request, the absent ballot in 12-point type to a person who is elderly or disabled.

2. The ballot must be prepared and ready for distribution to a registered voter who :

(a) *Except as otherwise provided in paragraph (b)*, resides within or outside this State, not later than 20 days before the election in which it will be used.

(b) *Requested an absent ballot pursuant to the provisions of the Uniformed and Overseas Citizens Absentee Voting Act, 42 U.S.C. §§ 1973ff et seq., not later than 45 days before the election.*

3. Any legal action that would prevent the ballot from being issued pursuant to subsection 2 is moot and of no effect.

**Sec. 11.** NRS 293C.310 is hereby amended to read as follows:

293C.310 1. Except as otherwise provided in NRS 293.502 and 293C.265, a registered voter who provides sufficient written notice to the city clerk may vote an absent ballot as provided in this chapter.

2. A city clerk shall consider a request from a voter who has given sufficient written notice on a form provided by the Federal Government as:

(a) A request for the primary city election and the general city election unless otherwise specified in the request; and

(b) A request for an absent ballot for the ~~two~~ primary and general elections immediately following the date on which the city clerk received the request.

3. It is unlawful for a person fraudulently to request an absent ballot in the name of another person or to induce or coerce another person fraudulently to request an absent ballot in the name of another person. A person who violates any provision of this subsection is guilty of a category E felony and shall be punished as provided in NRS 193.130.

4. As used in this section, "sufficient written notice" means a:

(a) Written request for an absent ballot that is signed by the registered voter and returned to the city clerk in person or by mail or facsimile machine;

(b) Form prescribed by the Secretary of State that is completed and signed by the registered voter and returned to the city clerk in person or by mail or facsimile machine; or

(c) Form provided by the Federal Government.

**Sec. 12.** NRS 293C.372 is hereby amended to read as follows:

293C.372 When all the votes have been counted, the counting board officers shall enter on the tally lists by the name of each candidate the number of votes the candidate received. ~~[The number must be expressed in words and figures.]~~ The vote for and against any question submitted to the electors must be entered in the same manner.

**Sec. 13.** NRS 293C.527 is hereby amended to read as follows:

293C.527 ~~[1-]~~ Except as otherwise provided in NRS 293.502 ~~[registration must close at 9 p.m. on the third Tuesday preceding any primary~~

city election or general city election and at 9 p.m. on the third Saturday preceding any recall or special election, except that if a recall or special election is held on the same day as a primary city election or general city election, registration must close at 9 p.m. on the third Tuesday preceding the day of the elections.

~~2.—The ] :~~

1. *For a primary city election or special city election, the* office of the city clerk must be open ~~[from 9 a.m. to 5 p.m. and from]~~ *until* 7 p.m. ~~[to 9 p.m., including Saturdays,]~~ during the last 2 days ~~[before the close of registration before a primary city election or general city election, according to the following schedule:~~

(a) ~~In a city whose population is less than 25,000, the office of the city clerk must be open during the last 3 days before registration closes.~~

(b) ~~In a city whose population is 25,000 or more, the office of the city clerk must be open during the last 5 days before registration closes.]~~ *on which registration is open. In a city whose population is less than 25,000, the office of the city clerk may close at 5 p.m. if approved by the governing body of the city.*

2. *For a general election:*

(a) *In a city whose population is less than 25,000, the office of the city clerk must be open until 7 p.m. during the last 2 days on which registration is open. The office of the city clerk may close at 5 p.m. if approved by the governing body of the city.*

(b) *In a city whose population is 25,000 or more, the office of the city clerk must be open during the last 4 days on which registration is open, according to the following schedule:*

(1) *On weekdays until 9 p.m.; and*

(2) *A minimum of 8 hours on Saturdays, Sundays and legal holidays.*

3. Except for a special election held pursuant to chapter 306 or 350 of NRS:

(a) The city clerk of each city shall cause a notice signed by him or her to be published in a newspaper having a general circulation in the city indicating:

(1) The day *and time* that registration will be closed; and

(2) If the city clerk has designated a municipal facility pursuant to NRS 293C.520, the location of that facility.

↪ If no newspaper is of general circulation in that city, the publication may be made in a newspaper of general circulation in the nearest city in this State.

(b) The notice must be published once each week for 4 consecutive weeks next preceding the close of registration for any election.

4. For the period beginning on the fifth Sunday preceding any primary city election or general city election and ending on the third Tuesday preceding any primary city election or general city election, an elector may register to vote only by appearing in person at the office of the city clerk or, if open, a municipal facility designated pursuant to NRS 293C.520.

5. A municipal facility designated pursuant to NRS 293C.520 may be open during the periods described in this section for such hours of operation as the city clerk may determine, as set forth in subsection 3 of NRS 293C.520.

**Sec. 14.** NRS 295.061 is hereby amended to read as follows:

295.061 1. Except as otherwise provided in subsection 3, whether an initiative or referendum embraces but one subject and matters necessarily connected therewith and pertaining thereto, and the description of the effect of an initiative or referendum required pursuant to NRS 295.009, may be challenged by filing a complaint in the First Judicial District Court not later than 15 days, Saturdays, Sundays and holidays excluded, after a copy of the petition is placed on file with the Secretary of State pursuant to NRS 295.015. All affidavits and documents in support of the challenge must be filed with the complaint. The court shall set the matter for hearing not later than 15 days after the complaint is filed and shall give priority to such a complaint over all *other matters pending with the court, except for* criminal proceedings.

2. The legal sufficiency of a petition for initiative or referendum may be challenged by filing a complaint in district court not later than 7 days, Saturdays, Sundays and holidays excluded, after the petition is certified as sufficient by the Secretary of State. All affidavits and documents in support of the challenge must be filed with the complaint. The court shall set the matter for hearing not later than 15 days after the complaint is filed and shall give priority to such a complaint over all other matters pending with the court, except for criminal proceedings.

3. If a description of the effect of an initiative or referendum required pursuant to NRS 295.009 is challenged successfully pursuant to subsection 1 and such description is amended in compliance with the order of the court, the amended description may not be challenged.

**Sec. 15.** NRS 349.017 is hereby amended to read as follows:

349.017 1. If the bond question is submitted at a general election, no notice of registration of electors is required other than that required by the laws for a general election.

2. If the bond question is submitted at a special election, the clerk of each county shall cause to be published, at least once a week for 2 consecutive weeks by two weekly insertions a week apart, the first publication to be not more than 50 days nor less than 42 days next preceding the election, in a newspaper published within the county, if any is so published, and having a general circulation therein, a notice signed by him or her to the effect that registration for the special election will be closed on a date *and time* designated therein, as provided in this section.

3. Except as otherwise provided in subsection 4, the office of the county clerk in each county of this State must be open for such a special election, from 9 a.m. to 12 m. and 1 p.m. to 5 p.m. on Mondays through Fridays, with

Saturdays, Sundays and legal holidays excepted, for the registration of any qualified elector.

4. The office of the county clerk must be open ~~from 9 a.m. to 5 p.m. and from 7 p.m. to 9 p.m. on Monday through Saturday, with Sundays and any legal holidays excepted,~~ during the last days of registration as provided in subsection ~~2~~ **1** of NRS 293.560.

5. The office of the county clerk must be open for registration of voters for such a special election up to but excluding the 30th day next preceding that election and during regular office hours.

**Sec. 16.** NRS 710.153 is hereby amended to read as follows:

710.153 1. If the question of the sale or lease of the county-owned telephone system is submitted at a general election, no notice of registration of electors is required other than that required by the general election laws for such election. If the question is submitted at a special election, the county clerk shall cause to be published at least once a week for 5 consecutive weeks by five weekly insertions a week apart, the first publication to be not more than 60 days nor less than 45 days next preceding the election, in a newspaper published within the county and having a general circulation therein, a notice signed by the county clerk to the effect that registration for the special election will be closed on a date *and time* designated therein, as provided in this section.

2. Except as otherwise provided in this subsection, the office of the county clerk must be open for such a special election from 9 a.m. to 12 m. and from 1 p.m. to 5 p.m. on Mondays through Fridays, with Saturdays, Sundays and legal holidays excepted, for the registration of any qualified elector. ~~During the 5 days preceding the close of registration before such a special election, the~~ **The** office of the county clerk must be open ~~from 9 a.m. to 5 p.m. and from 7 p.m. to 9 p.m. on Monday through Saturday, with Sunday and any legal holidays excepted,~~ **during the last days of registration as provided in subsection 1 of NRS 293.560.**

3. The office of the county clerk must be opened for registration of voters for the special election from and including the 20th day next preceding the election and up to but excluding the 10th day next preceding the election and during regular office hours.

**Sec. 17.** Section 8 of the Virgin Valley Water District Act, being chapter 100, Statutes of Nevada 1993, at page 165, is hereby amended to read as follows:

**Sec. 8.** District Elections.

1. Unless otherwise required for purposes of an election to incur an indebtedness, the Registrar of Voters of Clark County shall conduct, supervise and, by ordinance, regulate all district elections in accordance, as nearly as practicable, with the general election laws of this state, including, but not limited to, laws relating to the time of opening and closing of polls, the manner of conducting the election, the canvassing, announcement and certification of results and the preparation and disposition of ballots.

2. ~~[At least 90 days before the election, the Registrar of Voters of Clark County shall publish notice of the election.]~~ Each candidate for election to the Board must file a declaration of candidacy with the Registrar of Voters ~~[at least 60 days before the election.]~~ *not earlier than the first Monday in March of the year in which the election is to be held and not later than 5 p.m. on the second Friday after the first Monday in March.* Timely filing of such declaration is a prerequisite to election.

3. If the board establishes various election areas within the District and there are two or more seats upon the board to be filled at the same election, each of which represents the same election area, the two candidates therefor receiving the highest number of votes, respectively, are elected.

4. If a member of the Board is unopposed in seeking reelection, the Board may declare that member elected without a formal election, but that member may not participate in the declaration.

5. If no person files candidacy for election to a particular seat upon the Board, the seat must be filled in the manner provided in subsection 4 of section 7 of this act for filling a vacancy.

**Sec. 18.** NRS 293.219 is hereby repealed.

**Sec. 19.** **This act becomes effective upon passage and approval.**

#### TEXT OF REPEALED SECTION

#### **293.219 Recommendations by political parties of persons for service on election board.**

1. Not less than 60 days before a primary or a general election, the county central committee of each major political party for each county may recommend to the county clerk of the county three registered voters for each precinct in the county to act as election board officers of the primary or general election in the precinct or district.

2. Not less than 60 days before a general election, the executive committee of each minor political party for each county may recommend to the county clerk of the county three registered voters for each precinct in the county to act as election board officers of the general election in the precinct or district.

3. After that date the county clerk may accept recommendations for reserve election board officers for the election.

Assemblyman Segerblom moved that the Assembly concur in the Senate Amendment No. 836 to Assembly Bill No. 473.

Remarks by Assemblyman Segerblom.

Motion carried by a constitutional majority.

Bill ordered enrolled.

Assembly Bill No. 549.

The following Senate amendment was read:

Amendment No. 751.

AN ACT relating to homeland security; increasing the number of ~~voting~~ members on the Nevada Commission on Homeland Security; revising provisions governing the confidentiality of vulnerability assessments and emergency response plans of utilities, public entities and private businesses in this State; clarifying that certain documents, records and other items of information may be inspected by and released to the Legislative Auditor when conducting a postaudit; **making various changes concerning grants and other funding for homeland security;** providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law establishes the Nevada Commission on Homeland Security, for which the Governor appoints the voting members and certain nonvoting members. The Commission has certain duties relating to the protection of residents of this State and visitors to this State from acts of terrorism and related emergencies. (NRS 239C.120, 239C.160) **Section 22** of this bill increases the number of voting members that the Governor must appoint to the Commission from 14 members to 16 members, to include a representative of the broadcaster community and a representative recommended by the Inter-Tribal Council of Nevada, Inc. **Section 22 also requires the appointment of the Chief of the Division of Emergency Management of the Department of Public Safety as a nonvoting member of the Commission.**

Existing law provides that the Governor may, by executive order, determine that certain documents, records and other information relating to preventing and responding to acts of terrorism are confidential. Such documents, records and other information are not subject to subpoena or discovery, not subject to inspection by the general public and may only be inspected by and released to public safety and public health personnel. (NRS 239C.210) **Section 26** of this bill extends that authority to include vulnerability assessments and emergency response plans of utilities, public entities and private businesses in this State. **Section 26** also clarifies that the documents, records and other items of information subject to an executive order of confidentiality for security purposes, **except vulnerability assessments,** may be inspected by and released to the Legislative Auditor when conducting a postaudit ~~is~~, **subject to certain requirements.**

**Section 24.5 of this bill specifies the duties of the Commission with respect to grants and related funding and requires the Commission to submit annual briefings to the Governor assessing preparedness. Sections 30.5 and 31.5 of this bill extend to tribal governments the applicability of provisions concerning grants of money to the State or a political subdivision for prevention of or response to terrorism or other similar incidents.**

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 239C of NRS is hereby amended by adding thereto a new section to read as follows:

“Tribal government” means a federally recognized American Indian tribe pursuant to 25 C.F.R. §§ 83.1 to 83.13, inclusive.

**Sec. 2.** (Deleted by amendment.)

**Sec. 3.** (Deleted by amendment.)

**Sec. 4.** (Deleted by amendment.)

**Sec. 5.** (Deleted by amendment.)

**Sec. 6.** (Deleted by amendment.)

**Sec. 7.** (Deleted by amendment.)

**Sec. 8.** (Deleted by amendment.)

**Sec. 9.** (Deleted by amendment.)

**Sec. 10.** (Deleted by amendment.)

**Sec. 11.** (Deleted by amendment.)

**Sec. 12.** (Deleted by amendment.)

**Sec. 13.** (Deleted by amendment.)

**Sec. 14.** (Deleted by amendment.)

**Sec. 15.** (Deleted by amendment.)

**Sec. 16.** (Deleted by amendment.)

**Sec. 16.5.** NRS 239C.020 is hereby amended to read as follows:

239C.020 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 239C.030 to 239C.110, inclusive, and section 1.5 of this act have the meanings ascribed to them in those sections.

**Sec. 17.** (Deleted by amendment.)

**Sec. 18.** (Deleted by amendment.)

**Sec. 19.** (Deleted by amendment.)

**Sec. 20.** (Deleted by amendment.)

**Sec. 21.** (Deleted by amendment.)

**Sec. 22.** NRS 239C.120 is hereby amended to read as follows:

239C.120 1. The Nevada Commission on Homeland Security is hereby created.

2. The Governor shall appoint to the Commission ~~14~~ 16 voting members that the Governor determines to be appropriate and who serve at the Governor’s pleasure, which must include at least:

(a) The sheriff of each county whose population is 100,000 or more. ~~1~~

(b) The chief of the county fire department in each county whose population is 100,000 or more. ~~1~~

(c) A member of the medical community in a county whose population is 400,000 or more. ~~1; and~~

(d) An employee of the largest incorporated city in each county whose population is 400,000 or more.

(e) *A representative of the broadcaster community. As used in this paragraph, “broadcaster” has the meaning ascribed to it in NRS 432.310.*

*(f) A representative recommended by the Inter-Tribal Council of Nevada, Inc., or its successor organization, to represent tribal ~~actions~~ governments in Nevada.*

3. The Governor shall appoint:

(a) An officer of the United States Department of Homeland Security whom the Department of Homeland Security has designated for this State; ~~and~~

(b) The agent in charge of the office of the Federal Bureau of Investigation in this State ~~;~~ **and**

**(c) The Chief of the Division,**

↪ as nonvoting members of the Commission.

4. The Senate Majority Leader shall appoint one member of the Senate as a nonvoting member of the Commission.

5. The Speaker of the Assembly shall appoint one member of the Assembly as a nonvoting member of the Commission.

6. ~~Except for the initial members, the~~ **The** term of office of each member of the Commission who is a Legislator is 2 years. ~~and commences on July 1 of the year of appointment.~~

7. The Governor or his or her designee shall:

(a) Serve as Chair of the Commission; and

(b) Appoint a member of the Commission to serve as Vice Chair of the Commission.

**Sec. 23.** (Deleted by amendment.)

**Sec. 24.** (Deleted by amendment.)

**Sec. 24.5. NRS 239C.160 is hereby amended to read as follows:**

239C.160 The Commission shall, within the limits of available money:

1. Make recommendations to the Governor, the Legislature, agencies of this State, political subdivisions, **tribal governments**, businesses located within this State and private persons who reside in this State with respect to actions and measures that may be taken to protect residents of this State and visitors to this State from potential acts of terrorism and related emergencies.

2. **Make recommendations to the Governor, through the Division, on the use of money received by the State from any homeland security grant or related program, including, without limitation, the State Homeland Security Grant Program and Urban Area Security Initiative, in accordance with the following:**

**(a) The Division shall provide the Commission with program guidance and briefings;**

**(b) The Commission must be provided briefings on existing and proposed projects, and shall consider statewide readiness capabilities and priorities for the use of money, administered by the Division, from any homeland security grant or related program;**

**(c) The Commission shall serve as the public body which reviews and makes recommendations for the State's applications to the Federal**

Government for homeland security grants or related programs, as administered by the Division; and

(d) The Commission shall serve as the public body which recommends, subject to approval by the Governor, the distribution of money from any homeland security grant or related program for use by state, local and tribal government agencies and private sector organizations.

3. Propose goals and programs that may be set and carried out, respectively, to counteract or prevent potential acts of terrorism and related emergencies before such acts of terrorism and related emergencies can harm or otherwise threaten residents of this State and visitors to this State.

~~3.1~~ 4. With respect to buildings, facilities, geographic features and infrastructure that must be protected from acts of terrorism and related emergencies to ensure the safety of the residents of this State and visitors to this State, including, without limitation, airports other than international airports, the Capitol Complex, dams, gaming establishments, governmental buildings, highways, hotels, information technology infrastructure, lakes, places of worship, power lines, public buildings, public utilities, reservoirs, rivers and their tributaries, and water facilities:

(a) Identify and categorize such buildings, facilities, geographic features and infrastructure according to their susceptibility to and need for protection from acts of terrorism and related emergencies; and

(b) Study and assess the security of such buildings, facilities, geographic features and infrastructure from acts of terrorism and related emergencies.

~~4.1~~ 5. Examine the use, deployment and coordination of response agencies within this State to ensure that those agencies are adequately prepared to protect residents of this State and visitors to this State from acts of terrorism and related emergencies.

~~5.1~~ 6. Assess, examine and review the use of information systems and systems of communication used by response agencies within this State to determine the degree to which such systems are compatible and interoperable. After conducting the assessment, examination and review, the Commission shall:

(a) Establish a state plan setting forth criteria and standards for the compatibility and interoperability of those systems when used by response agencies within this State; and

(b) Advise and make recommendations to the Governor relative to the compatibility and interoperability of those systems when used by response agencies within this State, with particular emphasis upon the compatibility and interoperability of public safety radio systems.

~~6.1~~ 7. Assess, examine and review the operation and efficacy of telephone systems and related systems used to provide emergency 911 service.

~~7.1~~ 8. To the extent practicable, cooperate and coordinate with the Division to avoid duplication of effort in developing policies and programs for preventing and responding to acts of terrorism and related emergencies.

~~8.~~ **9.** Submit an annual briefing to the Governor assessing the preparedness of the State to counteract, prevent and respond to potential acts of terrorism and related emergencies, including, but not limited to, an assessment of response plans and vulnerability assessments of utilities, public entities and private business in this State. The briefing must be based on information and documents reasonably available to the Commission and must be compiled with the advice of the Division after all utilities, public entities and private businesses assessed have a reasonable opportunity to review and comment on the Commission's findings.

**10.** Perform any other acts related to their duties set forth in subsections 1 to ~~7.~~ **9.** inclusive, that the Commission determines are necessary to protect or enhance:

- (a) The safety and security of the State of Nevada;
- (b) The safety of residents of the State of Nevada; and
- (c) The safety of visitors to the State of Nevada.

**Sec. 25.** (Deleted by amendment.)

**Sec. 26.** NRS 239C.210 is hereby amended to read as follows:

239C.210 1. A document, record or other item of information described in subsection 2 that is prepared and maintained for the purpose of preventing or responding to an act of terrorism is confidential, not subject to subpoena or discovery, not subject to inspection by the general public and may only be inspected by or released to ~~public~~:

- (a) **Public** safety and public health personnel ; **and**
- (b) ~~The~~ Except as otherwise provided in this subsection, the Legislative Auditor conducting a postaudit pursuant to NRS 218G.010 to 218G.555, inclusive,

↳ if the Governor determines, by executive order, that the disclosure or release of the document, record or other item of information would thereby create a substantial likelihood of compromising, jeopardizing or otherwise threatening the public health, safety or welfare. **Any information that is inspected by or released to the Legislative Auditor pursuant to this subsection is not subject to the exception from confidentiality set forth in NRS 218G.130. The Legislative Auditor may confirm that vulnerability assessments have been submitted to or are in the possession of a state agency that is the subject of a postaudit, but the assessments must not be inspected by or released to the Legislative Auditor. An employee of the Audit Division of the Legislative Counsel Bureau who is conducting a postaudit that includes access to documents or information subject to the provisions of this section must be properly cleared through federal criteria or state or local background investigation and instructed, trained or certified, as applicable, regarding the security sensitivity of the documents or information.**

2. The types of documents, records or other items of information subject to executive order pursuant to subsection 1 are as follows:

(a) Assessments, plans or records that evaluate or reveal the susceptibility of fire stations, police stations and other law enforcement stations to acts of terrorism or other related emergencies.

(b) Drawings, maps, plans or records that reveal the critical infrastructure of primary buildings, facilities and other structures used for storing, transporting or transmitting water or electricity, natural gas or other forms of energy.

(c) Documents, records or other items of information which may reveal the details of a specific emergency response plan or other tactical operations by a response agency and any training relating to such emergency response plans or tactical operations.

(d) Handbooks, manuals or other forms of information detailing procedures to be followed by response agencies in the event of an act of terrorism or other related emergency.

(e) Documents, records or other items of information that reveal information pertaining to specialized equipment used for covert, emergency or tactical operations of a response agency, other than records relating to expenditures for such equipment.

(f) Documents, records or other items of information regarding the infrastructure and security of frequencies for radio transmissions used by response agencies, including, without limitation:

(1) Access codes, passwords or programs used to ensure the security of frequencies for radio transmissions used by response agencies;

(2) Procedures and processes used to ensure the security of frequencies for radio transmissions used by response agencies; and

(3) Plans used to reestablish security and service with respect to frequencies for radio transmissions used by response agencies after security has been breached or service has been interrupted.

***(g) Vulnerability assessments and emergency response plans of utilities, public entities and private businesses in this State. As used in this paragraph, "public entities" means departments, agencies or instrumentalities of the State, ~~for~~ any of its political subdivisions, ~~or~~ or tribal governments. The term includes general improvement districts.***

3. If a person knowingly and unlawfully discloses a document, record or other item of information subject to an executive order issued pursuant to subsection 1 or assists, solicits or conspires with another person to disclose such a document, record or other item of information, the person is guilty of:

(a) A gross misdemeanor; or

(b) A category C felony and shall be punished as provided in NRS 193.130 if the person acted with the intent to:

(1) Commit, cause, aid, further or conceal, or attempt to commit, cause, aid, further or conceal, any unlawful act involving terrorism or sabotage; or

(2) Assist, solicit or conspire with another person to commit, cause, aid, further or conceal any unlawful act involving terrorism or sabotage.

4. *The Governor shall review the documents, records and other items of information determined by executive order pursuant to subsection 1 to be confidential every 10 years to assess the continued need for the documents, records and other items of information to remain confidential.*

5. As used in this section, “public safety and public health personnel” includes:

- (a) State, county, ~~and~~ city ***and tribal*** emergency managers;
- (b) Members and staff of terrorism early warning centers or fusion intelligence centers in this State;
- (c) Employees of fire-fighting or law enforcement agencies, if the head of the agency has designated the employee as having an operational need to know *of* information that is prepared or maintained for the purpose of preventing or responding to an act of terrorism; and
- (d) Employees of a public health agency, if the agency is one that would respond to a disaster and if the head of the agency has designated the employee as having an operational need to know *of* information that is prepared or maintained for the purpose of preventing or responding to an act of terrorism. As used in this paragraph, “disaster” has the meaning ascribed to it in NRS 414.0335.

**Sec. 27.** (Deleted by amendment.)

**Sec. 28.** (Deleted by amendment.)

**Sec. 29.** NRS 239C.270 is hereby amended to read as follows:

239C.270 1. Each utility shall:

- (a) Conduct a vulnerability assessment in accordance with the requirements of the federal and regional agencies that regulate the utility; and
- (b) Prepare and maintain an emergency response plan in accordance with the requirements of the federal and regional agencies that regulate the utility.

2. Each utility shall:

- (a) As soon as practicable but not later than December 31, 2003, submit its vulnerability assessment and emergency response plan to the Division; and
- (b) At least once each year thereafter, review its vulnerability assessment and emergency response plan and, as soon as practicable after its review is completed but not later than December 31 of each year, submit the results of its review and any additions or modifications to its emergency response plan to the Division.

3. Except as otherwise provided in NRS 239.0115, each vulnerability assessment and emergency response plan of a utility and any other information concerning a utility that is necessary to carry out the provisions of this section is confidential and must be securely maintained by each person or entity that has possession, custody or control of the information.

4. ~~{A}~~ ***Except as otherwise provided in NRS 239C.210, a person shall not disclose such information, except:***

- (a) Upon the lawful order of a court of competent jurisdiction;
- (b) As is reasonably necessary to carry out the provisions of this section or the operations of the utility, as determined by the Division;

(c) As is reasonably necessary in the case of an emergency involving public health or safety, as determined by the Division; or

(d) Pursuant to the provisions of NRS 239.0115.

5. If a person knowingly and unlawfully discloses such information or assists, solicits or conspires with another person to disclose such information, the person is guilty of:

(a) A gross misdemeanor; or

(b) A category C felony and shall be punished as provided in NRS 193.130 if the person acted with the intent to:

(1) Commit, cause, aid, further or conceal, or attempt to commit, cause, aid, further or conceal, any unlawful act involving terrorism or sabotage; or

(2) Assist, solicit or conspire with another person to commit, cause, aid, further or conceal any unlawful act involving terrorism or sabotage.

**Sec. 30.** (Deleted by amendment.)

**Sec. 30.5.** NRS 239C.300 is hereby amended to read as follows:

239C.300 1. If the State, ~~for~~ a political subdivision or a tribal government submits an application to and is approved to receive money from the Federal Government, this State, any other state, a local government, any agency or instrumentality of those governmental entities, or any private entity, to pay for a project or program relating to the prevention of, detection of, mitigation of, preparedness for, response to and recovery from acts of terrorism, the State, ~~for~~ political subdivision or tribal government shall, not later than 60 days after receiving such approval, submit to the Commission a written report that includes, without limitation:

(a) The total amount of money that the State, ~~for~~ political subdivision or tribal government has been approved to receive for the project or program;

(b) A description of the project or program, unless the State, ~~for~~ political subdivision or tribal government previously submitted a written report pursuant to this section relating to the same project or program; and

(c) The items to be paid for with the money that the State, ~~for~~ political subdivision or tribal government has been approved to receive for the project or program.

2. A project or program for which the State, ~~for~~ a political subdivision or a tribal government is required to report the receipt of money pursuant to subsection 1 includes, without limitation, a project or program related to:

(a) Homeland security;

(b) Emergency management;

(c) Health or hospitals;

(d) Emergency medical services; and

(e) Chemical, biological, radiological, nuclear, explosive, agricultural or environmental acts of terrorism.

~~{3. Any grant related to terrorism that is administered by the Division and is provided to a political subdivision must be approved by the local emergency planning committee.}~~

**Sec. 31.** (Deleted by amendment.)

**Sec. 31.5. NRS 239C.310 is hereby amended to read as follows:**

239C.310 1. The State and each political subdivision and tribal government shall:

(a) Adopt any national system that is required as a condition to the receipt of money from the Federal Government by the United States Department of Homeland Security pursuant to federal law in preparation for, prevention of, detection of, mitigation of, response to and recovery from a domestic incident, including, without limitation, an act of terrorism.

(b) Submit to the Division documentation evidencing that the State, ~~for~~ political subdivision or tribal government has adopted the national system.

2. The Division shall submit on a quarterly basis documentation to the Commission evidencing the compliance of this State and each political subdivision and tribal government with the provisions of paragraph (a) of subsection 1.

**Sec. 32.** (Deleted by amendment.)

**Sec. 32.5. NRS 332.830 is hereby amended to read as follows:**

332.830 1. On and after October 1, 2005, a governing body or its authorized representative shall not purchase an information system or system of communication for use by a response agency unless the system complies with the plan established pursuant to subsection ~~5~~ 6 of NRS 239C.160.

2. On and after October 1, 2005, any grant or other money received by a local government from the Federal Government for the purchase of an information system or system of communication for use by a response agency must not be used to purchase such a system unless the system complies with the plan established pursuant to subsection ~~5~~ 6 of NRS 239C.160.

3. As used in this section:

(a) “Information system” has the meaning ascribed to it in NRS 239C.060.

(b) “Response agency” has the meaning ascribed to it in NRS 239C.080.

(c) “System of communication” has the meaning ascribed to it in NRS 239C.100.

**Sec. 33.** (Deleted by amendment.)

**Sec. 33.5. NRS 333.820 is hereby amended to read as follows:**

333.820 1. On and after October 1, 2005, the Chief, the Purchasing Division or a using agency shall not purchase an information system or system of communication for use by a response agency unless the system complies with the plan established pursuant to subsection ~~5~~ 6 of NRS 239C.160.

2. On and after October 1, 2005, any grant or other money received by the Chief, the Purchasing Division or a using agency from the Federal Government for the purchase of an information system or system of communication for use by a response agency must not be used to purchase such a system unless the system complies with the plan established pursuant to subsection ~~5~~ 6 of NRS 239C.160.

3. As used in this section:



(a) "Information system" has the meaning ascribed to it in NRS 239C.060.

(b) "Response agency" has the meaning ascribed to it in NRS 239C.080.

(c) "System of communication" has the meaning ascribed to it in NRS 239C.100.

**Sec. 34.** (Deleted by amendment.)

**Sec. 35.** (Deleted by amendment.)

**Sec. 36.** (Deleted by amendment.)

**Sec. 37.** (Deleted by amendment.)

**Sec. 38.** (Deleted by amendment.)

**Sec. 39.** (Deleted by amendment.)

Assemblywoman Kirkpatrick moved that the Assembly concur in the Senate Amendment No. 751 to Assembly Bill No. 549.

Remarks by Assemblywoman Kirkpatrick.

Motion carried by a constitutional majority.

Bill ordered enrolled.

#### RECEDE FROM ASSEMBLY AMENDMENTS

Assemblyman Horne moved that the Assembly recede from its action on Senate Bill No. 101.

Remarks by Assemblyman Horne.

Motion carried.

Mr. Speaker announced if there were no objections, the Assembly would recess subject to the call of the Chair.

Assembly in recess at 12:10 p.m.

#### ASSEMBLY IN SESSION

At 6:58 p.m.

Mr. Speaker presiding.

Quorum present.

#### REPORTS OF COMMITTEES

*Mr. Speaker:*

Your Committee on Commerce and Labor, to which were referred Senate Bills Nos. 207, 208, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

KELVIN ATKINSON, *Chair*

*Mr. Speaker:*

Your Committee on Ways and Means, to which was referred Senate Bill No. 426, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

DEBBIE SMITH, *Chair*

## MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, June 3, 2011

*To the Honorable the Assembly:*

I have the honor to inform your honorable body that the Senate on this day respectfully refused to recede from its action on Assembly Bill No. 59, Senate Amendment No. 634, and requests a conference, and appointed Senators Lee, Hardy and Settlemeyer as a Conference Committee to meet with a like committee of the Assembly.

Also, I have the honor to inform your honorable body that the Senate on this day respectfully refused to recede from its action on Assembly Bill No. 136, Senate Amendment No. 693, and requests a conference, and appointed Senators Wiener, Breeden and McGinness as a Conference Committee to meet with a like committee of the Assembly.

Also, I have the honor to inform your honorable body that the Senate on this day respectfully refused to recede from its action on Assembly Bill No. 240, Senate Amendment No. 764, and requests a conference, and appointed Senators Lee, Settlemeyer and Hardy as a Conference Committee to meet with a like committee of the Assembly.

Also, I have the honor to inform your honorable body that the Senate on this day respectfully refused to recede from its action on Assembly Bill No. 257, Senate Amendment No. 591, and requests a conference, and appointed Senators Lee, Hardy and Settlemeyer as a Conference Committee to meet with a like committee of the Assembly.

Also, I have the honor to inform your honorable body that the Senate on this day respectfully refused to recede from its action on Assembly Bill No. 277, Senate Amendment No. 677, and requests a conference, and appointed Senators Breeden, Manendo and Halseth as a Conference Committee to meet with a like committee of the Assembly.

Also, I have the honor to inform your honorable body that the Senate on this day respectfully refused to concur in the Assembly Amendment No. 857 to Senate Bill No. 98; Assembly Amendments Nos. 811, 724 to Senate Bill No. 136; Assembly Amendment No. 720 to Senate Bill No. 200; Assembly Amendment No. 838 to Senate Bill No. 249; Assembly Amendment No. 833 to Senate Bill No. 268; Assembly Amendment No. 639 to Senate Bill No. 365; Assembly Amendment No. 740 to Senate Bill No. 402.

SHERRY L. RODRIGUEZ  
*Assistant Secretary of the Senate*

## GENERAL FILE AND THIRD READING

Assembly Bill No. 316.

Bill read third time.

Remarks by Assemblywoman Woodbury.

Roll call on Assembly Bill No. 316:

YEAS—41.

NAYS—None.

EXCUSED—Hansen.

Assembly Bill No. 316 having received a constitutional majority,  
Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 345.

Bill read third time.

Remarks by Assemblyman Ohrenschall.

Roll call on Assembly Bill No. 345:

YEAS—41.

NAYS—None.

EXCUSED—Hansen.

Assembly Bill No. 345 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Senate Bill No. 168.

Bill read third time.

Roll call on Senate Bill No. 168:

YEAS—41.

NAYS—None.

EXCUSED—Hansen.

Senate Bill No. 168 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

#### MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Atkinson moved that Senate Bill No. 207 be taken from the General File and placed on the Chief Clerk's desk.

Remarks by Assemblyman Atkinson.

Motion carried.

Assemblyman Atkinson moved that Senate Bill No. 208 be taken from the General File and placed on the Chief Clerk's desk.

Remarks by Assemblyman Atkinson.

Motion carried.

#### GENERAL FILE AND THIRD READING

Senate Bill No. 426.

Bill read third time.

Remarks by Assemblywoman Smith.

Roll call on Senate Bill No. 426:

YEAS—41.

NAYS—None.

EXCUSED—Hansen.

Senate Bill No. 426 having received a constitutional majority, Mr. Speaker declared it passed.

Bill ordered transmitted to the Senate.

Mr. Speaker announced if there were no objections, the Assembly would recess subject to the call of the Chair.

Assembly in recess at 7:11 p.m.

#### ASSEMBLY IN SESSION

At 7:12 p.m.

Mr. Speaker presiding.

Quorum present.

## UNFINISHED BUSINESS

## RECEDE FROM ASSEMBLY AMENDMENTS

Assemblywoman Kirkpatrick moved that the Assembly do not recede from its action on Senate Bill No. 98, that a conference be requested, and that Mr. Speaker appoint a Conference Committee consisting of three members to meet with a like committee of the Senate.

Remarks by Assemblywoman Kirkpatrick.

Motion carried.

## APPOINTMENT OF CONFERENCE COMMITTEES

Mr. Speaker appointed Assemblymen Ocegüera, Kirkpatrick, and Goicoechea as a Conference Committee to meet with a like committee of the Senate for the further consideration of Senate Bill No. 98.

## RECEDE FROM ASSEMBLY AMENDMENTS

Assemblywoman Kirkpatrick moved that the Assembly do not recede from its action on Senate Bill No. 249, that a conference be requested, and that Mr. Speaker appoint a Conference Committee consisting of three members to meet with a like committee of the Senate.

Remarks by Assemblywoman Kirkpatrick.

Motion carried.

## APPOINTMENT OF CONFERENCE COMMITTEES

Mr. Speaker appointed Assemblywomen Kirkpatrick, Neal, and Woodbury as a Conference Committee to meet with a like committee of the Senate for the further consideration of Senate Bill No. 249.

## CONSIDERATION OF SENATE AMENDMENTS

Assembly Bill No. 504.

The following Senate amendment was read:

Amendment No. 738.

AN ACT relating to taxation; requiring the Department of Taxation to provide an annual report to the Nevada Tax Commission of delinquent taxes owed to the Department; requiring the Nevada Tax Commission to request that the State Board of Examiners designate certain delinquent taxes owed to the Department as bad debt; **revising the interest rate for the payment of certain delinquent taxes;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

~~[[This]]~~ **Section 1 of this** bill requires the Department of Taxation to prepare and furnish an annual report to the Nevada Tax Commission that shows debts to the Department incurred by delinquent taxpayers during the immediately preceding year. ~~[[This bill]]~~ **Section 1** also requires the Department to include the amount of any delinquent taxes that the Department determines is impossible or impractical to collect. ~~[[This bill]]~~ **Section 1** further requires the

Nevada Tax Commission to request that the State Board of Examiners designate any such amount of delinquent taxes as bad debt.

**Sections 2 and 6 of this bill reduce the interest rate on the overpayment of certain taxes from 0.5 percent per month to 0.25 percent per month. Sections 3, 4 and 9 of this bill reduce the interest rate on late payments of certain taxes from 1 percent per month to 0.75 percent per month. Sections 5, 7, 8 and 10-12 of this bill reduce the interest rate on the overpayment of certain taxes and certain illegally collected taxes from 6 percent per annum to 3 percent per annum.**

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

**Section 1.** Chapter 360 of NRS is hereby amended by adding thereto a new section to read as follows:

*1. On or before January 15 of each year, the Department shall prepare and furnish to the Nevada Tax Commission a report that shows all money owed to the Department for delinquent payments of any tax administered by the Department during the preceding year.*

*2. The Department shall include in the report prepared to pursuant to subsection 1 the amount of any delinquent taxes that the Department determines is impossible or impractical to collect.*

*3. If the Department determines that it is impossible or impractical to collect any amount of delinquent taxes, the Nevada Tax Commission shall request that the State Board of Examiners designate such amount as a bad debt. The State Board of Examiners, by an affirmative vote of the majority of the members of the Board, may designate the delinquent taxes as a bad debt if the Board is satisfied that the collection of the delinquent taxes is impossible or impractical. If the amount of the delinquent taxes is not more than \$50, the State Board of Examiners may delegate to its Clerk the authority to designate delinquent taxes as a bad debt. The Nevada Tax Commission may appeal to the State Board of Examiners a denial by the Clerk of a request to designate delinquent taxes as a bad debt.*

*4. Upon the designation of delinquent taxes as a bad debt pursuant to this section, the State Board of Examiners or its Clerk shall immediately notify the State Controller thereof. Upon receiving the notification, the State Controller shall direct the removal of the bad debt from the books of account of the State of Nevada. A bad debt that is removed pursuant to this section remains a legal and binding obligation owed by the debtor to the State of Nevada.*

*5. The State Controller shall keep a master file of all delinquent taxes that are designated as bad debts pursuant to this section. For each such debt, the State Controller shall record the name of the debtor, the amount of the debt, the date on which the debt was incurred and the date on which it was removed from the records and books of account of the State of*

*Nevada, and any other information concerning the debt that the State Controller determines is necessary.*

**Sec. 2. NRS 360.2937 is hereby amended to read as follows:**

360.2937 1. Except as otherwise provided in this section, NRS 360.320 or any other specific statute, and notwithstanding the provisions of NRS 360.2935, interest must be paid upon an overpayment of any tax provided for in chapter 362, 363A, 363B, 369, 370, 372, 374, 377 or 377A of NRS, any fee provided for in NRS 444A.090 or 482.313, or any assessment provided for in NRS 585.497, at the rate of ~~10.51~~ 0.25 percent per month from the last day of the calendar month following the period for which the overpayment was made.

2. No refund or credit may be made of any interest imposed on the person making the overpayment with respect to the amount being refunded or credited.

3. The interest must be paid:

(a) In the case of a refund, to the last day of the calendar month following the date upon which the person making the overpayment, if the person has not already filed a claim, is notified by the Department that a claim may be filed or the date upon which the claim is certified to the State Board of Examiners, whichever is earlier.

(b) In the case of a credit, to the same date as that to which interest is computed on the tax or the amount against which the credit is applied.

**Sec. 3. NRS 360.295 is hereby amended to read as follows:**

360.295 Except as otherwise specifically provided in this title, if the Department grants an extension of the time for paying any amount required to be paid under this title, a person who pays the amount within the period for which the extension is granted shall pay, in addition to the amount owing, interest at the rate of ~~11~~ 0.75 percent per month from the date the amount would have been due without the extension until the date of payment.

**Sec. 4. NRS 360.417 is hereby amended to read as follows:**

360.417 Except as otherwise provided in NRS 360.232 and 360.320, and unless a different penalty or rate of interest is specifically provided by statute, any person who fails to pay any tax provided for in chapter 362, 363A, 363B, 369, 370, 372, 374, 377, 377A, 444A or 585 of NRS, or any fee provided for in NRS 482.313, and any person or governmental entity that fails to pay any fee provided for in NRS 360.787, to the State or a county within the time required, shall pay a penalty of not more than 10 percent of the amount of the tax or fee which is owed, as determined by the Department, in addition to the tax or fee, plus interest at the rate of ~~11~~ 0.75 percent per month, or fraction of a month, from the last day of the month following the period for which the amount or any portion of the amount should have been reported until the date of payment. The amount of any penalty imposed must be based on a graduated schedule adopted by the Nevada Tax Commission which takes into consideration the length of time the tax or fee remained unpaid.

**Sec. 5. NRS 361.420 is hereby amended to read as follows:**

361.420 1. Any property owner whose taxes are in excess of the amount which the owner claims justly to be due may pay each installment of taxes as it becomes due under protest in writing. The protest must be in the form of a separate, signed statement from the property owner and filed with the tax receiver at the time of the payment of the installment of taxes.

2. The property owner, having protested the payment of taxes as provided in subsection 1 and having been denied relief by the State Board of Equalization, may commence a suit in any court of competent jurisdiction in the State of Nevada against the State and county in which the taxes were paid, and, in a proper case, both the Nevada Tax Commission and the Department may be joined as a defendant for a recovery of the difference between the amount of taxes paid and the amount which the owner claims justly to be due, and the owner may complain upon any of the grounds contained in subsection 4.

3. Every action commenced under the provisions of this section must be commenced within 3 months after the date of the payment of the last installment of taxes, and if not so commenced is forever barred. If the tax complained of is paid in full and under the written protest provided for in this section, at the time of the payment of the first installment of taxes, suit for the recovery of the difference between the amount paid and the amount claimed to be justly due must be commenced within 3 months after the date of the full payment of the tax or the issuance of the decision of the State Board of Equalization denying relief, whichever occurs later, and if not so commenced is forever barred.

4. In any suit brought under the provisions of this section, the person assessed may complain or defend upon any of the following grounds:

- (a) That the taxes have been paid before the suit;
- (b) That the property is exempt from taxation under the provisions of the revenue or tax laws of the State, specifying in detail the claim of exemption;
- (c) That the person assessed was not the owner and had no right, title or interest in the property assessed at the time of assessment;
- (d) That the property is situate in and has been assessed in another county, and the taxes thereon paid;
- (e) That there was fraud in the assessment or that the assessment is out of proportion to and above the taxable cash value of the property assessed;
- (f) That the assessment is out of proportion to and above the valuation fixed by the Nevada Tax Commission for the year in which the taxes were levied and the property assessed; or
- (g) That the assessment complained of is discriminatory in that it is not in accordance with a uniform and equal rate of assessment and taxation, but is at a higher rate of the taxable value of the property so assessed than that at which the other property in the State is assessed.

5. In a suit based upon any one of the grounds mentioned in paragraphs (e), (f) and (g) of subsection 4, the court shall conduct the trial without a jury

and confine its review to the record before the State Board of Equalization. Where procedural irregularities by the Board are alleged and are not shown in the record, the court may take evidence respecting the allegation and, upon the request of either party, shall hear oral argument and receive written briefs on the matter.

6. In all cases mentioned in this section where the complaint is based upon any grounds mentioned in subsection 4, the entire assessment must not be declared void but is void only as to the excess in valuation.

7. In any judgment recovered by the taxpayer under this section, the court may provide for interest thereon not to exceed ~~6~~ 3 percent per annum from and after the date of payment of the tax complained of.

**Sec. 6. NRS 361.486 is hereby amended to read as follows:**

361.486 1. Except as otherwise provided in subsection 2 and NRS 361.485, interest must be paid on an overpayment of the taxes imposed by this chapter at the rate of ~~0.5~~ 0.25 percent per month, or fraction thereof, from the last day of the calendar month in which the overpayment was made to the last day of the calendar month in which a refund is made.

2. No interest is allowed:

- (a) On a refund of any penalty or interest paid by a taxpayer; or
- (b) If the ex officio tax receiver determines that the overpayment was made intentionally or by reason of carelessness.

**Sec. 7. NRS 363A.210 is hereby amended to read as follows:**

363A.210 In any judgment, interest must be allowed at the rate of ~~6~~ 3 percent per annum upon the amount found to have been illegally collected from the date of payment of the amount to the date of allowance of credit on account of the judgment, or to a date preceding the date of the refund warrant by not more than 30 days. The date must be determined by the Department.

**Sec. 8. NRS 363B.200 is hereby amended to read as follows:**

363B.200 In any judgment, interest must be allowed at the rate of ~~6~~ 3 percent per annum upon the amount found to have been illegally collected from the date of payment of the amount to the date of allowance of credit on account of the judgment, or to a date preceding the date of the refund warrant by not more than 30 days. The date must be determined by the Department.

**Sec. 9. NRS 368A.230 is hereby amended to read as follows:**

368A.230 Upon written application made before the date on which payment must be made, the Board or the Department may, for good cause, extend by 30 days the time within which a taxpayer is required to pay the tax imposed by this chapter. If the tax is paid during the period of extension, no penalty or late charge may be imposed for failure to pay at the time required, but the taxpayer shall pay interest at the rate of ~~1~~ 0.75 percent per month from the date on which the amount would have been due without the extension until the date of payment, unless otherwise provided in NRS 360.232 or 360.320.

**Sec. 10. NRS 368A.310 is hereby amended to read as follows:**



368A.310 In any judgment, interest must be allowed at the rate of ~~6~~ 3 percent per annum upon the amount found to have been illegally collected from the date of payment of the amount to the date of allowance of credit on account of the judgment, or to a date preceding the date of the refund warrant by not more than 30 days. The date must be determined by the Board or the Department.

***Sec. 11. NRS 372.695 is hereby amended to read as follows:***

372.695 In any judgment, interest must be allowed at the rate of ~~6~~ 3 percent per annum upon the amount found to have been illegally collected from the date of payment of the amount to the date of allowance of credit on account of the judgment, or to a date preceding the date of the refund warrant by not more than 30 days, the date to be determined by the Department.

***Sec. 12. NRS 374.700 is hereby amended to read as follows:***

374.700 In any judgment, interest shall be allowed at the rate of ~~6~~ 3 percent per annum upon the amount found to have been illegally collected from the date of payment of the amount to the date of allowance of credit on account of the judgment, or to a date preceding the date of the refund warrant by not more than 30 days, the date to be determined by the Department.

~~[Sec. 2.]~~ ***Sec. 13.*** This act becomes effective on July 1, 2011.

Assemblywoman Kirkpatrick moved that the Assembly concur in the Senate Amendment No. 738 to Assembly Bill No. 504.

Remarks by Assemblywoman Kirkpatrick.

Motion carried by a constitutional majority.

Bill ordered enrolled.

#### RECEDE FROM ASSEMBLY AMENDMENTS

Assemblywoman Kirkpatrick moved that the Assembly do not recede from its action on Senate Bill No. 268, that a conference be requested, and that Mr. Speaker appoint a Conference Committee consisting of three members to meet with a like committee of the Senate.

Remarks by Assemblywoman Kirkpatrick.

Motion carried.

#### APPOINTMENT OF CONFERENCE COMMITTEES

Mr. Speaker appointed Assemblymen Kirkpatrick, Daly, and Stewart as a Conference Committee to meet with a like committee of the Senate for the further consideration of Senate Bill No. 268.

#### REPORTS OF CONFERENCE COMMITTEES

*Mr. Speaker:*

The Conference Committee concerning Assembly Bill No. 362, consisting of the undersigned members, has met and reports that:

It has agreed to recommend that Amendment No. 610 of the Senate be concurred in.

It has agreed to recommend that the bill be further amended as set forth in Conference Amendment No. 1, which is attached to and hereby made a part of this report.

JASON FRIERSON  
TERESA BENITEZ-THOMPSON  
SCOTT HAMMOND  
*Assembly Conference Committee*

RUBEN KIHUEN  
JOE HARDY  
ALLISON COPENING  
*Senate Conference Committee*

Conference Amendment No. CA1.

SUMMARY—Revises provisions governing ~~education.~~ **certain programs that supervise children.** (BDR 38-782)

AN ACT relating to education; establishing the Interim Task Force on Out-of-School-Time Programs; requiring the Task Force to prescribe standards for out-of-school-time programs and to make certain recommendations relating to out-of-school-time programs; exempting ~~an~~ out-of-school-time ~~program~~ **programs, out-of-school recreation programs and seasonal or temporary recreation programs** from licensure and regulation as ~~an~~ child care ~~facility~~ **facilities; requiring certain out-of-school recreation programs to obtain a permit; establishing certain requirements for the operation of an out-of-school recreation program;** authorizing an out-of-school-time program to report certain information to the Bureau of Services for Child Care of the Division of Child and Family Services of the Department of Health and Human Services; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

**Existing law requires a child care facility to be licensed by an agency created by a city or county for the licensing of child care facilities or by the Bureau of Services for Child Care of the Division of Child and Family Services of the Department of Health and Human Services. (NRS 432A.131, 432A.141) Section 13 of this bill removes the licensure requirements for out-of-school-time programs, out-of-school recreation programs and seasonal or temporary recreation programs by excluding those terms from the definition of "child care facility."**

Section 2 of this bill defines an "out-of-school-time program" as a program that operates for 10 or more hours per week, is offered on a continuing basis, provides supervision of children who are of school age and provides regularly scheduled, structured and supervised activities where learning opportunities take place during times when a child is not in school. ~~Section 5 of this bill exempts an out-of-school-time program from the licensing requirements for and regulation as a child care facility by excluding an out-of-school-time program from the definition of a "child care facility."~~ ~~Sections 6-8 of this bill ensure that the existing definition of "child care facility" is not changed for certain other purposes.~~ **Section 4 of this bill defines an "out-of-school recreation program" which is similar to an out-of-school-time program, but which is operated or sponsored by a local government in a facility which is owned, operated or leased by the local government. Section 5 of the bill defines "seasonal or temporary**

recreation programs” which include certain programs offered to children for a limited time or duration.

In lieu of the requirements for licensure as a child care facility, sections 6-11 of this bill provide specific requirements for out-of-school recreation programs. Section 6 requires a local government to obtain a permit to operate an out-of-school recreation program. To obtain a permit, the local government must complete an application, pay a fee and meet certain requirements. Section 7 requires a local government that operates an out-of-school recreation program to comply with certain health and safety standards and to comply with other requirements relating to the safety of participants. Section 8 provides certain requirements for the staff of an out-of-school recreation program. Section 8 also limits the number of participants in such a program and establishes certain components that must be included in the program. Section 9 requires an out-of-school recreation program to maintain certain records about participants in the program. Section 10 requires a local government that operates an out-of-school recreation program to provide copies of certain inspections of the facility where the program is conducted according to a schedule established by the Bureau. If the local government submits such records, section 10 prohibits the Bureau from conducting any additional on-site inspections of the facility. Section 11 authorizes the Bureau to adopt any regulations necessary to provide for the permits to operate an out-of-school recreation program.

Section ~~¶~~ 17 of this bill establishes the Interim Task Force on Out-of-School-Time Programs and requires the Task Force to prescribe standards for out-of-school-time programs and make certain other recommendations concerning out-of-school-time programs. Section ~~¶~~ 17 also requires the Task Force to submit a report of its recommendations to the Governor and to the Director of the Legislative Counsel Bureau for transmittal to the 77th Session of the Nevada Legislature.

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

**Section 1.** Chapter 432A of NRS is hereby amended by adding thereto the provisions set forth as sections ~~2 and 3~~ **1.5 to 11, inclusive**, of this act.

*Sec. 1.5. “Local government” means any political subdivision of this State, including, without limitation, a city, county, town, school district or other district.*

*Sec. 2. “Out-of-school-time program” means a program, other than an out-of-school recreation program, that operates for 10 or more hours per week, is offered on a continuing basis, provides supervision of children who are of the age to attend school from kindergarten through 12th grade and provides regularly scheduled, structured and supervised activities where learning opportunities take place:*

1. *Before or after school;*
2. *On the weekend;*
3. *During the summer or other seasonal breaks in the school calendar;*

*or*

4. *Between sessions for children who attend a school which operates on a year-round calendar.*

Sec. 3. (Deleted by amendment.)

Sec. 4. 1. “Out-of-school recreation program” means a recreation program operated or sponsored by a local government in a facility which is owned, operated or leased by the local government and which provides enrichment activities to children of school age:

(a) Before or after school;

(b) During the summer or other seasonal breaks in the school calendar;

*or*

(c) Between sessions for children who attend a school which operates on a year-round calendar.

2. The term does not include a seasonal or temporary recreation program.

Sec. 5. “Seasonal or temporary recreation program” means a recreation program that is offered to children for a limited time or duration and may include, without limitation:

1. A special sports event, which may include, without limitation, a camp, clinic, demonstration or workshop which focuses on a particular sport;

2. A therapeutic program for children with disabilities, which may include, without limitation, social activities, outings and other inclusion activities;

3. An athletic training program, which may include, without limitation, a baseball or other sports league and exercise instruction; and

4. Other special interest programs, which may include, without limitation, an arts and crafts workshop, a theater camp and dance competition.

Sec. 6. 1. To operate an out-of-school recreation program, a local government must obtain a permit. The local government may apply for the issuance or renewal of a permit by submitting an application on a form prescribed by the Bureau. The Bureau shall issue a permit to operate an out-of-school recreation program to the local government upon payment of the fee prescribed in subsection 2 and upon satisfaction that the program complies with the requirements set forth in sections 1.5 to 11, inclusive, of this act, and any regulations adopted pursuant thereto.

2. The Bureau shall charge a fee for a permit to operate an out-of-school recreation program based upon the number of sites operated by the out-of-school recreation program. If the out-of-school recreation program has:

(a) At least 1 but not more than 5 sites, the Bureau shall charge a fee of \$100.

(b) At least 6 but not more than 20 sites, the Bureau shall charge a fee of \$250.

(c) At least 21 but not more than 40 sites, the Bureau shall charge a fee of \$500.

(d) At least 41 but not more than 60 sites, the Bureau shall charge a fee of \$750.

(e) At least 61 but not more than 80 sites, the Bureau shall charge a fee of \$1,000.

(f) At least 81 sites, the Bureau shall charge a fee of \$1,250.

3. A permit issued pursuant to this section is nontransferable and is valid:

(a) For 3 years from the date of issuance; and

(b) Only as to a site specifically identified on the permit.

Sec. 7. A local government that operates an out-of-school recreation program shall ensure that each site:

1. Complies with applicable laws and regulations concerning safety standards;

2. Complies with applicable laws and regulations concerning health standards;

3. Has a complete first-aid kit accessible on-site that complies with the requirements of the Occupational Safety and Health Administration of the United States Department of Labor;

4. Has an emergency exit plan posted on-site in a conspicuous place; and

5. Has not less than two staff members on-site and available during the hours of operation who are certified and receive annual training in the use and administration of first aid, including, without limitation, cardiopulmonary resuscitation.

Sec. 8. A local government that operates an out-of-school recreation program shall:

1. Complete, for each member of the staff of the out-of-school recreation program:

(a) A background and personal history check; and

(b) A child abuse and neglect screening through the Statewide Central Registry for the Collection of Information Concerning the Abuse or Neglect of a Child established by NRS 432.100 to determine whether there has been a substantiated report of child abuse or neglect made against the staff member.

2. Ensure that each member of the staff of the out-of-school recreation program:

(a) Meets the minimum requirements that have been established for the position; and

(b) Receives an orientation and training concerning the abuse and neglect of children.

3. Ensure that the number of participants in the out-of-school recreation program:

(a) Does not exceed a ratio of one person supervising every 20 participants; and

(b) Will not cause the facility where the program is operated to exceed the maximum occupancy as determined by the State Fire Marshal or the local governmental entity that has the authority to determine the maximum occupancy of the facility.

4. Ensure that the out-of-school recreation program includes, without limitation:

(a) An inclusion component for participants who qualify under the Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12101 et seq.;

(b) Structured activities, including, without limitation, arts and crafts, games and sports;

(c) Nonstructured activities, which may include, without limitation, free time for playing;

(d) Regular restroom breaks; and

(e) Nutrition breaks.

Sec. 9. 1. The out-of-school recreation program shall maintain records containing pertinent information regarding each participant in the program. Such information must include, without limitation:

(a) The full legal name of the child and the preferred name of the child;

(b) The date of birth of the child;

(c) The current address where the child resides;

(d) The name, address and telephone number of each parent or legal guardian of the child and any special instructions for contacting the parent or legal guardian during the hours when the child participates in the program;

(e) Information concerning the health of the child, including, without limitation, any special needs of the child; and

(f) Any other information requested by the Bureau.

2. The distribution of any information maintained pursuant to this section is subject to the limitations set forth in NRS 239.0105.

Sec. 10. 1. A local government that operates an out-of-school recreation program shall provide a copy of each report of an inspection conducted by a governmental entity that is authorized to conduct an inspection of the facility where the program is operated, including, without limitation, the report of an inspection by a local building department, a fire department, the State Fire Marshal or a district board of health.

2. The Bureau shall establish a schedule for the submission of such reports which requires submission of a report of an on-site inspection once every 2 years and shall provide a checklist to the local government which identifies the reports that must be submitted to the Bureau.

**3. The Bureau shall not require any additional inspections of the facility of an out-of-school recreation program which complies with the provisions of this section.**

**Sec. 11. The Bureau shall adopt any regulations necessary to carry out the provisions of sections 1.5 to 11, inclusive, of this act.**

~~Sec. 4.]~~ **Sec. 12.** NRS 432A.020 is hereby amended to read as follows:

432A.020 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 432A.0205 to 432A.028, inclusive, **and** ~~section~~ **sections 1.5, 2, 4 and 5 of this act** have the meanings ascribed to them in those sections.

~~Sec. 5.]~~ **Sec. 13.** NRS 432A.024 is hereby amended to read as follows:

432A.024 1. “Child care facility” means:

(a) An establishment operated and maintained for the purpose of furnishing care on a temporary or permanent basis, during the day or overnight, to five or more children under 18 years of age, if compensation is received for the care of any of those children;

(b) An on-site child care facility;

(c) A child care institution; or

(d) An outdoor youth program.

2. “Child care facility” does not include:

(a) The home of a natural parent or guardian, foster home as defined in NRS 424.014 or maternity home;

(b) A home in which the only children received, cared for and maintained are related within the third degree of consanguinity or affinity by blood, adoption or marriage to the person operating the facility; ~~or~~

(c) A home in which a person provides care for the children of a friend or neighbor for not more than 4 weeks if the person who provides the care does not regularly engage in that activity ~~];~~ ~~or~~

~~(d) A location at which an out-of-school-time program is operated ~~];~~~~

~~(e) A seasonal or temporary recreation program; or~~

~~(f) An out-of-school recreation program.~~

~~Sec. 6.]~~ **Sec. 14.** NRS 202.2483 is hereby amended to read as follows:

202.2483 1. Except as otherwise provided in subsection 3, smoking tobacco in any form is prohibited within indoor places of employment including, but not limited to, the following:

(a) Child care facilities;

(b) Movie theatres;

(c) Video arcades;

(d) Government buildings and public places;

(e) Malls and retail establishments;

(f) All areas of grocery stores; and

(g) All indoor areas within restaurants.

2. Without exception, smoking tobacco in any form is prohibited within school buildings and on school property.

3. Smoking tobacco is not prohibited in:

(a) Areas within casinos where loitering by minors is already prohibited by state law pursuant to NRS 463.350;

(b) Stand-alone bars, taverns and saloons;

(c) Strip clubs or brothels;

(d) Retail tobacco stores;

(e) Private residences, including private residences which may serve as an office workplace, except if used as a child care, an adult day care or a health care facility; and

(f) The area of a convention facility in which a meeting or trade show is being held, during the time the meeting or trade show is occurring, if the meeting or trade show:

(1) Is not open to the public;

(2) Is being produced or organized by a business relating to tobacco or a professional association for convenience stores; and

(3) Involves the display of tobacco products.

4. In areas or establishments where smoking is not prohibited by this section, nothing in state law shall be construed to prohibit the owners of said establishments from voluntarily creating nonsmoking sections or designating the entire establishment as smoke free.

5. Nothing in state law shall be construed to restrict local control or otherwise prohibit a county, city or town from adopting and enforcing local tobacco control measures that meet or exceed the minimum applicable standards set forth in this section.

6. “No Smoking” signs or the international “No Smoking” symbol shall be clearly and conspicuously posted in every public place and place of employment where smoking is prohibited by this section. Each public place and place of employment where smoking is prohibited shall post, at every entrance, a conspicuous sign clearly stating that smoking is prohibited. All ashtrays and other smoking paraphernalia shall be removed from any area where smoking is prohibited.

7. Health authorities, police officers of cities or towns, sheriffs and their deputies shall, within their respective jurisdictions, enforce the provisions of this section and shall issue citations for violations of this section pursuant to NRS 202.2492 and 202.24925.

8. No person or employer shall retaliate against an employee, applicant or customer for exercising any rights afforded by, or attempts to prosecute a violation of, this section.

9. For the purposes of this section, the following terms have the following definitions:

(a) “Casino” means an entity that contains a building or large room devoted to gambling games or wagering on a variety of events. A casino



must possess a nonrestricted gaming license as described in NRS 463.0177 and typically uses the word 'casino' as part of its proper name.

(b) "Child care facility" has the meaning ascribed to it in NRS ~~[432A.024.]~~ **441A.030.**

(c) "Completely enclosed area" means an area that is enclosed on all sides by any combination of solid walls, windows or doors that extend from the floor to the ceiling.

(d) "Government building" means any building or office space owned or occupied by:

(1) Any component of the Nevada System of Higher Education and used for any purpose related to the System;

(2) The State of Nevada and used for any public purpose; or

(3) Any county, city, school district or other political subdivision of the State and used for any public purpose.

(e) "Health authority" has the meaning ascribed to it in NRS 202.2485.

(f) "Incidental food service or sales" means the service of prepackaged food items including, but not limited to, peanuts, popcorn, chips, pretzels or any other incidental food items that are exempt from food licensing requirements pursuant to subsection 2 of NRS 446.870.

(g) "Place of employment" means any enclosed area under the control of a public or private employer which employees frequent during the course of employment including, but not limited to, work areas, restrooms, hallways, employee lounges, cafeterias, conference and meeting rooms, lobbies and reception areas.

(h) "Public places" means any enclosed areas to which the public is invited or in which the public is permitted.

(i) "Restaurant" means a business which gives or offers for sale food, with or without alcoholic beverages, to the public, guests or employees, as well as kitchens and catering facilities in which food is prepared on the premises for serving elsewhere.

(j) "Retail tobacco store" means a retail store utilized primarily for the sale of tobacco products and accessories and in which the sale of other products is merely incidental.

(k) "School building" means all buildings on the grounds of any public school described in NRS 388.020 and any private school as defined in NRS 394.103.

(l) "School property" means the grounds of any public school described in NRS 388.020 and any private school as defined in NRS 394.103.

(m) "Stand-alone bar, tavern or saloon" means an establishment devoted primarily to the sale of alcoholic beverages to be consumed on the premises, in which food service is incidental to its operation, and provided that smoke from such establishments does not infiltrate into areas where smoking is prohibited under the provisions of this section. In addition, a stand-alone bar, tavern or saloon must be housed in either:

(1) A physically independent building that does not share a common entryway or indoor area with a restaurant, public place or any other indoor workplaces where smoking is prohibited by this section; or

(2) A completely enclosed area of a larger structure, such as a strip mall or an airport, provided that indoor windows must remain shut at all times and doors must remain closed when not actively in use.

(n) “Video arcade” has the meaning ascribed to it in paragraph (d) of subsection 3 of NRS 453.3345.

10. Any statute or regulation inconsistent with this section is null and void.

11. The provisions of this section are severable. If any provision of this section or the application thereof is declared by a court of competent jurisdiction to be invalid or unconstitutional, such declaration shall not affect the validity of the section as a whole or any provision thereof other than the part declared to be invalid or unconstitutional.

~~{Sec. 7.}~~ **Sec. 15.** NRS 441A.030 is hereby amended to read as follows:

441A.030 **1.** “Child care facility” ~~has the meaning ascribed to it in NRS 432A.024.~~ **means:**

*(a) An establishment operated and maintained for the purpose of furnishing care on a temporary or permanent basis, during the day or overnight, to five or more children under 18 years of age, if compensation is received for the care of any of those children;*

*(b) An on-site child care facility as defined in NRS 432A.0275;*

*(c) A child care institution as defined in NRS 432A.0245; or*

*(d) An outdoor youth program as defined in NRS 432A.028.*

**2. “Child care facility” does not include:**

*(a) The home of a natural parent or guardian, foster home as defined in NRS 424.014 or maternity home;*

*(b) A home in which the only children received, cared for and maintained are related within the third degree of consanguinity or affinity by blood, adoption or marriage to the person operating the facility; or*

*(c) A home in which a person provides care for the children of a friend or neighbor for not more than 4 weeks if the person who provides the care does not regularly engage in that activity.*

~~{Sec. 8.}~~ **Sec. 16.** NRS 444.065 is hereby amended to read as follows:

444.065 **1.** Except as otherwise provided in subsection 2, as used in NRS 444.065 to 444.120, inclusive, “public swimming pool” means any structure containing an artificial body of water that is intended to be used collectively by persons for swimming or bathing, regardless of whether a fee is charged for its use.

**2.** The term does not include any such structure at:

*(a) A private residence if the structure is controlled by the owner or other authorized occupant of the residence and the use of the structure is limited to*

members of the family of the owner or authorized occupant of the residence or invited guests of the owner or authorized occupant of the residence.

(b) A family foster home as defined in NRS 424.013.

(c) A child care facility, as defined in NRS ~~[432A.024,]~~ **441A.030**, furnishing care to 12 children or less.

(d) Any other residence or facility as determined by the State Board of Health.

(e) Any location if the structure is a privately owned pool used by members of a private club or invited guests of the members.

~~[Sec. 9.]~~ **Sec. 17.** 1. There is hereby created the Interim Task Force on Out-of-School-Time Programs. The Task Force is composed of the following 12 members:

(a) A representative of the Bureau of Services for Child Care of the Division of Child and Family Services of the Department of Health and Human Services, appointed by the Administrator of the Division;

(b) A representative of local governmental agencies that provide public services for children, appointed by the Nevada Association of Counties or its successor organization;

(c) A representative of the Nevada System of Higher Education, appointed by the Board of Regents of the University of Nevada;

(d) A representative of the public schools in this State, appointed by the State Board of Education;

(e) A representative of a national nonprofit organization that provides services to children, appointed by the Legislative Commission;

(f) A representative of a nonprofit organization that is located in Nevada and provides services to children, appointed by the Legislative Commission;

(g) A representative of a nonprofit organization that is located in Nevada and provides support to an out-of-school-time program, appointed by the Legislative Commission;

(h) A representative of a private, for profit organization that is located in Nevada and provides services to children, appointed by the Legislative Commission;

(i) A representative of an agency that provides resources and referrals to out-of-school-time programs, appointed by the Legislative Commission;

(j) A representative of a faith-based organization that provides services to children, appointed by the Legislative Commission; and

(k) Two members who are parents of children in this State, appointed by the Legislative Commission.

2. The Administrator of the Division of Child and Family Services of the Department of Health and Human Services, the Nevada Association of Counties, the Board of Regents of the University of Nevada, the State Board of Education and the Legislative Commission shall appoint the members of the Task Force as soon as practicable after July 1, 2011. A vacancy on the Task Force must be filled in the same manner as the original appointment.

3. The Task Force shall meet on or before October 1, 2011, and at its first meeting the members of the Task Force shall elect a Chair from among the members. A majority of the members of the Task Force constitutes a quorum for the transaction of business, and a majority of those members present at any meeting is sufficient for any official action taken by the Task Force.

4. The Task Force shall meet at least once every 3 months and at the call of the Chair or a majority of the members of the Task Force.

5. Each member of the Task Force serves without compensation. Each member of the Task Force who is an officer or employee of the State or a local government must be relieved from his or her duties without loss of his or her regular compensation to prepare for and attend meetings of the Task Force and perform any work necessary to carry out the duties of the Task Force in the most timely manner practicable. A state agency or local government shall not require an officer or employee who is a member of the Task Force to make up the time the member is absent from work to carry out his or her duties as a member and shall not require the member to take annual vacation or compensatory time for the absence.

6. The Bureau of Services for Child Care of the Division of Child and Family Services of the Department of Health and Human Services shall provide administrative support to the Task Force and may accept assistance from a nonprofit organization in providing such support.

7. The Task Force shall:

- (a) Prescribe standards for out-of-school-time programs;
- (b) Make recommendations concerning out-of-school-time programs and the implementation of the standards prescribed by the Task Force, including, without limitation, recommendations for a pilot program for the standards; and
- (c) Make recommendations concerning whether out-of-school-time programs should be licensed and regulated by the Bureau of Services for Child Care.

8. The Task Force shall, on or before June 30, 2012, submit a report to the Governor and to the Director of the Legislative Counsel Bureau for transmittal to the 77th Session of the Nevada Legislature. The report must include, without limitation:

- (a) A full and detailed description of the standards for out-of-school-time programs prescribed by the Task Force;
- (b) Recommendations concerning the establishment of a pilot program for the standards prescribed by the Task Force;
- (c) Recommendations concerning whether out-of-school-time programs should be licensed and regulated by the Bureau of Services for Child Care; and
- (d) Any other recommendations for legislation relating to out-of-school-time programs.

9. An out-of-school-time program may register with the Bureau of Services for Child Care or other entity designated by the Bureau. By registering with the Bureau, the out-of-school-time program agrees to comply with the standards established by the Task Force and to participate in any pilot project established pursuant to subsection 8.

10. As used in this section, “out-of-school-time program” has the meaning ascribed to it in section 2 of this act.

~~Sec. 10.~~ **Sec. 18.** 1. This act becomes effective on July 1, 2011.

2. Section ~~19~~ **17** of this act expires by limitation on June 30, 2013.

Assemblyman Frierson moved that the Assembly adopt the report of the Conference Committee concerning Assembly Bill No. 362.

Remarks by Assemblyman Frierson.

Motion carried by a constitutional majority.

*Mr. Speaker:*

The Conference Committee concerning Assembly Bill No. 39, consisting of the undersigned members, has met and reports that:

It has agreed to recommend that Amendment No. 598 of the Senate be receded from and a 3rd reprint be created in accordance with this action.

OLIVIA DIAZ  
ELLIOT ANDERSON  
LYNN STEWART

*Assembly Conference Committee*

VALERIE WIENER  
RUBEN KIHUEN

*Senate Conference Committee*

Assemblywoman Diaz moved that the Assembly adopt the report of the Conference Committee concerning Assembly Bill No. 39.

Remarks by Assemblywoman Diaz.

Motion carried by a constitutional majority.

#### CONSIDERATION OF SENATE AMENDMENTS

Assembly Joint Resolution No. 5.

The following Senate amendment was read:

Amendment No. 713.

ASSEMBLY JOINT RESOLUTION—Urging the Federal Government to engage in discussions with the State of Nevada and **Clark and Nye** ~~County~~ **Counties**, Nevada, regarding the mitigation and containment of water contamination in Nevada which resulted from certain nuclear testing and storage activities that were conducted by the Federal Government in Nye County, Nevada.

WHEREAS, The Federal Government has conducted numerous public, secret and classified activities and military exercises in Nevada that have resulted in the contamination of the water supply in this State with radioactive material and other hazardous contaminants; and

WHEREAS, The Nevada National Security Site, formerly the Nevada Test Site, which is located in Nye County, Nevada, approximately 40 miles north of Pahrump, Nevada, and 65 miles northwest of Las Vegas, Nevada, was established by the Federal Government in 1950 for the purposes of

detonating nuclear devices and conducting other public, secret and classified nuclear tests in connection with the research and development of nuclear weapons for use by the Armed Forces of the United States; and

WHEREAS, From 1951 until 1992, the Federal Government conducted 100 atmospheric nuclear tests and 828 underground nuclear tests at the Nevada National Security Site, which resulted in the detonation of 1,021 nuclear devices; and

WHEREAS, Approximately one-third of the underground nuclear tests at the Nevada National Security Site were conducted directly in aquifers, and many other underground tests were conducted above and below the water table; and

WHEREAS, Radioactive particles have migrated via water from the Paiute Mesa area of the Nevada National Security Site toward Beatty, Nevada; and

WHEREAS, The United States Department of Energy has estimated that nuclear testing at the Nevada National Security Site left behind more than 300 million curies of radionuclides, making the Site one of the most radioactively contaminated places in the United States; and

WHEREAS, Since 1961, Area 5 and Area 3 within the Nevada National Security Site have been primary storage and disposal sites of the Federal Government for low-level and mixed low-level radioactive waste; and

WHEREAS, A study conducted on behalf of Nye County concluded that nuclear testing at the Nevada National Security Site has polluted approximately 1.6 trillion gallons of water in this State; and

WHEREAS, The aforementioned activities of the Federal Government in Nevada have had a deleterious effect on the environment of this State and have resulted in the contamination of the interconnected surface and subsurface waters, groundwater and aquifers of a large geographic area of Nevada with radioactive and other contaminants; now, therefore, be it

RESOLVED BY THE ASSEMBLY AND SENATE OF THE STATE OF NEVADA, JOINTLY, That the members of the 76th Session of the Nevada Legislature respectfully urge the Federal Government to engage in discussions with the State of Nevada and Clark and Nye Counties, Nevada, regarding:

1. The mitigation and containment of water contamination in Nevada which resulted from nuclear testing and storage activities that were conducted by the Federal Government at the Nevada National Security Site; and

2. The restoration of any water contaminated because of those activities; and be it further

RESOLVED, That the Chief Clerk of the Assembly prepare and transmit a copy of this resolution to the Secretary of Defense, the Secretary of Energy, the Chairman of the Joint Chiefs of Staff, the Administrator of the Environmental Protection Agency and each member of the Nevada Congressional Delegation; and be it further

RESOLVED, That this resolution becomes effective upon passage.

Assemblywoman Carlton moved that the Assembly concur in the Senate Amendment No. 713 to Assembly Joint Resolution No. 5.

Remarks by Assemblywoman Carlton.

Motion carried by a constitutional majority.

Resolution ordered enrolled.

RECEDE FROM ASSEMBLY AMENDMENTS

Assemblyman Atkinson moved that the Assembly do not recede from its action on Senate Bill No. 136, that a conference be requested, and that Mr. Speaker appoint a Conference Committee consisting of three members to meet with a like committee of the Senate.

Remarks by Assemblyman Atkinson.

Motion carried.

APPOINTMENT OF CONFERENCE COMMITTEES

Mr. Speaker appointed Assemblymen Conklin, Bustamante Adams, and Hickey as a Conference Committee to meet with a like committee of the Senate for the further consideration of Senate Bill No. 136.

RECEDE FROM ASSEMBLY AMENDMENTS

Assemblyman Atkinson moved that the Assembly do not recede from its action on Senate Bill No. 200, that a conference be requested, and that Mr. Speaker appoint a Conference Committee consisting of three members to meet with a like committee of the Senate.

Remarks by Assemblyman Atkinson.

Motion carried.

APPOINTMENT OF CONFERENCE COMMITTEES

Mr. Speaker appointed Assemblymen Kirkpatrick, Atkinson, and Ellison as a Conference Committee to meet with a like committee of the Senate for the further consideration of Senate Bill No. 200.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblywoman Kirkpatrick moved that Assembly Bill No. 574 be taken from the Chief Clerk's desk and placed on the General File.

Remarks by Assemblywoman Kirkpatrick.

Motion carried.

UNFINISHED BUSINESS

RECEDE FROM ASSEMBLY AMENDMENTS

Assemblyman Horne moved that the Assembly do not recede from its action on Senate Bill No. 402, that a conference be requested, and that Mr. Speaker appoint a Conference Committee consisting of three members to meet with a like committee of the Senate.

Remarks by Assemblyman Horne.

Motion carried.

## APPOINTMENT OF CONFERENCE COMMITTEES

Mr. Speaker appointed Assemblymen Conklin, Horne, and Kirner as a Conference Committee to meet with a like committee of the Senate for the further consideration of Senate Bill No. 402.

## GENERAL FILE AND THIRD READING

Assembly Bill No. 574.

Bill read third time.

The following amendment was proposed by Assemblywoman Kirkpatrick:

Amendment No. 894.

SUMMARY—Revises Assembly Bill No. 144 of this session ~~and provides for related study.~~ (BDR S-1309)

AN ACT relating to breaches of contracts for public works; revising the provisions of Assembly Bill No. 144 of this session relating to a material breach of certain contracts; ~~providing for a study of the availability of sureties for parties entering into such contracts; appropriating money for a consultant for such a study;~~ and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires that, for a contractor, applicant or design-build team to receive a preference in bidding for a contract for a public work, the contract must include a provision which requires the contractor, applicant or design-build team to comply with five specified conditions and provides that failure to comply with any of those five conditions is a material breach of the contract that entitles the public body to damages in the amount of 10 percent of the cost of the contract. (Section 2 of Assembly Bill No. 144 of the 2011 Legislative Session) ~~Section 1 of this~~ **This** bill provides that the public body is entitled to liquidated damages in the amount of ~~10~~ **1** percent of the contract or subcontract for the public work entered into by the party that caused a failure to comply with any of the five specified conditions ~~for \$50,000, whichever is less. Section 1~~ **This bill** also allows the public body to recover the damages directly from the party that caused a failure to comply with any of the five specified conditions. Finally, ~~section 1~~ **this bill** provides that the condition which requires that at least 25 percent of the suppliers of materials for the public work be located in this State does not apply when the public body requires the acquisition of materials or equipment that cannot be obtained from a supplier located in this State. ~~Section 3 of this bill requires the Legislative Commission to appoint a committee to study the availability of sureties for parties entering into contracts governed by section 2 of Assembly Bill No. 144 of the 2011 Legislative Session. Section 2 of this bill appropriates \$10,000 for a consultant for this study.~~

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



**Section 1.** Section 2 of Assembly Bill No. 144 of this session is hereby amended to read as follows:

Sec. 2. 1. To qualify to receive a preference in bidding pursuant to subsection 2 of NRS 338.1389, subsection 2 of NRS 338.147, subsection 3 of NRS 338.1693, subsection 3 of NRS 338.1727 or subsection 2 of NRS 408.3886, a contractor, an applicant or a design-build team, respectively, must submit to the public body sponsoring or financing a public work a signed affidavit which certifies that, for the duration of the project:

(a) At least 50 percent of all workers employed on the public work, including, without limitation, any employees of the contractor, applicant or design-build team and of any subcontractor engaged on the public work, will hold a valid driver's license or identification card issued by the Department of Motor Vehicles;

(b) All vehicles used primarily for the public work will be:

(1) Registered and partially apportioned to Nevada pursuant to the International Registration Plan, as adopted by the Department of Motor Vehicles pursuant to NRS 706.826; or

(2) Registered in this State;

(c) At least 50 percent of the design professionals working on the public work, including, without limitation, any employees of the contractor, applicant or design-build team and of any subcontractor engaged on the public work, will have a valid driver's license or identification card issued by the Department of Motor Vehicles;

(d) At least 25 percent of the suppliers of the materials used for the public work will be located in this State ~~};~~ ***unless the public body requires the acquisition of materials or equipment that cannot be obtained from a supplier located in this State;*** and

(e) The contractor, applicant or design-build team and any subcontractor engaged on the public work will maintain and make available for inspection within this State his or her records concerning payroll relating to the public work.

2. Any contract for a public work awarded to a contractor, applicant or design-build team who submits the affidavit described in subsection 1 and who receives a preference in bidding described in subsection 1 must:

(a) Include a provision in the contract that substantially incorporates the requirements of paragraphs (a) to (e), inclusive, of subsection 1; and

(b) Provide that a failure to comply with any requirement of paragraphs (a) to (e), inclusive, of subsection 1 is a material breach of the contract and entitles the public body to liquidated damages ~~[in the amount of 10 percent of the cost of the contract.]~~ ***only as provided in subsections 5 and 6.***

3. A person or entity who believes that a contractor, applicant or design-build team has obtained a preference in bidding as described in subsection 1 but has failed to comply with a requirement of paragraphs (a) to (e), inclusive, of subsection 1 may file a written objection with the public body for which the contractor, applicant or design-build team is performing the

public work. A written objection authorized pursuant to this subsection must set forth proof or substantiating evidence to support the belief of the person or entity that the contractor, applicant or design-build team has failed to comply with a requirement of paragraphs (a) to (e), inclusive, of subsection 1.

4. If a public body receives a written objection pursuant to subsection 3, the public body shall determine whether the objection is accompanied by the proof or substantiating evidence required pursuant to that subsection. If the public body determines that the objection is not accompanied by the required proof or substantiating evidence, the public body shall dismiss the objection. If the public body determines that the objection is accompanied by the required proof or substantiating evidence or if the public body determines on its own initiative that proof or substantiating evidence of a failure to comply with a requirement of paragraphs (a) to (e), inclusive, of subsection 1 exists, the public body shall determine whether the contractor, applicant or design-build team has failed to comply with a requirement of paragraphs (a) to (e), inclusive, of subsection 1 and the public body or its authorized representative may proceed to award the contract accordingly or, if the contract has already been awarded, seek the remedy authorized in subsection 5.

5. A public body may recover , by civil action *against the party responsible for a failure to comply with a requirement of paragraphs (a) to (e), inclusive, of subsection 1*, liquidated damages as described in ~~paragraph (b) of~~ subsection ~~{2}~~ **6** for a breach of a contract for a public work caused by a failure to comply with a requirement of paragraphs (a) to (e), inclusive, of subsection 1. If a public body recovers liquidated damages pursuant to this subsection for a breach of a contract for a public work, the public body shall report to the State Contractors' Board the date of the breach, the name of each entity which breached the contract and the cost of the contract. The Board shall maintain this information for not less than 6 years. Upon request, the Board shall provide this information to any public body or its authorized representative.

6. If a contractor, applicant or design-build team submits the affidavit described in subsection 1, receives a preference in bidding described in subsection 1 and is awarded the contract, *the contract between the contractor, applicant or design-build team and the public body*, each contract between the contractor, applicant or design-build team and a subcontractor *or supplier and each contract between a subcontractor and a subcontractor or supplier* must provide ~~for the apportionment of liquidated damages assessed pursuant to subsection 5 if a person other than the contractor was responsible for the breach of a contract for a public work caused by a failure to comply with a requirement of paragraphs (a) to (e), inclusive, of subsection 1. The apportionment of liquidated damages must be in proportion to the responsibility of each party for the breach.]~~ *that:*

*(a) If a party to the contract causes a material breach of the contract between the contractor, applicant or design-build team and the public body*

*as a result of a failure to comply with a requirement of paragraphs (a) to (e), inclusive, of subsection 1, the party is liable to the public body for liquidated damages in the amount of ~~10~~ 1 percent of the cost of the largest contract to which he or she is a party; ~~for \$50,000, whichever is less;~~*

*(b) The right to recover the amount determined pursuant to paragraph (a) by the public body pursuant to subsection 5 may be enforced by the public body directly against the party that causes the material breach; and*

*(c) No other party to the contract is liable to the public body for liquidated damages.*

7. A public body that awards a contract for a public work to a contractor, applicant or design-build team who submits the affidavit described in subsection 1 and who receives a preference in bidding described in subsection 1 shall, on or before July 31 of each year, submit a written report to the Director of the Legislative Counsel Bureau for transmittal to the Legislative Commission. The report must include information on each contract for a public work awarded to a contractor, applicant or design-build team who submits the affidavit described in subsection 1 and who receives a preference in bidding described in subsection 1, including, without limitation, the name of the contractor, applicant or design-build team who was awarded the contract, the cost of the contract, a brief description of the public work and a description of the degree to which the contractor, applicant or design-build team and each subcontractor complied with the requirements of paragraphs (a) to (e), inclusive, of subsection 1.

~~Sec. 2. [1. There is hereby appropriated from the State General Fund to the Legislative Commission the sum of \$10,000 to contract, through competitive bidding, with a qualified independent consultant:~~

~~(a) To review the provisions of Nevada law governing sureties, public works and contracting for public works;~~

~~(b) To review the availability of sureties for, and the use of sureties by, contractors and other persons entering into contracts for public works; and~~

~~(c) To make recommendations to the committee conducting the study pursuant to section 3 of this act concerning:~~

~~(1) The reviews described in paragraphs (a) and (b);~~

~~(2) The impact that limitations on amounts of liquidated damages for breaches of contracts for public works have on the availability and use of sureties described in paragraph (b); and~~

~~(3) Any other subjects as requested by the committee.~~

~~2. Any remaining balance of the appropriation made by subsection 1 to the Legislative Commission must not be committed for expenditure after June 30, 2013, by the entity to which the appropriation is made or any entity to which money from the appropriation is granted or otherwise transferred in any manner, and any portion of the appropriated money remaining must not be spent for any purpose after September 20, 2013, by either the entity to which the money was appropriated or the entity to which the money was~~

~~subsequently granted or transferred, and must be reverted to the State General Fund on or before September 20, 2013.] (Deleted by amendment.)~~

~~Sec. 3. 1. The Legislative Commission shall appoint a committee to conduct an interim study concerning the availability of sureties for parties entering into contracts for public works using a preference governed by the provisions of section 2 of Assembly Bill No. 144 of the 2011 Legislative Session.~~

~~2. The committee appointed by the Legislative Commission pursuant to subsection 1 must be composed of six Legislators as follows:~~

~~(a) Three members appointed by the Majority Leader of the Senate, at least one of whom must be appointed from the membership of the Senate Standing Committee on Government Affairs during the immediately preceding session of the Legislature; and~~

~~(b) Three members appointed by the Speaker of the Assembly, at least one of whom must be appointed from the membership of the Assembly Standing Committee on Government Affairs during the immediately preceding session of the Legislature.~~

~~3. The study must include, without limitation:~~

~~(a) A review of:~~

~~(1) The laws of this State governing sureties, public works and contracting for public works; and~~

~~(2) The availability of sureties for, and the use of sureties by, contractors and other persons entering into contracts for public works;~~

~~(b) The impact that limitations on amounts of liquidated damages for breaches of contracts for public works have on the availability and use of such sureties; and~~

~~(c) Any other matters which the Legislative Commission deems relevant to the consideration of the issues.~~

~~4. In conducting the study, the committee shall consider the recommendations and testimony from experts in the surety industry and public works contracts, including, without limitation:~~

~~(a) The consultant retained pursuant to section 2 of this act;~~

~~(b) Representatives of sureties and the surety industry;~~

~~(c) Representatives of construction management and labor organizations;~~

~~(d) The State Public Works Board; and~~

~~(e) Local government public works officials.~~

~~5. The Legislative Commission shall submit a report of the results of the study and any recommendations for legislation to the 77th Session of the Nevada Legislature.] (Deleted by amendment.)~~

**Sec. 4.** This act becomes effective upon passage and approval.

Assemblywoman Kirkpatrick moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed, and to third reading.

## MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Conklin moved that for the balance of sessions all rules be suspended and that the reprinting of all bills and resolutions be dispensed with.

Motion carried.

## GENERAL FILE AND THIRD READING

Assembly Bill No. 574.

Bill read third time.

Remarks by Assemblywoman Kirkpatrick.

Roll call on Assembly Bill No. 574:

YEAS—41.

NAYS—None.

EXCUSED—Hansen.

Assembly Bill No. 574 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

## UNFINISHED BUSINESS

## APPOINTMENT OF CONFERENCE COMMITTEES

Mr. Speaker appointed Assemblymen Neal, Bustamante Adams, and Ellison as a Conference Committee to meet with a like committee of the Senate for the further consideration of Assembly Bill No. 257.

Mr. Speaker appointed Assemblymen Smith, Benitez-Thompson, and Stewart as a Conference Committee to meet with a like committee of the Senate for the further consideration of Assembly Bill No. 240.

Mr. Speaker appointed Assemblymen Bustamante Adams, Neal, and Ellison as a Conference Committee to meet with a like committee of the Senate for the further consideration of Assembly Bill No. 59.

Mr. Speaker appointed Assemblymen Horne, Frierson, and Hammond as a Conference Committee to meet with a like committee of the Senate for the further consideration of Assembly Bill No. 136.

Mr. Speaker appointed Assemblymen Anderson, Benitez-Thompson, and Hambrick as a Conference Committee to meet with a like committee of the Senate for the further consideration of Assembly Bill No. 277.

## RECEDE FROM ASSEMBLY AMENDMENTS

Assemblyman Bobzien moved that the Assembly do not recede from its action on Senate Bill No. 365, that a conference be requested, and that Mr. Speaker appoint a Conference Committee consisting of three members to meet with a like committee of the Senate.

Remarks by Assemblyman Bobzien.

Motion carried.

APPOINTMENT OF CONFERENCE COMMITTEES

Mr. Speaker appointed Assemblymen Mastroluca, Diaz, and McArthur as a Conference Committee to meet with a like committee of the Senate for the further consideration of Senate Bill No. 365.

Mr. Speaker announced if there were no objections, the Assembly would recess subject to the call of the Chair.

Assembly in recess at 7:41 p.m.

ASSEMBLY IN SESSION

At 7:50 p.m.

Mr. Speaker presiding.

Quorum present.

REPORTS OF CONFERENCE COMMITTEES

*Mr. Speaker:*

The Conference Committee concerning Assembly Bill No. 40, consisting of the undersigned members, has met and reports that:

It has agreed to recommend that Amendment No. 599 of the Senate be concurred in.

MARILYN DONDERO LOOP

DINA NEAL

MELISSA WOODBURY

*Assembly Conference Committee*

RUBEN KIHUEN

VALERIE WIENER

DON GUSTAVSON

*Senate Conference Committee*

Assemblywoman Dondero Loop moved that the Assembly adopt the report of the Conference Committee concerning Assembly Bill No. 40.

Remarks by Assemblywoman Dondero Loop.

Motion carried by a constitutional majority.

UNFINISHED BUSINESS

SIGNING OF BILLS AND RESOLUTIONS

There being no objections, the Speaker and Chief Clerk signed Assembly Bills Nos. 82, 225, 229, 242, 258, 260, 265, 273, 308, 322, 328, 337, 413, 452, 471; Senate Bills Nos. 77, 223, 233, 236, 299, 323, 339, and 361.

GUESTS EXTENDED PRIVILEGE OF ASSEMBLY FLOOR

On request of Assemblywoman Benitez-Thompson, the privilege of the floor of the Assembly Chamber for this day was extended to Ramir Hernandez.

On request of Assemblyman Hickey, the privilege of the floor of the Assembly Chamber for this day was extended to Shinae Watterson and Shin Hickey.

On request of Assemblyman Kirner, the privilege of the floor of the Assembly Chamber for this day was extended to students and chaperones from Cold Springs Middle School.

On request of Assemblyman Livermore, the privilege of the floor of the Assembly Chamber for this day was extended to Nayeli Cervantes, Fredy Fernandez Benite, Hailey Garner, Zachary Holmes, Tyler Illig, Annie Marantette, Marcella Martin, Blake Menzel, Caelin Miller, Brennan Plunkett, Maria Ramirez, Christian Riley, Jose Rodriguez-Nauyo, Nathaly Romero Estupina, Walker Simeroth, Destini Simmons, Jillian Smith, Tanner Styles, Kiara Vargas, Logan Vestal, Kane Wallace, Rachel Weese, Ameliz Wickstead, Tara Purinton, Carolyn Cook, Jakob Carlson, Lillyanna Chaidez, Dana Chambers, Conner Couste, Cassandra Franz, Emily Gentile, David Gonzalez, Isaiah Henkel, Zane Johnson, Kyle Ketten, Jolie Kinkade, Gillian Manel, Jaylen Martinez, Madison Matthews, Arturo Mendoza, Christian Ortega-Grajeda, Marilyn Peterson, Joshua Queen, Marcos Reynaga, Kayla Simmons, Ivania Soriano, Tessa Stevens, Alexander Wall, and Ridge Willard.

Assemblyman Conklin moved that the Assembly adjourn until Saturday, June 4, 2011, at 11 a.m.

Motion carried.

Assembly adjourned at 7:53 p.m.

Approved:

JOHN OCEGUERA  
*Speaker of the Assembly*

Attest: SUSAN FURLONG

*Chief Clerk of the Assembly*