

THE ONE HUNDRED EIGHTEENTH DAY

CARSON CITY (Saturday), June 4, 2011

Assembly called to order at 11:37 a.m.

Mr. Speaker presiding.

Roll called.

All present except Assemblyman Kirner, who was excused.

Prayer by the Chaplain, Pat Hickey.

Dear Lord, we have each had our share of difficult days in the last four months.

But we also rejoice in our sufferings, because we know that suffering produces perseverance; perseverance, character; and character, hope. And hope does not disappoint us, because God has poured out His love into our hearts by the Holy Spirit, whom He has given us. (Romans 5:3-5)

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, to which was rereferred Assembly Bill No. 542, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass, as amended.

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 passed Assembly Bills Nos. 48, 100, 148, 247, 531, 570; Senate Bills Nos. 211, 418.

Also, I have the honor to inform your honorable body that the Senate on this day receded from its action on Assembly Bill No. 53, Senate Amendment No. 673.

Also, I have the honor to inform your honorable body that the Senate on this day passed, as amended, Senate Bills Nos. 278, 320, 338, 449.

Also, I have the honor to inform your honorable body that the Senate on this day concurred in the Assembly Amendment No. 731 to Senate Bill No. 24; Assembly Amendment No. 612 to Senate Bill No. 40; Assembly Amendment No. 645 to Senate Bill No. 65; Assembly Amendment No. 593 to Senate Bill No. 92; Assembly Amendment No. 594 to Senate Bill No. 110; Assembly Amendment No. 648 to Senate Bill No. 151; Assembly Amendment No. 844 to Senate Bill No. 262; Assembly Amendment No. 615 to Senate Bill No. 400.

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. 804 to Senate Bill No. 304.

Also, I have the honor to inform your honorable body that the Senate on this day adopted the report of the Conference Committee concerning Senate Bill No. 264.

SHERRY L. RODRIGUEZ
Assistant Secretary of the Senate

INTRODUCTION, FIRST READING AND REFERENCE

By the Committee on Ways and Means:

Assembly Bill No. 579—AN ACT relating to education; ensuring sufficient funding for K-12 public education for the 2011-2013 biennium; apportioning the State Distributive School Account in the State General Fund for the 2011-2013 biennium; authorizing certain expenditures; making appropriations for purposes relating to basic support, class-size reduction and other educational purposes; temporarily diverting the money from the State Supplemental School Support Fund to the State Distributive School Account for use in funding operating costs and other expenditures of school districts; revising provisions governing local funds available for certain school districts for the 2011-2013 biennium; and providing other matters properly relating thereto.

Assemblywoman Kirkpatrick moved that the bill be referred to the Committee on Ways and Means.

Motion carried.

By the Committee on Ways and Means:

Assembly Bill No. 580—AN ACT relating to state financial administration; making appropriations from the State General Fund and the State Highway Fund for the support of the civil government of the State of Nevada for the fiscal years beginning July 1, 2011, and ending June 30, 2012, and beginning July 1, 2012, and ending June 30, 2013; providing for the use of the money so appropriated; authorizing the State Treasurer to establish a line of credit under certain circumstances; making various other changes relating to the financial administration of the State; and providing other matters properly relating thereto.

Assemblywoman Kirkpatrick moved that the bill be referred to the Committee on Ways and Means.

Motion carried.

Senate Bill No. 211.

Assemblywoman Kirkpatrick moved that the bill be referred to the Committee on Legislative Operations and Elections.

Motion carried.

Senate Bill No. 278.

Assemblywoman Kirkpatrick moved that the bill be referred to the Committee on Health and Human Services.

Motion carried.

Senate Bill No. 320.

Assemblywoman Kirkpatrick moved that the bill be referred to the Committee on Commerce and Labor.

Motion carried.

Senate Bill No. 338.

Assemblywoman Kirkpatrick moved that the bill be referred to the Committee on Health and Human Services.

Motion carried.

Senate Bill No. 418.

Assemblywoman Kirkpatrick moved that the bill be referred to the Committee on Legislative Operations and Elections.

Motion carried.

Senate Bill No. 449.

Assemblywoman Kirkpatrick moved that the bill be referred to the Committee on Ways and Means.

Motion carried.

UNFINISHED BUSINESS

CONSIDERATION OF SENATE AMENDMENTS

Assembly Bill No. 223.

The following Senate amendment was read:

Amendment No. 694.

AN ACT relating to civil actions; providing that a certain amount of money held in a personal bank account that is likely to be exempt from execution is not subject to a writ of execution or garnishment ~~but~~ **except in certain circumstances**; providing a procedure to execute on property held in a safe-deposit box; revising the procedure for claiming an exemption from execution on certain property; making various other changes to provisions governing writs of execution, attachment and garnishment; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law allows a judgment creditor to obtain a writ of execution, attachment or garnishment to levy on the property of a judgment debtor or defendant in certain circumstances. (Chapters 21 and 31 of NRS) Certain property, however, is exempt from execution and therefore cannot be the subject of such a writ. (NRS 21.090) **Section 3** of this bill provides that a certain amount of money held in the personal bank account of a judgment debtor which is likely to be exempt from execution is not subject to a writ of execution or garnishment and must remain accessible to the judgment debtor ~~but~~ **except in certain circumstances**. **Section 3** further provides immunity

from liability to a financial institution which makes an incorrect determination concerning whether money is subject to execution. **Section 4** of this bill provides that notwithstanding the provisions of **section 3**, if a judgment debtor has personal bank accounts in more than one financial institution, the writ may attach to all money in those accounts. The judgment debtor then may claim any exemption that may apply.

Section 5 of this bill provides that a separate writ must be issued to levy on property in a safe-deposit box and provides a procedure for executing on such a writ.

Section 5.5 of this bill revises the form for a writ of execution issued on a judgment for the recovery of money to include notice on the form to financial institutions of whether the judgment is for the recovery of money for the support of a person.

Section 7 of this bill provides additional exemptions from execution which are provided by Nevada law.

Section 8 of this bill revises the procedures for claiming an exemption from execution, and for objecting to such a claim of exemption. **Sections 6 and 10** of this bill revise the notice that is provided to a judgment debtor or defendant when a writ of execution, attachment or garnishment is levied on the property of the judgment debtor or defendant so that the procedures listed in the notice reflect the changes made in **section 8**. **Sections 6 and 10** further revise the notice to provide additional information concerning the claiming of exemptions.

Sections 2 and 9 of this bill clarify that a constable has authority to perform any of the duties assigned to a sheriff and has all of the authority granted to a sheriff with respect to a writ of execution, garnishment or attachment.

Section 11 of this bill revises the interrogatories that are used with a writ of execution, attachment or garnishment to clarify the manner of determining the earnings which must be identified as subject to execution and to provide specific questions for a bank to conform to the new provisions in **section 3**.

Section 12 of this bill requires the judgment creditor who caused a writ of attachment to issue to prepare an accounting and provide a report to the judgment debtor, the sheriff and each garnishee every 120 days providing information about the debt and the rights of the debtor. The accounting must also be submitted with each subsequent application for a writ filed by the judgment creditor concerning the same judgment.

Section 13 of this bill provides that the fee for receiving, removing and taking care of property on execution, attachment or court order collected by a constable is not payable in advance.

Section 14 of this bill provides that certain unemployment benefits are exempt from execution regardless of whether they are mingled with other money.

Section 15 of this bill repeals NRS 21.114 concerning the submission of sureties to the jurisdiction of the court because the requirement for an undertaking requiring a surety is removed in **section 8**.

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

Section 1. Chapter 21 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 5, inclusive, of this act.

Sec. 2. *A constable may perform any of the duties assigned to a sheriff and has all of the authority granted to a sheriff pursuant to this chapter with respect to a writ of execution or garnishment.*

Sec. 3. 1. *If a writ of execution or garnishment is levied on the personal bank account of the judgment debtor and money has been deposited into the account electronically within the immediately preceding 45 days from the date on which the writ was served which is reasonably identifiable as exempt from execution, notwithstanding any other deposits of money into the account, \$2,000 or the entire amount in the account, whichever is less, is not subject to execution and must remain accessible to the judgment debtor. For the purposes of this section, money is reasonably identifiable as exempt from execution if the money is deposited in the bank account by the United States Department of the Treasury, including, without limitation, money deposited as:*

(a) Benefits provided pursuant to the Social Security Act which are exempt from execution pursuant to 42 U.S.C. §§ 407 and 1383, including, without limitation, retirement and survivors' benefits, supplemental security income benefits, disability insurance benefits and child support payments that are processed pursuant to Part D of Title IV of the Social Security Act;

(b) Veterans' benefits which are exempt from execution pursuant to 38 U.S.C. § 5301;

(c) Annuities payable to retired railroad employees which are exempt from execution pursuant to 45 U.S.C. § 231m;

(d) Benefits provided for retirement or disability of federal employees which are exempt from execution pursuant to 5 U.S.C. §§ 8346 and 8470;

(e) Annuities payable to retired members of the Armed Forces of the United States and to any surviving spouse or children of such members which are exempt from execution pursuant to 10 U.S.C. §§ 1440 and 1450;

(f) *Payments and allowances to members of the Armed Forces of the United States which are exempt from execution pursuant to 37 U.S.C. § 701;*

(g) *Federal student loan payments which are exempt from execution pursuant to 20 U.S.C. § 1095a;*

(h) *Wages due or accruing to merchant seamen which are exempt from execution pursuant to 46 U.S.C. § 11109;*

(i) *Compensation or benefits due or payable to longshore and harbor workers which are exempt from execution pursuant to 33 U.S.C. § 916;*

(j) *Annuities and benefits for retirement and disability of members of the foreign service which are exempt from execution pursuant to 22 U.S.C. § 4060;*

(k) *Compensation for injury, death or detention of employees of contractors with the United States outside the United States which is exempt from execution pursuant to 42 U.S.C. § 1717;*

(l) *Assistance for a disaster from the Federal Emergency Management Agency which is exempt from execution pursuant to 44 C.F.R. § 206.110;*

(m) *Black lung benefits paid to a miner or a miner's surviving spouse or children pursuant to 30 U.S.C. § 922 or 931 which are exempt from execution; and*

(n) *Benefits provided pursuant to any other federal law.*

2. *If a writ of execution or garnishment is levied on the personal bank account of the judgment debtor and the provisions of subsection 1 do not apply, \$1,000 or the entire amount in the account, whichever is less, is not subject to execution and must remain accessible to the judgment debtor ~~+~~ ,unless the writ of execution or garnishment is for the recovery of money owed for the support of any person.*

3. *If a judgment debtor has more than one personal bank account with the bank to which a writ is issued, the amount that is not subject to execution must not in the aggregate exceed the amount specified in subsection 1 or 2, as applicable.*

4. *A judgment debtor may apply to a court to claim an exemption for any amount subject to a writ levied on a personal bank account which exceeds the amount that is not subject to execution pursuant to subsection 1 or 2.*

5. *If money in the personal account of the judgment debtor which exceeds the amount that is not subject to execution pursuant to subsection 1 or 2 includes exempt and nonexempt money, the judgment debtor may claim an exemption for the exempt money in the manner set forth in NRS 21.112. To determine whether such money in the account is exempt, the judgment creditor must use the method of accounting which applies the standard that the first money deposited in the account is the first money*

withdrawn from the account. The court may require a judgment debtor to provide statements from the bank which include all deposits into and withdrawals from the account for the immediately preceding 90 days.

6. A financial institution which makes a reasonable effort to determine whether money in the account of a judgment debtor is subject to execution for the purposes of this section is immune from civil liability for any act or omission with respect to that determination, including, without limitation, when the financial institution makes an incorrect determination after applying commercially reasonable methods for determining whether money in an account is exempt because the source of the money was not clearly identifiable or because the financial institution inadvertently misidentified the source of the money. If a court determines that a financial institution failed to identify that money in an account was not subject to execution pursuant to this section, the financial institution must adjust its actions with respect to a writ of execution as soon as possible but may not be held liable for damages.

7. Nothing in this section requires a financial institution to revise its determination about whether money is exempt, except by an order of a court.

Sec. 4. 1. Notwithstanding the provisions of section 3 of this act, if a judgment debtor has a personal bank account in more than one financial institution, the judgment creditor is entitled to an order from the court to be issued with the writ of execution or garnishment which states that all money held in all such accounts of the judgment debtor that are identified in the application for the order are subject to the writ.

2. A judgment creditor may apply to the court for an order pursuant to subsection 1 by submitting a signed affidavit which identifies each financial institution in which the judgment debtor has a personal account.

3. A judgment debtor may claim an exemption for any exempt money in the account to which the writ attaches in the manner set forth in NRS 21.112.

Sec. 5. 1. If a writ of execution or garnishment is levied on property in a safe-deposit box maintained at a financial institution, a separate writ must be issued from any writ that is issued to levy on an account of the judgment debtor with the financial institution. Notice of the writ must be served personally on the financial institution and promptly thereafter on any third person who is named on the safe-deposit box.

2. During the period in which the writ of execution or garnishment is in effect, the financial institution must not allow the contents of the safe-deposit box to be removed other than as directed by the sheriff or by court order.

3. *The sheriff may allow the person in whose name the safe-deposit box is held to open the safe-deposit box so that the contents may be removed pursuant to the levy. The financial institution may refuse to allow the forcible opening of the safe-deposit box to allow the removal of the property levied upon unless the judgment creditor pays in advance the cost of forcibly opening the safe-deposit box and of repairing any damage caused thereby.*

Sec. 5.5. NRS 21.025 is hereby amended to read as follows:

21.025 A writ of execution issued on a judgment for the recovery of money must be substantially in the following form:

(Title of the Court)

(Number and abbreviated title of the case)

EXECUTION

THE PEOPLE OF THE STATE OF NEVADA:

To the sheriff of County.

Greetings:

To FINANCIAL INSTITUTIONS: This judgment is for the recovery of money for the support of a person.

On(month).....(day).....(year), a judgment was entered by the above-entitled court in the above-entitled action in favor of as judgment creditor and against as judgment debtor for:

- \$..... principal,
- \$..... attorney's fees,
- \$..... interest, and
- \$..... costs, making a total amount of
- \$..... the judgment as entered, and

WHEREAS, according to an affidavit or a memorandum of costs after judgment, or both, filed herein, it appears that further sums have accrued since the entry of judgment, to wit:

- \$..... accrued interest, and
- \$ accrued costs, together with \$..... fee, for the issuance of this writ, making a total of
- \$..... as accrued costs, accrued interest and fees.

Credit must be given for payments and partial satisfactions in the amount of

\$.....

which is to be first credited against the total accrued costs and accrued interest, with any excess credited against the judgment as entered, leaving a net balance of

\$.....

actually due on the date of the issuance of this writ, of which

\$.....
bears interest at percent per annum, in the amount of \$..... per day, from the date of judgment to the date of levy, to which must be added the commissions and costs of the officer executing this writ.

NOW, THEREFORE, SHERIFF OF COUNTY, you are hereby commanded to satisfy this judgment with interest and costs as provided by law, out of the personal property of the judgment debtor, except that for any workweek, 75 percent of the disposable earnings of the debtor during that week or 50 times the minimum hourly wage prescribed by section 6(a)(1) of the federal Fair Labor Standards Act of 1938, 29 U.S.C. § 206(a)(1), and in effect at the time the earnings are payable, whichever is greater, is exempt from any levy of execution pursuant to this writ, and if sufficient personal property cannot be found, then out of the real property belonging to the debtor in the aforesaid county, and make return to this writ within not less than 10 days or more than 60 days endorsed thereon with what you have done.

Dated: This day of the month of of the year
....., Clerk.
By....., Deputy Clerk.

Sec. 6. NRS 21.075 is hereby amended to read as follows:

21.075 1. Execution on the writ of execution by levying on the property of the judgment debtor may occur only if the sheriff serves the judgment debtor with a notice of the writ of execution pursuant to NRS 21.076 and a copy of the writ. The notice must describe the types of property exempt from execution and explain the procedure for claiming those exemptions in the manner required in subsection 2. The clerk of the court shall attach the notice to the writ of execution at the time the writ is issued.

2. The notice required pursuant to subsection 1 must be substantially in the following form:

NOTICE OF EXECUTION
YOUR PROPERTY IS BEING ATTACHED OR
YOUR WAGES ARE BEING GARNISHED

A court has determined that you owe money to (name of person), the judgment creditor. The judgment creditor has begun the procedure to collect that money by garnishing your wages, bank account and other personal property held by third persons or by taking money or other property in your possession.

Certain benefits and property owned by you may be exempt from execution and may not be taken from you. The following is a partial list of exemptions:

1. Payments received pursuant to the federal Social Security Act, including, without limitation, retirement and survivors' benefits, supplemental security income benefits and disability insurance benefits.

2. Payments for benefits or the return of contributions under the Public Employees' Retirement System.

3. Payments for public assistance granted through the Division of Welfare and Supportive Services of the Department of Health and Human Services or a local governmental entity.

4. Proceeds from a policy of life insurance.

5. Payments of benefits under a program of industrial insurance.

6. Payments received as disability, illness or unemployment benefits.

7. Payments received as unemployment compensation.

8. Veteran's benefits.

9. A homestead in a dwelling or a mobile home, not to exceed \$550,000, unless:

(a) The judgment is for a medical bill, in which case all of the primary dwelling, including a mobile or manufactured home, may be exempt.

(b) Allodial title has been established and not relinquished for the dwelling or mobile home, in which case all of the dwelling or mobile home and its appurtenances are exempt, including the land on which they are located, unless a valid waiver executed pursuant to NRS 115.010 is applicable to the judgment.

10. All money reasonably deposited with a landlord by you to secure an agreement to rent or lease a dwelling that is used by you as your primary residence, except that such money is not exempt with respect to a landlord or landlord's successor in interest who seeks to enforce the terms of the agreement to rent or lease the dwelling.

11. A vehicle, if your equity in the vehicle is less than \$15,000.

12. Seventy-five percent of the take-home pay for any workweek, unless the weekly take-home pay is less than 50 times the federal minimum hourly wage, in which case the entire amount may be exempt.

13. Money, not to exceed \$500,000 in present value, held in:

(a) An individual retirement arrangement which conforms with the applicable limitations and requirements of section 408 or 408A of the Internal Revenue Code, 26 U.S.C. §§ 408 and 408A;

(b) A written simplified employee pension plan which conforms with the applicable limitations and requirements of section 408 of the Internal Revenue Code, 26 U.S.C. § 408;

(c) A cash or deferred arrangement that is a qualified plan pursuant to the Internal Revenue Code;

(d) A trust forming part of a stock bonus, pension or profit-sharing plan that is a qualified plan pursuant to sections 401 et seq. of the Internal Revenue Code, 26 U.S.C. §§ 401 et seq.; and

(e) A trust forming part of a qualified tuition program pursuant to chapter 353B of NRS, any applicable regulations adopted pursuant to chapter 353B of NRS and section 529 of the Internal Revenue Code, 26 U.S.C. § 529, unless the money is deposited after the entry of a judgment against the purchaser or account owner or the money will not be used by any beneficiary to attend a college or university.

14. All money and other benefits paid pursuant to the order of a court of competent jurisdiction for the support, education and maintenance of a child, whether collected by the judgment debtor or the State.

15. All money and other benefits paid pursuant to the order of a court of competent jurisdiction for the support and maintenance of a former spouse, including the amount of any arrearages in the payment of such support and maintenance to which the former spouse may be entitled.

16. Regardless of whether a trust contains a spendthrift provision:

(a) A present or future interest in the income or principal of a trust, if the interest has not been distributed from the trust;

(b) A remainder interest in the trust whereby a beneficiary of the trust will receive property from the trust outright at some time in the future under certain circumstances;

(c) A discretionary power held by a trustee to determine whether to make a distribution from the trust, if the interest has not been distributed from the trust;

(d) The power to direct dispositions of property in the trust, other than such a power held by a trustee to distribute property to a beneficiary of the trust;

(e) Certain powers held by a trust protector or certain other persons;

(f) Any power held by the person who created the trust; and

(g) Any other property of the trust that has not been distributed from the trust. Once the property is distributed from the trust, the property is subject to execution.

17. If a trust contains a spendthrift provision:

(a) A mandatory interest in the trust in which the trustee does not have discretion concerning whether to make the distribution from the trust, if the interest has not been distributed from the trust;

(b) A support interest in the trust in which the standard for distribution may be interpreted by the trustee or a court, if the interest has not been distributed from the trust; and

(c) Any other property of the trust that has not been distributed from the trust. Once the property is distributed from the trust, the property is subject to execution.

18. A vehicle for use by you or your dependent which is specially equipped or modified to provide mobility for a person with a permanent disability.

19. A prosthesis or any equipment prescribed by a physician or dentist for you or your dependent.

20. Payments, in an amount not to exceed \$16,150, received as compensation for personal injury, not including compensation for pain and suffering or actual pecuniary loss, by the judgment debtor or by a person upon whom the judgment debtor is dependent at the time the payment is received.

21. Payments received as compensation for the wrongful death of a person upon whom the judgment debtor was dependent at the time of the wrongful death, to the extent reasonably necessary for the support of the judgment debtor and any dependent of the judgment debtor.

22. Payments received as compensation for the loss of future earnings of the judgment debtor or of a person upon whom the judgment debtor is dependent at the time the payment is received, to the extent reasonably necessary for the support of the judgment debtor and any dependent of the judgment debtor.

23. Payments received as restitution for a criminal act.

24. Personal property, not to exceed \$1,000 in total value, if the property is not otherwise exempt from execution.

25. A tax refund received from the earned income credit provided by federal law or a similar state law.

26. Stock of a corporation described in subsection 2 of NRS 78.746 except as set forth in that section.

➔ These exemptions may not apply in certain cases such as a proceeding to enforce a judgment for support of a person or a judgment of foreclosure on a mechanic's lien. You should consult an attorney immediately to assist you in determining whether your property or money is exempt from execution. If you cannot afford an attorney, you may be eligible for assistance through (name of organization in county providing legal services to indigent or elderly persons). ***If you do not wish to consult an attorney or receive legal services from an organization that provides assistance to persons who qualify, you may obtain the form to be used to claim an exemption from the clerk of the court.***

PROCEDURE FOR CLAIMING EXEMPT PROPERTY

If you believe that the money or property taken from you is exempt, you must complete and file with the clerk of the court ~~the~~ ~~an executed claim of exemption.~~ A copy of the ~~affidavit~~ ~~claim of exemption~~ must be served upon the sheriff, *the garnishee* and the judgment creditor within ~~8~~ **20 calendar** days after the notice of execution or garnishment is ~~mailed~~ **served on you by mail pursuant to NRS 21.076 which identifies the specific property that is being levied on.** The property must be ~~returned to you~~ **released by the garnishee or the sheriff** within ~~5~~ **9 judicial** days after you ~~file~~ **serve the** ~~affidavit~~ **claim of exemption upon the sheriff, garnishee and judgment creditor**, unless ~~you or the judgment creditor files a motion~~ **the sheriff or garnishee receives a copy of an objection to the claim of exemption and a notice** for a hearing to determine the issue of exemption. If this happens, a hearing will be held to determine whether the property or money is exempt. The ~~motion~~ **objection to the claim of exemption and notice** for the hearing to determine the issue of exemption must be filed within ~~10~~ **8 judicial** days after the ~~affidavit~~ ~~claim of exemption is filed~~ **served on the judgment creditor by mail or in person and served on the judgment debtor, the sheriff and any garnishee not less than 5 judicial days before the date set for the hearing.** The hearing to determine whether the property or money is exempt must be held within ~~10~~ **7 judicial** days after the ~~motion~~ **objection to the claim of exemption and notice** for the hearing is filed. **You may be able to have your property released more quickly if you mail to the judgment creditor or the attorney of the judgment creditor written proof that the property is exempt. Such proof may include, without limitation, a letter from the government, an annual statement from a pension fund, receipts for payment, copies of checks, records from financial institutions or any other document which demonstrates that the money in your account is exempt.**

IF YOU DO NOT FILE THE ~~AFFIDAVIT~~ **EXECUTED CLAIM OF EXEMPTION** WITHIN THE TIME SPECIFIED, YOUR PROPERTY MAY BE SOLD AND THE MONEY GIVEN TO THE JUDGMENT CREDITOR, EVEN IF THE PROPERTY OR MONEY IS EXEMPT.

Sec. 7. NRS 21.090 is hereby amended to read as follows:

21.090 1. The following property is exempt from execution, except as otherwise specifically provided in this section or required by federal law:

(a) Private libraries, works of art, musical instruments and jewelry not to exceed \$5,000 in value, belonging to the judgment debtor or a dependent of the judgment debtor, to be selected by the judgment debtor, and all family pictures and keepsakes.

(b) Necessary household goods, furnishings, electronics, wearing apparel, other personal effects and yard equipment, not to exceed \$12,000 in value,

belonging to the judgment debtor or a dependent of the judgment debtor, to be selected by the judgment debtor.

(c) Farm trucks, farm stock, farm tools, farm equipment, supplies and seed not to exceed \$4,500 in value, belonging to the judgment debtor to be selected by the judgment debtor.

(d) Professional libraries, equipment, supplies, and the tools, inventory, instruments and materials used to carry on the trade or business of the judgment debtor for the support of the judgment debtor and his or her family not to exceed \$10,000 in value.

(e) The cabin or dwelling of a miner or prospector, the miner's or prospector's cars, implements and appliances necessary for carrying on any mining operations and the mining claim actually worked by the miner or prospector, not exceeding \$4,500 in total value.

(f) Except as otherwise provided in paragraph (p), one vehicle if the judgment debtor's equity does not exceed \$15,000 or the creditor is paid an amount equal to any excess above that equity.

(g) For any workweek, 75 percent of the disposable earnings of a judgment debtor during that week, or 50 times the minimum hourly wage prescribed by section 6(a)(1) of the federal Fair Labor Standards Act of 1938, 29 U.S.C. § 206(a)(1), and in effect at the time the earnings are payable, whichever is greater. Except as otherwise provided in paragraphs (o), (s) and (t), the exemption provided in this paragraph does not apply in the case of any order of a court of competent jurisdiction for the support of any person, any order of a court of bankruptcy or of any debt due for any state or federal tax. As used in this paragraph:

(1) "Disposable earnings" means that part of the earnings of a judgment debtor remaining after the deduction from those earnings of any amounts required by law to be withheld.

(2) "Earnings" means compensation paid or payable for personal services performed by a judgment debtor in the regular course of business, including, without limitation, compensation designated as income, wages, tips, a salary, a commission or a bonus. The term includes compensation received by a judgment debtor that is in the possession of the judgment debtor, compensation held in accounts maintained in a bank or any other financial institution or, in the case of a receivable, compensation that is due the judgment debtor.

(h) All fire engines, hooks and ladders, with the carts, trucks and carriages, hose, buckets, implements and apparatus thereunto appertaining, and all furniture and uniforms of any fire company or department organized under the laws of this State.

(i) All arms, uniforms and accouterments required by law to be kept by any person, and also one gun, to be selected by the debtor.

(j) All courthouses, jails, public offices and buildings, lots, grounds and personal property, the fixtures, furniture, books, papers and appurtenances belonging and pertaining to the courthouse, jail and public offices belonging to any county of this State, all cemeteries, public squares, parks and places, public buildings, town halls, markets, buildings for the use of fire departments and military organizations, and the lots and grounds thereto belonging and appertaining, owned or held by any town or incorporated city, or dedicated by the town or city to health, ornament or public use, or for the use of any fire or military company organized under the laws of this State and all lots, buildings and other school property owned by a school district and devoted to public school purposes.

(k) All money, benefits, privileges or immunities accruing or in any manner growing out of any life insurance, if the annual premium paid does not exceed \$15,000. If the premium exceeds that amount, a similar exemption exists which bears the same proportion to the money, benefits, privileges and immunities so accruing or growing out of the insurance that the \$15,000 bears to the whole annual premium paid.

(l) The homestead as provided for by law, including a homestead for which allodial title has been established and not relinquished and for which a waiver executed pursuant to NRS 115.010 is not applicable.

(m) The dwelling of the judgment debtor occupied as a home for himself or herself and family, where the amount of equity held by the judgment debtor in the home does not exceed \$550,000 in value and the dwelling is situated upon lands not owned by the judgment debtor.

(n) All money reasonably deposited with a landlord by the judgment debtor to secure an agreement to rent or lease a dwelling that is used by the judgment debtor as his or her primary residence, except that such money is not exempt with respect to a landlord or the landlord's successor in interest who seeks to enforce the terms of the agreement to rent or lease the dwelling.

(o) All property in this State of the judgment debtor where the judgment is in favor of any state for failure to pay that state's income tax on benefits received from a pension or other retirement plan.

(p) Any vehicle owned by the judgment debtor for use by the judgment debtor or the judgment debtor's dependent that is equipped or modified to provide mobility for a person with a permanent disability.

(q) Any prosthesis or equipment prescribed by a physician or dentist for the judgment debtor or a dependent of the debtor.

(r) Money, not to exceed \$500,000 in present value, held in:

(1) An individual retirement arrangement which conforms with the applicable limitations and requirements of section 408 or 408A of the Internal Revenue Code, 26 U.S.C. §§ 408 and 408A;

(2) A written simplified employee pension plan which conforms with the applicable limitations and requirements of section 408 of the Internal Revenue Code, 26 U.S.C. § 408;

(3) A cash or deferred arrangement which is a qualified plan pursuant to the Internal Revenue Code;

(4) A trust forming part of a stock bonus, pension or profit-sharing plan which is a qualified plan pursuant to sections 401 et seq. of the Internal Revenue Code, 26 U.S.C. §§ 401 et seq.; and

(5) A trust forming part of a qualified tuition program pursuant to chapter 353B of NRS, any applicable regulations adopted pursuant to chapter 353B of NRS and section 529 of the Internal Revenue Code, 26 U.S.C. § 529, unless the money is deposited after the entry of a judgment against the purchaser or account owner or the money will not be used by any beneficiary to attend a college or university.

(s) All money and other benefits paid pursuant to the order of a court of competent jurisdiction for the support, education and maintenance of a child, whether collected by the judgment debtor or the State.

(t) All money and other benefits paid pursuant to the order of a court of competent jurisdiction for the support and maintenance of a former spouse, including the amount of any arrearages in the payment of such support and maintenance to which the former spouse may be entitled.

(u) Payments, in an amount not to exceed \$16,150, received as compensation for personal injury, not including compensation for pain and suffering or actual pecuniary loss, by the judgment debtor or by a person upon whom the judgment debtor is dependent at the time the payment is received.

(v) Payments received as compensation for the wrongful death of a person upon whom the judgment debtor was dependent at the time of the wrongful death, to the extent reasonably necessary for the support of the judgment debtor and any dependent of the judgment debtor.

(w) Payments received as compensation for the loss of future earnings of the judgment debtor or of a person upon whom the judgment debtor is dependent at the time the payment is received, to the extent reasonably necessary for the support of the judgment debtor and any dependent of the judgment debtor.

(x) Payments received as restitution for a criminal act.

(y) Payments received pursuant to the federal Social Security Act, including, without limitation, retirement and survivors' benefits, supplemental security income benefits and disability insurance benefits.

(z) Any personal property not otherwise exempt from execution pursuant to this subsection belonging to the judgment debtor, including, without limitation, the judgment debtor's equity in any property, money, stocks,

bonds or other funds on deposit with a financial institution, not to exceed \$1,000 in total value, to be selected by the judgment debtor.

(aa) Any tax refund received by the judgment debtor that is derived from the earned income credit described in section 32 of the Internal Revenue Code, 26 U.S.C. § 32, or a similar credit provided pursuant to a state law.

(bb) Stock of a corporation described in subsection 2 of NRS 78.746 except as set forth in that section.

(cc) Regardless of whether a trust contains a spendthrift provision:

(1) A beneficial interest in the trust as defined in NRS 163.4145 if the interest has not been distributed;

(2) A remainder interest in the trust as defined in NRS 163.416 if the trust does not indicate that the remainder interest is certain to be distributed within 1 year after the date on which the instrument that creates the remainder interest becomes irrevocable;

(3) A discretionary interest in the trust as described in NRS 163.4185 if the interest has not been distributed;

(4) A power of appointment in the trust as defined in NRS 163.4157 regardless of whether the power has been distributed or transferred;

(5) A power listed in NRS 163.5553 that is held by a trust protector as defined in NRS 163.5547 or any other person regardless of whether the power has been distributed or transferred;

(6) A reserved power in the trust as defined in NRS 163.4165 regardless of whether the power has been distributed or transferred; and

(7) Any other property of the trust that has not been distributed from the trust. Once the property is distributed from the trust, the property is subject to execution.

(dd) If a trust contains a spendthrift provision:

(1) A mandatory interest in the trust as described in NRS 163.4185 if the interest has not been distributed;

(2) Notwithstanding a beneficiary's right to enforce a support interest, a support interest in the trust as described in NRS 163.4185 if the interest has not been distributed; and

(3) Any other property of the trust that has not been distributed from the trust. Once the property is distributed from the trust, the property is subject to execution.

(ee) Proceeds received from a private disability insurance plan.

(ff) Money in a trust fund for funeral or burial services pursuant to NRS 689.700.

(gg) Compensation that was payable or paid pursuant to chapters 616A to 616D, inclusive, or chapter 617 of NRS as provided in NRS 616C.205.

(hh) Unemployment compensation benefits received pursuant to NRS 612.710.

(ii) Benefits or refunds payable or paid from the Public Employees' Retirement System pursuant to NRS 286.670.

(jj) Money paid or rights existing for vocational rehabilitation pursuant to NRS 615.270.

(kk) Public assistance provided through the Department of Health and Human Services pursuant to NRS 422.291.

(ll) Child welfare assistance provided pursuant to NRS 432.036.

2. Except as otherwise provided in NRS 115.010, no article or species of property mentioned in this section is exempt from execution issued upon a judgment to recover for its price, or upon a judgment of foreclosure of a mortgage or other lien thereon.

3. Any exemptions specified in subsection (d) of section 522 of the Bankruptcy Act of 1978, 11 U.S.C. § 522(d), do not apply to property owned by a resident of this State unless conferred also by subsection 1, as limited by subsection 2.

Sec. 8. NRS 21.112 is hereby amended to read as follows:

21.112 1. In order to claim exemption of any property levied on ~~[-]~~ ***pursuant to this section***, the judgment debtor must, within ~~[8]~~ ***20 calendar*** days after the notice ~~[prescribed in NRS 21.075 is mailed,]~~ ***of a writ of execution or garnishment is served on the judgment debtor by mail pursuant to NRS 21.076 which identifies the specific property that is being levied on***, serve on the sheriff, ***the garnishee and the judgment creditor and file with the clerk of the court issuing the writ of execution [an affidavit setting out]*** the judgment debtor's claim of exemption ~~[-]~~ ***which is executed in the manner set forth in NRS 53.045. If the property that is levied on is the earnings of the judgment debtor, the judgment debtor must file the claim of exemption pursuant to this subsection within 20 calendar days after the date of each withholding of the judgment debtor's earnings.***

2. The clerk of the court shall provide the form for the ~~[affidavit]~~.

~~2. When the affidavit is served, the sheriff shall release the property if the judgment creditor, within 5 days after written demand by the sheriff:~~

~~(a) Fails to give the sheriff an undertaking executed by two good and sufficient sureties which:~~

~~(1) Is in a sum equal to double the value of the property levied on; and~~

~~(2) Indemnifies the judgment debtor against loss, liability, damages, costs and attorney's fees by reason of the taking, withholding or sale of the property by the sheriff; or~~

~~(b) Fails to file a motion for a hearing to determine whether the property or money is exempt.~~

~~→ The clerk of the court shall provide the form for the motion.~~

~~3. At the time of giving the sheriff the undertaking provided for in subsection 2, the judgment creditor shall give notice of the undertaking to the judgment debtor.~~

~~4.] claim of exemption and shall further provide with the form instructions concerning the manner in which to claim an exemption, a checklist and description of the most commonly claimed exemptions, instructions concerning the manner in which the property must be released to the judgment debtor if no objection to the claim of exemption is filed and an order to be used by the court to grant or deny an exemption. No fee may be charged for providing such a form or for filing the form with the court.~~

~~3. An objection to the claim of exemption and notice for a hearing must be filed with the court within 8 judicial days after the claim of exemption is served on the judgment creditor by mail or in person and served on the judgment debtor, the sheriff and any garnishee. The judgment creditor shall also serve notice of the date of the hearing on the judgment debtor, the sheriff and any garnishee not less than 5 judicial days before the date set for the hearing.~~

~~4. If an objection to the claim of exemption and notice for a hearing are not filed within 8 judicial days after the claim of exemption has been served, the property of the judgment debtor must be released by the person who has control or possession over the property in accordance with the instructions set forth on the form for the claim of exemption provided pursuant to subsection 2 within 9 judicial days after the claim of exemption has been served.~~

~~5. The sheriff is not liable to the judgment debtor for damages by reason of the taking, withholding or sale of any property [;] where [;]~~

~~(a) No affidavit claiming] a claim of exemption is not served on the sheriff. [; or~~

~~(b) An affidavit claiming exemption is served on the sheriff, but the sheriff fails to release the property in accordance with this section.~~

~~5.] 6. Unless the court continues the hearing for good cause shown, the hearing on an objection to a claim of exemption to determine whether the property or money is exempt must be held within [10] 7 judicial days after the [motion] objection to the claim and notice for [the] a hearing is filed.~~

~~[6.—The judgment creditor shall give the judgment debtor at least 5 days' notice of the hearing.] The judgment debtor has the burden to prove that he or she is entitled to the claimed exemption at such a hearing. After determining whether the judgment debtor is entitled to an exemption, the court shall mail a copy of the order to the judgment debtor, the judgment creditor, any other named party, the sheriff and any garnishee.~~

~~7. If the sheriff or garnishee does not receive a copy of a claim of exemption from the judgment debtor within 25 calendar days after the~~

property is levied on, the garnishee must release the property to the sheriff or, if the property is held by the sheriff, the sheriff must release the property to the judgment creditor.

8. *At any time after:*

(a) An exemption is claimed pursuant to this section, the judgment debtor may withdraw the claim of exemption and direct that the property be released to the judgment creditor.

(b) An objection to a claim of exemption is filed pursuant to this section, the judgment creditor may withdraw the objection and direct that the property be released to the judgment debtor.

9. *The provisions of this section do not limit or prohibit any other remedy provided by law.*

10. *In addition to any other procedure or remedy authorized by law, a person other than the judgment debtor whose property is the subject of a writ of execution or garnishment may follow the procedures set forth in this section for claiming an exemption to have the property released.*

11. *A judgment creditor shall not require a judgment debtor to waive any exemption which the judgment debtor is entitled to claim.*

Sec. 9. Chapter 31 of NRS is hereby amended by adding thereto a new section to read as follows:

A constable may perform any of the duties assigned to a sheriff and has all of the authority granted to a sheriff pursuant to this chapter with respect to a writ of attachment.

Sec. 10. NRS 31.045 is hereby amended to read as follows:

31.045 1. Execution on the writ of attachment by attaching property of the defendant may occur only if:

(a) The judgment creditor serves the defendant with notice of the execution when the notice of the hearing is served pursuant to NRS 31.013; or

(b) Pursuant to an ex parte hearing, the sheriff serves upon the judgment debtor notice of the execution and a copy of the writ at the same time and in the same manner as set forth in NRS 21.076.

↪ If the attachment occurs pursuant to an ex parte hearing, the clerk of the court shall attach the notice to the writ of attachment at the time the writ is issued.

2. The notice required pursuant to subsection 1 must be substantially in the following form:

NOTICE OF EXECUTION

YOUR PROPERTY IS BEING ATTACHED OR
YOUR WAGES ARE BEING GARNISHED

Plaintiff, (name of person), alleges that you owe the plaintiff money. The plaintiff has begun the procedure to collect that money. To secure satisfaction of judgment, the court has ordered the garnishment of your wages, bank account or other personal property held by third persons or the taking of money or other property in your possession.

Certain benefits and property owned by you may be exempt from execution and may not be taken from you. The following is a partial list of exemptions:

1. Payments received pursuant to the federal Social Security Act, including, without limitation, retirement and survivors' benefits, supplemental security income benefits and disability insurance benefits.

2. Payments for benefits or the return of contributions under the Public Employees' Retirement System.

3. Payments for public assistance granted through the Division of Welfare and Supportive Services of the Department of Health and Human Services or a local governmental entity.

4. Proceeds from a policy of life insurance.

5. Payments of benefits under a program of industrial insurance.

6. Payments received as disability, illness or unemployment benefits.

7. Payments received as unemployment compensation.

8. Veteran's benefits.

9. A homestead in a dwelling or a mobile home, not to exceed \$550,000, unless:

(a) The judgment is for a medical bill, in which case all of the primary dwelling, including a mobile or manufactured home, may be exempt.

(b) Allodial title has been established and not relinquished for the dwelling or mobile home, in which case all of the dwelling or mobile home and its appurtenances are exempt, including the land on which they are located, unless a valid waiver executed pursuant to NRS 115.010 is applicable to the judgment.

10. All money reasonably deposited with a landlord by you to secure an agreement to rent or lease a dwelling that is used by you as your primary residence, except that such money is not exempt with respect to a landlord or the landlord's successor in interest who seeks to enforce the terms of the agreement to rent or lease the dwelling.

11. A vehicle, if your equity in the vehicle is less than \$15,000.

12. Seventy-five percent of the take-home pay for any workweek, unless the weekly take-home pay is less than 50 times the federal minimum hourly wage, in which case the entire amount may be exempt.

13. Money, not to exceed \$500,000 in present value, held in:

(a) An individual retirement arrangement which conforms with the applicable limitations and requirements of section 408 or 408A of the Internal Revenue Code, 26 U.S.C. §§ 408 and 408A;

(b) A written simplified employee pension plan which conforms with the applicable limitations and requirements of section 408 of the Internal Revenue Code, 26 U.S.C. § 408;

(c) A cash or deferred arrangement that is a qualified plan pursuant to the Internal Revenue Code;

(d) A trust forming part of a stock bonus, pension or profit-sharing plan that is a qualified plan pursuant to sections 401 et seq. of the Internal Revenue Code, 26 U.S.C. §§ 401 et seq.; and

(e) A trust forming part of a qualified tuition program pursuant to chapter 353B of NRS, any applicable regulations adopted pursuant to chapter 353B of NRS and section 529 of the Internal Revenue Code, 26 U.S.C. § 529, unless the money is deposited after the entry of a judgment against the purchaser or account owner or the money will not be used by any beneficiary to attend a college or university.

14. All money and other benefits paid pursuant to the order of a court of competent jurisdiction for the support, education and maintenance of a child, whether collected by the judgment debtor or the State.

15. All money and other benefits paid pursuant to the order of a court of competent jurisdiction for the support and maintenance of a former spouse, including the amount of any arrearages in the payment of such support and maintenance to which the former spouse may be entitled.

16. Regardless of whether a trust contains a spendthrift provision:

(a) A present or future interest in the income or principal of a trust, if the interest has not been distributed from the trust;

(b) A remainder interest in the trust whereby a beneficiary of the trust will receive property from the trust outright at some time in the future under certain circumstances;

(c) A discretionary power held by a trustee to determine whether to make a distribution from the trust, if the interest has not been distributed from the trust;

(d) The power to direct dispositions of property in the trust, other than such a power held by a trustee to distribute property to a beneficiary of the trust;

(e) Certain powers held by a trust protector or certain other persons;

(f) Any power held by the person who created the trust; and

(g) Any other property of the trust that has not been distributed from the trust. Once the property is distributed from the trust, the property is subject to execution.

17. If a trust contains a spendthrift provision:

(a) A mandatory interest in the trust in which the trustee does not have discretion concerning whether to make the distribution from the trust, if the interest has not been distributed from the trust;

(b) A support interest in the trust in which the standard for distribution may be interpreted by the trustee or a court, if the interest has not been distributed from the trust; and

(c) Any other property of the trust that has not been distributed from the trust. Once the property is distributed from the trust, the property is subject to execution.

18. A vehicle for use by you or your dependent which is specially equipped or modified to provide mobility for a person with a permanent disability.

19. A prosthesis or any equipment prescribed by a physician or dentist for you or your dependent.

20. Payments, in an amount not to exceed \$16,150, received as compensation for personal injury, not including compensation for pain and suffering or actual pecuniary loss, by the judgment debtor or by a person upon whom the judgment debtor is dependent at the time the payment is received.

21. Payments received as compensation for the wrongful death of a person upon whom the judgment debtor was dependent at the time of the wrongful death, to the extent reasonably necessary for the support of the judgment debtor and any dependent of the judgment debtor.

22. Payments received as compensation for the loss of future earnings of the judgment debtor or of a person upon whom the judgment debtor is dependent at the time the payment is received, to the extent reasonably necessary for the support of the judgment debtor and any dependent of the judgment debtor.

23. Payments received as restitution for a criminal act.

24. Personal property, not to exceed \$1,000 in total value, if the property is not otherwise exempt from execution.

25. A tax refund received from the earned income credit provided by federal law or a similar state law.

26. Stock of a corporation described in subsection 2 of NRS 78.746 except as set forth in that section.

↳ These exemptions may not apply in certain cases such as proceedings to enforce a judgment for support of a child or a judgment of foreclosure on a mechanic's lien. You should consult an attorney immediately to assist you in determining whether your property or money is exempt from execution. If you cannot afford an attorney, you may be eligible for assistance through (name of organization in county providing legal services to the indigent or elderly persons). ***If you do not wish to consult an attorney or***

receive legal services from an organization that provides assistance to persons who qualify, you may obtain the form to be used to claim an exemption from the clerk of the court.

PROCEDURE FOR CLAIMING EXEMPT PROPERTY

If you believe that the money or property taken from you is exempt or necessary for the support of you or your family, you must file with the clerk of the court on a form provided by the clerk ~~[a notarized affidavit claiming the]~~ ***an executed claim of exemption***. A copy of the ~~[affidavit]~~ ***claim of exemption*** must be served upon the sheriff, ***the garnishee*** and the judgment creditor within ~~[8]~~ ***20 calendar*** days after the notice of execution ***or garnishment*** is ~~[mailed.]~~ ***served on you by mail pursuant to NRS 21.076 which identifies the specific property that is being levied on.*** The property must be ~~[returned to you]~~ ***released by the garnishee or the sheriff*** within ~~[5]~~ ***9 judicial*** days after you ~~[file]~~ ***serve the [affidavit] claim of exemption upon the sheriff, garnishee and judgment creditor,*** unless the ~~[judgment creditor files a motion]~~ ***sheriff or garnishee receives a copy of an objection to the claim of exemption and a notice*** for a hearing to determine the issue of exemption. If this happens, a hearing will be held to determine whether the property or money is exempt. ***The objection to the claim of exemption and notice for the hearing to determine the issue of exemption must be filed within 8 judicial days after the claim of exemption is served on the judgment creditor by mail or in person and served on the judgment debtor, the sheriff and any garnishee not less than 5 judicial days before the date set for the hearing.*** The hearing must be held within ~~[10]~~ ***7 judicial*** days after the ~~[motion]~~ ***objection to the claim of exemption and notice*** for a hearing is filed. ***You may be able to have your property released more quickly if you mail to the judgment creditor or the attorney of the judgment creditor written proof that the property is exempt. Such proof may include, without limitation, a letter from the government, an annual statement from a pension fund, receipts for payment, copies of checks, records from financial institutions or any other document which demonstrates that the money in your account is exempt.***

IF YOU DO NOT FILE THE ~~[AFFIDAVIT]~~ EXECUTED CLAIM OF EXEMPTION WITHIN THE TIME SPECIFIED, YOUR PROPERTY MAY BE SOLD AND THE MONEY GIVEN TO THE JUDGMENT CREDITOR, EVEN IF THE PROPERTY OR MONEY IS EXEMPT.

If you received this notice with a notice of a hearing for attachment and you believe that the money or property which would be taken from you by a writ of attachment is exempt or necessary for the support of you or your family, you are entitled to describe to the court at the hearing why you

believe your property is exempt. You may also file a motion with the court for a discharge of the writ of attachment. You may make that motion any time before trial. A hearing will be held on that motion.

IF YOU DO NOT FILE THE MOTION BEFORE THE TRIAL, YOUR PROPERTY MAY BE SOLD AND THE MONEY GIVEN TO THE PLAINTIFF, EVEN IF THE PROPERTY OR MONEY IS EXEMPT OR NECESSARY FOR THE SUPPORT OF YOU OR YOUR FAMILY.

Sec. 11. NRS 31.290 is hereby amended to read as follows:

31.290 1. The interrogatories to *be submitted with any writ of execution, attachment or garnishment* to the garnishee may be in substance as follows:

INTERROGATORIES

Are you in any manner indebted to the defendants

.....
.....,
or either of them, either in property or money, and is the debt now due? If not due, when is the debt to become due? State fully all particulars.

Answer:.....
.....

Are you an employer of one or all of the defendants? If so, state the length of your pay period and the amount of *disposable earnings, as defined in NRS 31.295, that* each defendant presently earns during a pay period. *State the minimum amount of disposable earnings that is exempt from this garnishment, which is the federal minimum hourly wage prescribed by section 6(a)(1) of the federal Fair Labor Standards Act of 1938, 29 U.S.C. § 206(a)(1), in effect at the time the earnings are payable multiplied by 50 for each week of the pay period, after deducting any amount required by law to be withheld.*

Calculate the attachable amount as follows:

(Check one of the following) The employee is paid:

[A] Weekly: ___ [B] Biweekly: ___ [C] Semimonthly: ___ [D] Monthly: ___

- (1) Gross Earnings..... \$
- (2) Deductions required by law (not including child support)..... \$
- (3) Disposable Earnings [Subtract line 2 from line 1]..... \$
- (4) Federal Minimum Wage..... \$
- (5) Multiply line 4 by 50..... \$

(6) Complete the following directions in accordance with the letter selected above:

- [A] Multiply line 5 by 1..... \$
- [B] Multiply line 5 by 2..... \$

[C] Multiply line 5 by 52 and then divide by 24..... \$

[D] Multiply line 5 by 52 and then divide by 12..... \$

(7) Subtract line 6 from line 3..... \$

This is the attachable earnings. This amount must not exceed 25% of the disposable earnings from line 3.

Answer:.....

Did you have in your possession, in your charge or under your control, on the date the writ of garnishment was served upon you, any money, property, effects, goods, chattels, rights, credits or choses in action of the defendants, or either of them, or in whichis interested? If so, state its value, and state fully all particulars.

Answer:.....

Do you know of any debts owing to the defendants, whether due or not due, or any money, property, effects, goods, chattels, rights, credits or choses in action, belonging to or in whichis interested, and now in the possession or under the control of others? If so, state particulars.

Answer:.....

Are you a financial institution with a personal account held by one or all of the defendants? If so, state the account number and the amount of money in the account which is subject to garnishment. As set forth in section 3 of this act, \$2,000 or the entire amount in the account, whichever is less, is not subject to garnishment if the financial institution reasonably identifies that an electronic deposit of money has been made into the account within the immediately preceding 45 days which is exempt from execution, including, without limitation, payments of money described in section 3 of this act or, if no such deposit has been made, \$1,000 or the entire amount in the account, whichever is less, is not subject to garnishment. The amount which is not subject to garnishment does not apply to each account of the judgment debtor, but rather is an aggregate amount that is not subject to garnishment.

Answer:.....

State your correct name and address, or the name and address of your attorney upon whom written notice of further proceedings in this action may be served.

Answer:.....

.....

Garnishee

I (insert the name of the garnishee), ~~[do solemnly swear (or affirm)]~~
declare under penalty of perjury that the answers to the foregoing
interrogatories by me subscribed are true ~~[]~~ **and correct.**

.....
(Signature of garnishee)

~~[SUBSCRIBED and SWORN to before me this day of the month of
..... of the year]~~

2. The garnishee shall answer the interrogatories in writing upon oath or affirmation and submit the answers to the sheriff within the time required by the writ. ***The garnishee shall submit his or her answers to the judgment debtor within the same time.*** If the garnishee fails to do so, the garnishee shall be deemed in default.

Sec. 12. NRS 31.296 is hereby amended to read as follows:

31.296 1. Except as otherwise provided in subsection 3, if the garnishee indicates in the garnishee’s answer to garnishee interrogatories that the garnishee is the employer of the defendant, the writ of garnishment served on the garnishee shall be deemed to continue for 120 days or until the amount demanded in the writ is satisfied, whichever occurs earlier.

2. In addition to the fee set forth in NRS 31.270, a garnishee is entitled to a fee from the plaintiff of \$3 per pay period, not to exceed \$12 per month, for each withholding made of the defendant’s earnings. This subsection does not apply to the first pay period in which the defendant’s earnings are garnished.

3. If the defendant’s employment by the garnishee is terminated before the writ of garnishment is satisfied, the garnishee:

(a) Is liable only for the amount of earned but unpaid, disposable earnings that are subject to garnishment.

(b) Shall provide the plaintiff or the plaintiff’s attorney with the last known address of the defendant and the name of any new employer of the defendant, if known by the garnishee.

4. *The judgment creditor who caused the writ of attachment to issue pursuant to NRS 31.013 shall prepare an accounting and provide a report to the judgment debtor, the sheriff and each garnishee every 120 days which sets forth, without limitation, the amount owed by the judgment debtor, the costs and fees allowed pursuant to NRS 18.160 and any accrued interest and costs on the judgment. The report must advise the judgment debtor of the judgment debtor’s right to request a hearing pursuant to NRS 18.110 to dispute any accrued interest, fee or other charge. The judgment creditor must submit this accounting with each subsequent application for writ made by the judgment creditor concerning the same debt.*

Sec. 13. NRS 258.230 is hereby amended to read as follows:

258.230 Except with respect to the ~~fee~~ *fees* described in ~~paragraph~~ *paragraphs (a) and* (d) of subsection 2 of NRS 258.125, all fees prescribed in this chapter shall be payable in advance, if demanded. If a constable shall not have received any or all of his or her fees, which may be due the constable for services rendered by him or her in any suit or proceedings, the constable may have execution therefor in his or her own name against the party or parties from whom they are due, to be issued from the court where the action is pending, upon the order of the justice of the peace or court upon affidavit filed.

Sec. 14. NRS 612.710 is hereby amended to read as follows:

612.710 Except as otherwise provided in NRS 31A.150:

1. Any assignment, pledge or encumbrance of any right to benefits which are or may become due or payable under this chapter is void, except for a voluntary assignment of benefits to satisfy an obligation to pay support for a child.

2. Benefits are exempt from levy, execution, attachment, or any other remedy provided for the collection of debt. Benefits received by any person ~~if they are not mingled with other money of the recipient,~~ are exempt from any remedy for the collection of all debts, except debts incurred for necessities furnished to the person or the person's spouse or dependents during the time when the person was unemployed.

3. Any other waiver of any exemption provided for in this section is void.

Sec. 15. NRS 21.114 is hereby repealed.

TEXT OF REPEALED SECTION

21.114 Sureties: Submission to jurisdiction of court; exceptions to sufficiency and justification.

1. By entering into any undertaking provided for in NRS 21.112, the sureties thereunder submit themselves to the jurisdiction of the court and irrevocably appoint the clerk of the court as agent upon whom any papers affecting liability on the undertaking may be served. Liability on such undertaking may be enforced on motion to the court without the necessity of an independent action. The motion and such reasonable notice of the motion as the court prescribes may be served on the clerk of the court, who shall forthwith mail copies to the sureties if their addresses are known.

2. Exceptions to the sufficiency of the sureties and their justification may be had and taken in the same manner as upon an undertaking given in other cases under titles 2 and 3 of NRS. If they, or others in their place, fail to justify at the time and place appointed, the sheriff must release the property; but if no exception is taken within 5 days after notice of receipt of the

undertaking, the judgment debtor shall be deemed to have waived any and all objections to the sufficiency of the sureties.

Assemblyman Horne moved that the Assembly concur in the Senate Amendment No. 694 to Assembly Bill No. 223.

Remarks by Assemblyman Horne.

Motion carried.

The following Senate amendment was read:

Amendment No. 851.

AN ACT relating to civil actions; providing that a certain amount of money held in a personal bank account that is likely to be exempt from execution is not subject to a writ of execution or garnishment except in certain circumstances; providing a procedure to execute on property held in a safe-deposit box; revising the procedure for claiming an exemption from execution on certain property; making various other changes to provisions governing writs of execution, attachment and garnishment; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law allows a judgment creditor to obtain a writ of execution, attachment or garnishment to levy on the property of a judgment debtor or defendant in certain circumstances. (Chapters 21 and 31 of NRS) Certain property, however, is exempt from execution and therefore cannot be the subject of such a writ. (NRS 21.090) **Section 3** of this bill provides that a certain amount of money held in the personal bank account of a judgment debtor which is likely to be exempt from execution is not subject to a writ of execution or garnishment and must remain accessible to the judgment debtor except in certain circumstances. **Section 3** further provides immunity from liability to a financial institution which makes an incorrect determination concerning whether money is subject to execution. **Section 4** of this bill provides that notwithstanding the provisions of **section 3**, if a judgment debtor has personal bank accounts in more than one financial institution, the writ may attach to all money in those accounts. The judgment debtor then may claim any exemption that may apply.

Section 5 of this bill provides that a separate writ must be issued to levy on property in a safe-deposit box and provides a procedure for executing on such a writ.

Section 5.5 of this bill revises the form for a writ of execution issued on a judgment for the recovery of money to include notice on the form to financial institutions of whether the judgment is for the recovery of money for the support of a person.

Section 7 of this bill provides additional exemptions from execution which are provided by Nevada law.

Section 8 of this bill revises the procedures for claiming an exemption from execution, and for objecting to such a claim of exemption. **Sections 6 and 10** of this bill revise the notice that is provided to a judgment debtor or defendant when a writ of execution, attachment or garnishment is levied on the property of the judgment debtor or defendant so that the procedures listed in the notice reflect the changes made in **section 8**. **Sections 6 and 10** further revise the notice to provide additional information concerning the claiming of exemptions.

Sections 2 and 9 of this bill clarify that a constable has authority to perform any of the duties assigned to a sheriff and has all of the authority granted to a sheriff with respect to a writ of execution, garnishment or attachment.

Section 11 of this bill revises the interrogatories that are used with a writ of execution, attachment or garnishment to clarify the manner of determining the earnings which must be identified as subject to execution and to provide specific questions for a bank to conform to the new provisions in **section 3**.

Section 12 of this bill requires the judgment creditor who caused a writ of attachment to issue to prepare an accounting and provide a report to the judgment debtor, the sheriff and each garnishee every 120 days providing information about the debt and the rights of the debtor. The accounting must also be submitted with each subsequent application for a writ filed by the judgment creditor concerning the same judgment.

Section 13 of this bill provides that the fee for receiving, removing and taking care of property on execution, attachment or court order collected by a constable is not payable in advance.

Section 14 of this bill provides that certain unemployment benefits are exempt from execution regardless of whether they are mingled with other money.

Section 15 of this bill repeals NRS 21.114 concerning the submission of sureties to the jurisdiction of the court because the requirement for an undertaking requiring a surety is removed in **section 8**.

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

Section 1. Chapter 21 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 5, inclusive, of this act.

Sec. 2. *A constable may perform any of the duties assigned to a sheriff and has all of the authority granted to a sheriff pursuant to this chapter with respect to a writ of execution or garnishment.*

Sec. 3. *1. If a writ of execution or garnishment is levied on the personal bank account of the judgment debtor and money has been deposited into the account electronically within the immediately preceding*

45 days from the date on which the writ was served which is reasonably identifiable as exempt from execution, notwithstanding any other deposits of money into the account, \$2,000 or the entire amount in the account, whichever is less, is not subject to execution and must remain accessible to the judgment debtor. For the purposes of this section, money is reasonably identifiable as exempt from execution if the money is deposited in the bank account by the United States Department of the Treasury, including, without limitation, money deposited as:

(a) Benefits provided pursuant to the Social Security Act which are exempt from execution pursuant to 42 U.S.C. §§ 407 and 1383, including, without limitation, retirement and survivors' benefits, supplemental security income benefits, disability insurance benefits and child support payments that are processed pursuant to Part D of Title IV of the Social Security Act;

(b) Veterans' benefits which are exempt from execution pursuant to 38 U.S.C. § 5301;

(c) Annuities payable to retired railroad employees which are exempt from execution pursuant to 45 U.S.C. § 231m;

(d) Benefits provided for retirement or disability of federal employees which are exempt from execution pursuant to 5 U.S.C. §§ 8346 and 8470;

(e) Annuities payable to retired members of the Armed Forces of the United States and to any surviving spouse or children of such members which are exempt from execution pursuant to 10 U.S.C. §§ 1440 and 1450;

(f) Payments and allowances to members of the Armed Forces of the United States which are exempt from execution pursuant to 37 U.S.C. § 701;

(g) Federal student loan payments which are exempt from execution pursuant to 20 U.S.C. § 1095a;

(h) Wages due or accruing to merchant seamen which are exempt from execution pursuant to 46 U.S.C. § 11109;

(i) Compensation or benefits due or payable to longshore and harbor workers which are exempt from execution pursuant to 33 U.S.C. § 916;

(j) Annuities and benefits for retirement and disability of members of the foreign service which are exempt from execution pursuant to 22 U.S.C. § 4060;

(k) Compensation for injury, death or detention of employees of contractors with the United States outside the United States which is exempt from execution pursuant to 42 U.S.C. § 1717;

(l) Assistance for a disaster from the Federal Emergency Management Agency which is exempt from execution pursuant to 44 C.F.R. § 206.110;

(m) Black lung benefits paid to a miner or a miner's surviving spouse or children pursuant to 30 U.S.C. § 922 or 931 which are exempt from execution; and

(n) Benefits provided pursuant to any other federal law.

2. If a writ of execution or garnishment is levied on the personal bank account of the judgment debtor and the provisions of subsection 1 do not apply, ~~[\$1,000]~~ \$400 or the entire amount in the account, whichever is less, is not subject to execution and must remain accessible to the judgment debtor, unless the writ of execution or garnishment is for the recovery of money owed for the support of any person.

3. If a judgment debtor has more than one personal bank account with the bank to which a writ is issued, the amount that is not subject to execution must not in the aggregate exceed the amount specified in subsection 1 or 2, as applicable.

4. A judgment debtor may apply to a court to claim an exemption for any amount subject to a writ levied on a personal bank account which exceeds the amount that is not subject to execution pursuant to subsection 1 or 2.

5. If money in the personal account of the judgment debtor which exceeds the amount that is not subject to execution pursuant to subsection 1 or 2 includes exempt and nonexempt money, the judgment debtor may claim an exemption for the exempt money in the manner set forth in NRS 21.112. To determine whether such money in the account is exempt, the judgment creditor must use the method of accounting which applies the standard that the first money deposited in the account is the first money withdrawn from the account. The court may require a judgment debtor to provide statements from the bank which include all deposits into and withdrawals from the account for the immediately preceding 90 days.

6. A financial institution which makes a reasonable effort to determine whether money in the account of a judgment debtor is subject to execution for the purposes of this section is immune from civil liability for any act or omission with respect to that determination, including, without limitation, when the financial institution makes an incorrect determination after applying commercially reasonable methods for determining whether money in an account is exempt because the source of the money was not clearly identifiable or because the financial institution inadvertently misidentified the source of the money. If a court determines that a financial institution failed to identify that money in an account was not subject to execution pursuant to this section, the financial institution must adjust its actions with respect to a writ of execution as soon as possible but may not be held liable for damages.

7. *Nothing in this section requires a financial institution to revise its determination about whether money is exempt, except by an order of a court.*

Sec. 4. 1. *Notwithstanding the provisions of section 3 of this act, if a judgment debtor has a personal bank account in more than one financial institution, the judgment creditor is entitled to an order from the court to be issued with the writ of execution or garnishment which states that all money held in all such accounts of the judgment debtor that are identified in the application for the order are subject to the writ.*

2. *A judgment creditor may apply to the court for an order pursuant to subsection 1 by submitting a signed affidavit which identifies each financial institution in which the judgment debtor has a personal account.*

3. *A judgment debtor may claim an exemption for any exempt money in the account to which the writ attaches in the manner set forth in NRS 21.112.*

Sec. 5. 1. *If a writ of execution or garnishment is levied on property in a safe-deposit box maintained at a financial institution, a separate writ must be issued from any writ that is issued to levy on an account of the judgment debtor with the financial institution. Notice of the writ must be served personally on the financial institution and promptly thereafter on any third person who is named on the safe-deposit box.*

2. *During the period in which the writ of execution or garnishment is in effect, the financial institution must not allow the contents of the safe-deposit box to be removed other than as directed by the sheriff or by court order.*

3. *The sheriff may allow the person in whose name the safe-deposit box is held to open the safe-deposit box so that the contents may be removed pursuant to the levy. The financial institution may refuse to allow the forcible opening of the safe-deposit box to allow the removal of the property levied upon unless the judgment creditor pays in advance the cost of forcibly opening the safe-deposit box and of repairing any damage caused thereby.*

Sec. 5.5. NRS 21.025 is hereby amended to read as follows:

21.025 A writ of execution issued on a judgment for the recovery of money must be substantially in the following form:

(Title of the Court)

(Number and abbreviated title of the case)

EXECUTION

THE PEOPLE OF THE STATE OF NEVADA:

To the sheriff of County.

Greetings:

To FINANCIAL INSTITUTIONS: This judgment is for the recovery of money for the support of a person.

On(month).....(day).....(year), a judgment was entered by the above-entitled court in the above-entitled action in favor of as judgment creditor and against as judgment debtor for:

- \$principal,
- \$attorney’s fees,
- \$interest, and
- \$costs, making a total amount of
- \$the judgment as entered, and

WHEREAS, according to an affidavit or a memorandum of costs after judgment, or both, filed herein, it appears that further sums have accrued since the entry of judgment, to wit:

- \$accrued interest, and
- \$accrued costs, together with \$..... fee, for the issuance of this writ, making a total of
- \$as accrued costs, accrued interest and fees.

Credit must be given for payments and partial satisfactions in the amount of

\$

which is to be first credited against the total accrued costs and accrued interest, with any excess credited against the judgment as entered, leaving a net balance of

\$

actually due on the date of the issuance of this writ, of which

\$

bears interest at percent per annum, in the amount of \$..... per day, from the date of judgment to the date of levy, to which must be added the commissions and costs of the officer executing this writ.

NOW, THEREFORE, SHERIFF OF COUNTY, you are hereby commanded to satisfy this judgment with interest and costs as provided by law, out of the personal property of the judgment debtor, except that for any workweek, 75 percent of the disposable earnings of the debtor during that week or 50 times the minimum hourly wage prescribed by section 6(a)(1) of the federal Fair Labor Standards Act of 1938, 29 U.S.C. § 206(a)(1), and in effect at the time the earnings are payable, whichever is greater, is exempt from any levy of execution pursuant to this writ, and if sufficient personal property cannot be found, then out of the real property belonging to the debtor in the aforesaid county, and make return to this writ within not less than 10 days or more than 60 days endorsed thereon with what you have done.

Dated: This day of the month of of the year

....., Clerk.

By....., Deputy Clerk.

Sec. 6. NRS 21.075 is hereby amended to read as follows:

21.075 1. Execution on the writ of execution by levying on the property of the judgment debtor may occur only if the sheriff serves the judgment debtor with a notice of the writ of execution pursuant to NRS 21.076 and a copy of the writ. The notice must describe the types of property exempt from execution and explain the procedure for claiming those exemptions in the manner required in subsection 2. The clerk of the court shall attach the notice to the writ of execution at the time the writ is issued.

2. The notice required pursuant to subsection 1 must be substantially in the following form:

**NOTICE OF EXECUTION
YOUR PROPERTY IS BEING ATTACHED OR
YOUR WAGES ARE BEING GARNISHED**

A court has determined that you owe money to (name of person), the judgment creditor. The judgment creditor has begun the procedure to collect that money by garnishing your wages, bank account and other personal property held by third persons or by taking money or other property in your possession.

Certain benefits and property owned by you may be exempt from execution and may not be taken from you. The following is a partial list of exemptions:

- 1. Payments received pursuant to the federal Social Security Act, including, without limitation, retirement and survivors' benefits, supplemental security income benefits and disability insurance benefits.
- 2. Payments for benefits or the return of contributions under the Public Employees' Retirement System.
- 3. Payments for public assistance granted through the Division of Welfare and Supportive Services of the Department of Health and Human Services or a local governmental entity.
- 4. Proceeds from a policy of life insurance.
- 5. Payments of benefits under a program of industrial insurance.
- 6. Payments received as disability, illness or unemployment benefits.
- 7. Payments received as unemployment compensation.
- 8. Veteran's benefits.
- 9. A homestead in a dwelling or a mobile home, not to exceed \$550,000,

unless:

(a) The judgment is for a medical bill, in which case all of the primary dwelling, including a mobile or manufactured home, may be exempt.

(b) Allodial title has been established and not relinquished for the dwelling or mobile home, in which case all of the dwelling or mobile home and its appurtenances are exempt, including the land on which they are located, unless a valid waiver executed pursuant to NRS 115.010 is applicable to the judgment.

10. All money reasonably deposited with a landlord by you to secure an agreement to rent or lease a dwelling that is used by you as your primary residence, except that such money is not exempt with respect to a landlord or landlord's successor in interest who seeks to enforce the terms of the agreement to rent or lease the dwelling.

11. A vehicle, if your equity in the vehicle is less than \$15,000.

12. Seventy-five percent of the take-home pay for any workweek, unless the weekly take-home pay is less than 50 times the federal minimum hourly wage, in which case the entire amount may be exempt.

13. Money, not to exceed \$500,000 in present value, held in:

(a) An individual retirement arrangement which conforms with the applicable limitations and requirements of section 408 or 408A of the Internal Revenue Code, 26 U.S.C. §§ 408 and 408A;

(b) A written simplified employee pension plan which conforms with the applicable limitations and requirements of section 408 of the Internal Revenue Code, 26 U.S.C. § 408;

(c) A cash or deferred arrangement that is a qualified plan pursuant to the Internal Revenue Code;

(d) A trust forming part of a stock bonus, pension or profit-sharing plan that is a qualified plan pursuant to sections 401 et seq. of the Internal Revenue Code, 26 U.S.C. §§ 401 et seq.; and

(e) A trust forming part of a qualified tuition program pursuant to chapter 353B of NRS, any applicable regulations adopted pursuant to chapter 353B of NRS and section 529 of the Internal Revenue Code, 26 U.S.C. § 529, unless the money is deposited after the entry of a judgment against the purchaser or account owner or the money will not be used by any beneficiary to attend a college or university.

14. All money and other benefits paid pursuant to the order of a court of competent jurisdiction for the support, education and maintenance of a child, whether collected by the judgment debtor or the State.

15. All money and other benefits paid pursuant to the order of a court of competent jurisdiction for the support and maintenance of a former spouse, including the amount of any arrearages in the payment of such support and maintenance to which the former spouse may be entitled.

16. Regardless of whether a trust contains a spendthrift provision:

(a) A present or future interest in the income or principal of a trust, if the interest has not been distributed from the trust;

(b) A remainder interest in the trust whereby a beneficiary of the trust will receive property from the trust outright at some time in the future under certain circumstances;

(c) A discretionary power held by a trustee to determine whether to make a distribution from the trust, if the interest has not been distributed from the trust;

(d) The power to direct dispositions of property in the trust, other than such a power held by a trustee to distribute property to a beneficiary of the trust;

(e) Certain powers held by a trust protector or certain other persons;

(f) Any power held by the person who created the trust; and

(g) Any other property of the trust that has not been distributed from the trust. Once the property is distributed from the trust, the property is subject to execution.

17. If a trust contains a spendthrift provision:

(a) A mandatory interest in the trust in which the trustee does not have discretion concerning whether to make the distribution from the trust, if the interest has not been distributed from the trust;

(b) A support interest in the trust in which the standard for distribution may be interpreted by the trustee or a court, if the interest has not been distributed from the trust; and

(c) Any other property of the trust that has not been distributed from the trust. Once the property is distributed from the trust, the property is subject to execution.

18. A vehicle for use by you or your dependent which is specially equipped or modified to provide mobility for a person with a permanent disability.

19. A prosthesis or any equipment prescribed by a physician or dentist for you or your dependent.

20. Payments, in an amount not to exceed \$16,150, received as compensation for personal injury, not including compensation for pain and suffering or actual pecuniary loss, by the judgment debtor or by a person upon whom the judgment debtor is dependent at the time the payment is received.

21. Payments received as compensation for the wrongful death of a person upon whom the judgment debtor was dependent at the time of the wrongful death, to the extent reasonably necessary for the support of the judgment debtor and any dependent of the judgment debtor.

22. Payments received as compensation for the loss of future earnings of the judgment debtor or of a person upon whom the judgment debtor is dependent at the time the payment is received, to the extent reasonably

necessary for the support of the judgment debtor and any dependent of the judgment debtor.

23. Payments received as restitution for a criminal act.

24. Personal property, not to exceed \$1,000 in total value, if the property is not otherwise exempt from execution.

25. A tax refund received from the earned income credit provided by federal law or a similar state law.

26. Stock of a corporation described in subsection 2 of NRS 78.746 except as set forth in that section.

↳ These exemptions may not apply in certain cases such as a proceeding to enforce a judgment for support of a person or a judgment of foreclosure on a mechanic's lien. You should consult an attorney immediately to assist you in determining whether your property or money is exempt from execution. If you cannot afford an attorney, you may be eligible for assistance through (name of organization in county providing legal services to indigent or elderly persons). ***If you do not wish to consult an attorney or receive legal services from an organization that provides assistance to persons who qualify, you may obtain the form to be used to claim an exemption from the clerk of the court.***

PROCEDURE FOR CLAIMING EXEMPT PROPERTY

If you believe that the money or property taken from you is exempt, you must complete and file with the clerk of the court ~~the~~ ***an executed claim of exemption.*** A copy of the ~~affidavit~~ ***claim of exemption*** must be served upon the sheriff, ***the garnishee*** and the judgment creditor within ~~8~~ ~~calendar~~ ***10*** days after the notice of execution ***or garnishment*** is ~~mailed~~ ***served on you by mail pursuant to NRS 21.076 which identifies the specific property that is being levied on.*** The property must be ~~returned to you~~ ***released by the garnishee or the sheriff*** within ~~5~~ ***9 judicial*** days after you ~~file~~ ***serve the affidavit claim of exemption upon the sheriff, garnishee and judgment creditor,*** unless ~~you or the judgment creditor files a motion~~ ***the sheriff or garnishee receives a copy of an objection to the claim of exemption and a notice*** for a hearing to determine the issue of exemption. If this happens, a hearing will be held to determine whether the property or money is exempt. The ~~motion~~ ***objection to the claim of exemption and notice*** for the hearing to determine the issue of exemption must be filed within ~~10~~ ***8 judicial*** days after the ~~affidavit claiming~~ ***claim of exemption is filed***, ***served on the judgment creditor by mail or in person and served on the judgment debtor, the sheriff and any garnishee not less than 5 judicial days before the date set for the hearing.*** The hearing to determine whether the property or money is exempt must be held within ~~10~~ ***7 judicial*** days after the ~~motion~~ ***objection to the claim of***

exemption and notice for the hearing is filed. *You may be able to have your property released more quickly if you mail to the judgment creditor or the attorney of the judgment creditor written proof that the property is exempt. Such proof may include, without limitation, a letter from the government, an annual statement from a pension fund, receipts for payment, copies of checks, records from financial institutions or any other document which demonstrates that the money in your account is exempt.*

IF YOU DO NOT FILE THE ~~[AFFIDAVIT]~~ **EXECUTED CLAIM OF EXEMPTION** WITHIN THE TIME SPECIFIED, YOUR PROPERTY MAY BE SOLD AND THE MONEY GIVEN TO THE JUDGMENT CREDITOR, EVEN IF THE PROPERTY OR MONEY IS EXEMPT.

Sec. 7. NRS 21.090 is hereby amended to read as follows:

21.090 1. The following property is exempt from execution, except as otherwise specifically provided in this section or required by federal law:

(a) Private libraries, works of art, musical instruments and jewelry not to exceed \$5,000 in value, belonging to the judgment debtor or a dependent of the judgment debtor, to be selected by the judgment debtor, and all family pictures and keepsakes.

(b) Necessary household goods, furnishings, electronics, wearing apparel, other personal effects and yard equipment, not to exceed \$12,000 in value, belonging to the judgment debtor or a dependent of the judgment debtor, to be selected by the judgment debtor.

(c) Farm trucks, farm stock, farm tools, farm equipment, supplies and seed not to exceed \$4,500 in value, belonging to the judgment debtor to be selected by the judgment debtor.

(d) Professional libraries, equipment, supplies, and the tools, inventory, instruments and materials used to carry on the trade or business of the judgment debtor for the support of the judgment debtor and his or her family not to exceed \$10,000 in value.

(e) The cabin or dwelling of a miner or prospector, the miner's or prospector's cars, implements and appliances necessary for carrying on any mining operations and the mining claim actually worked by the miner or prospector, not exceeding \$4,500 in total value.

(f) Except as otherwise provided in paragraph (p), one vehicle if the judgment debtor's equity does not exceed \$15,000 or the creditor is paid an amount equal to any excess above that equity.

(g) For any workweek, 75 percent of the disposable earnings of a judgment debtor during that week, or 50 times the minimum hourly wage prescribed by section 6(a)(1) of the federal Fair Labor Standards Act of 1938, 29 U.S.C. § 206(a)(1), and in effect at the time the earnings are payable, whichever is greater. Except as otherwise provided in paragraphs (o), (s) and

(t), the exemption provided in this paragraph does not apply in the case of any order of a court of competent jurisdiction for the support of any person, any order of a court of bankruptcy or of any debt due for any state or federal tax. As used in this paragraph:

(1) "Disposable earnings" means that part of the earnings of a judgment debtor remaining after the deduction from those earnings of any amounts required by law to be withheld.

(2) "Earnings" means compensation paid or payable for personal services performed by a judgment debtor in the regular course of business, including, without limitation, compensation designated as income, wages, tips, a salary, a commission or a bonus. The term includes compensation received by a judgment debtor that is in the possession of the judgment debtor, compensation held in accounts maintained in a bank or any other financial institution or, in the case of a receivable, compensation that is due the judgment debtor.

(h) All fire engines, hooks and ladders, with the carts, trucks and carriages, hose, buckets, implements and apparatus thereunto appertaining, and all furniture and uniforms of any fire company or department organized under the laws of this State.

(i) All arms, uniforms and accouterments required by law to be kept by any person, and also one gun, to be selected by the debtor.

(j) All courthouses, jails, public offices and buildings, lots, grounds and personal property, the fixtures, furniture, books, papers and appurtenances belonging and pertaining to the courthouse, jail and public offices belonging to any county of this State, all cemeteries, public squares, parks and places, public buildings, town halls, markets, buildings for the use of fire departments and military organizations, and the lots and grounds thereto belonging and appertaining, owned or held by any town or incorporated city, or dedicated by the town or city to health, ornament or public use, or for the use of any fire or military company organized under the laws of this State and all lots, buildings and other school property owned by a school district and devoted to public school purposes.

(k) All money, benefits, privileges or immunities accruing or in any manner growing out of any life insurance, if the annual premium paid does not exceed \$15,000. If the premium exceeds that amount, a similar exemption exists which bears the same proportion to the money, benefits, privileges and immunities so accruing or growing out of the insurance that the \$15,000 bears to the whole annual premium paid.

(l) The homestead as provided for by law, including a homestead for which allodial title has been established and not relinquished and for which a waiver executed pursuant to NRS 115.010 is not applicable.

(m) The dwelling of the judgment debtor occupied as a home for himself or herself and family, where the amount of equity held by the judgment debtor in the home does not exceed \$550,000 in value and the dwelling is situated upon lands not owned by the judgment debtor.

(n) All money reasonably deposited with a landlord by the judgment debtor to secure an agreement to rent or lease a dwelling that is used by the judgment debtor as his or her primary residence, except that such money is not exempt with respect to a landlord or the landlord's successor in interest who seeks to enforce the terms of the agreement to rent or lease the dwelling.

(o) All property in this State of the judgment debtor where the judgment is in favor of any state for failure to pay that state's income tax on benefits received from a pension or other retirement plan.

(p) Any vehicle owned by the judgment debtor for use by the judgment debtor or the judgment debtor's dependent that is equipped or modified to provide mobility for a person with a permanent disability.

(q) Any prosthesis or equipment prescribed by a physician or dentist for the judgment debtor or a dependent of the debtor.

(r) Money, not to exceed \$500,000 in present value, held in:

(1) An individual retirement arrangement which conforms with the applicable limitations and requirements of section 408 or 408A of the Internal Revenue Code, 26 U.S.C. §§ 408 and 408A;

(2) A written simplified employee pension plan which conforms with the applicable limitations and requirements of section 408 of the Internal Revenue Code, 26 U.S.C. § 408;

(3) A cash or deferred arrangement which is a qualified plan pursuant to the Internal Revenue Code;

(4) A trust forming part of a stock bonus, pension or profit-sharing plan which is a qualified plan pursuant to sections 401 et seq. of the Internal Revenue Code, 26 U.S.C. §§ 401 et seq.; and

(5) A trust forming part of a qualified tuition program pursuant to chapter 353B of NRS, any applicable regulations adopted pursuant to chapter 353B of NRS and section 529 of the Internal Revenue Code, 26 U.S.C. § 529, unless the money is deposited after the entry of a judgment against the purchaser or account owner or the money will not be used by any beneficiary to attend a college or university.

(s) All money and other benefits paid pursuant to the order of a court of competent jurisdiction for the support, education and maintenance of a child, whether collected by the judgment debtor or the State.

(t) All money and other benefits paid pursuant to the order of a court of competent jurisdiction for the support and maintenance of a former spouse, including the amount of any arrearages in the payment of such support and maintenance to which the former spouse may be entitled.

(u) Payments, in an amount not to exceed \$16,150, received as compensation for personal injury, not including compensation for pain and suffering or actual pecuniary loss, by the judgment debtor or by a person upon whom the judgment debtor is dependent at the time the payment is received.

(v) Payments received as compensation for the wrongful death of a person upon whom the judgment debtor was dependent at the time of the wrongful death, to the extent reasonably necessary for the support of the judgment debtor and any dependent of the judgment debtor.

(w) Payments received as compensation for the loss of future earnings of the judgment debtor or of a person upon whom the judgment debtor is dependent at the time the payment is received, to the extent reasonably necessary for the support of the judgment debtor and any dependent of the judgment debtor.

(x) Payments received as restitution for a criminal act.

(y) Payments received pursuant to the federal Social Security Act, including, without limitation, retirement and survivors' benefits, supplemental security income benefits and disability insurance benefits.

(z) Any personal property not otherwise exempt from execution pursuant to this subsection belonging to the judgment debtor, including, without limitation, the judgment debtor's equity in any property, money, stocks, bonds or other funds on deposit with a financial institution, not to exceed \$1,000 in total value, to be selected by the judgment debtor.

(aa) Any tax refund received by the judgment debtor that is derived from the earned income credit described in section 32 of the Internal Revenue Code, 26 U.S.C. § 32, or a similar credit provided pursuant to a state law.

(bb) Stock of a corporation described in subsection 2 of NRS 78.746 except as set forth in that section.

(cc) Regardless of whether a trust contains a spendthrift provision:

(1) A beneficial interest in the trust as defined in NRS 163.4145 if the interest has not been distributed;

(2) A remainder interest in the trust as defined in NRS 163.416 if the trust does not indicate that the remainder interest is certain to be distributed within 1 year after the date on which the instrument that creates the remainder interest becomes irrevocable;

(3) A discretionary interest in the trust as described in NRS 163.4185 if the interest has not been distributed;

(4) A power of appointment in the trust as defined in NRS 163.4157 regardless of whether the power has been distributed or transferred;

(5) A power listed in NRS 163.5553 that is held by a trust protector as defined in NRS 163.5547 or any other person regardless of whether the power has been distributed or transferred;

(6) A reserved power in the trust as defined in NRS 163.4165 regardless of whether the power has been distributed or transferred; and

(7) Any other property of the trust that has not been distributed from the trust. Once the property is distributed from the trust, the property is subject to execution.

(dd) If a trust contains a spendthrift provision:

(1) A mandatory interest in the trust as described in NRS 163.4185 if the interest has not been distributed;

(2) Notwithstanding a beneficiary's right to enforce a support interest, a support interest in the trust as described in NRS 163.4185 if the interest has not been distributed; and

(3) Any other property of the trust that has not been distributed from the trust. Once the property is distributed from the trust, the property is subject to execution.

(ee) Proceeds received from a private disability insurance plan.

(ff) Money in a trust fund for funeral or burial services pursuant to NRS 689.700.

(gg) Compensation that was payable or paid pursuant to chapters 616A to 616D, inclusive, or chapter 617 of NRS as provided in NRS 616C.205.

(hh) Unemployment compensation benefits received pursuant to NRS 612.710.

(ii) Benefits or refunds payable or paid from the Public Employees' Retirement System pursuant to NRS 286.670.

(jj) Money paid or rights existing for vocational rehabilitation pursuant to NRS 615.270.

(kk) Public assistance provided through the Department of Health and Human Services pursuant to NRS 422.291.

(ll) Child welfare assistance provided pursuant to NRS 432.036.

2. Except as otherwise provided in NRS 115.010, no article or species of property mentioned in this section is exempt from execution issued upon a judgment to recover for its price, or upon a judgment of foreclosure of a mortgage or other lien thereon.

3. Any exemptions specified in subsection (d) of section 522 of the Bankruptcy Act of 1978, 11 U.S.C. § 522(d), do not apply to property owned by a resident of this State unless conferred also by subsection 1, as limited by subsection 2.

Sec. 8. NRS 21.112 is hereby amended to read as follows:

21.112 1. In order to claim exemption of any property levied on ~~it~~ **pursuant to this section**, the judgment debtor must, within ~~8~~ ~~{20-calendar}~~ **10** days after the notice ~~{prescribed in NRS 21.075 is mailed,}~~ **of a writ of execution or garnishment is served on the judgment debtor by mail pursuant to NRS 21.076 which identifies the specific property that is being**

levied on, serve on the sheriff, the garnishee and the judgment creditor and file with the clerk of the court issuing the writ of execution ~~an affidavit setting out~~ the judgment debtor's claim of exemption ~~[-] which is executed in the manner set forth in NRS 53.045. If the property that is levied on is the earnings of the judgment debtor, the judgment debtor must file the claim of exemption pursuant to this subsection within ~~20 calendar~~ 10 days after the date of each withholding of the judgment debtor's earnings.~~

2. The clerk of the court shall provide the form for the ~~affidavit.~~

~~2. When the affidavit is served, the sheriff shall release the property if the judgment creditor, within 5 days after written demand by the sheriff:~~

~~(a) Fails to give the sheriff an undertaking executed by two good and sufficient sureties which:~~

~~(1) Is in a sum equal to double the value of the property levied on; and~~

~~(2) Indemnifies the judgment debtor against loss, liability, damages, costs and attorney's fees by reason of the taking, withholding or sale of the property by the sheriff; or~~

~~(b) Fails to file a motion for a hearing to determine whether the property or money is exempt.~~

~~→ The clerk of the court shall provide the form for the motion.~~

~~3. At the time of giving the sheriff the undertaking provided for in subsection 2, the judgment creditor shall give notice of the undertaking to the judgment debtor.~~

~~4. *claim of exemption and shall further provide with the form instructions concerning the manner in which to claim an exemption, a checklist and description of the most commonly claimed exemptions, instructions concerning the manner in which the property must be released to the judgment debtor if no objection to the claim of exemption is filed and an order to be used by the court to grant or deny an exemption. No fee may be charged for providing such a form or for filing the form with the court.*~~

3. An objection to the claim of exemption and notice for a hearing must be filed with the court within 8 judicial days after the claim of exemption is served on the judgment creditor by mail or in person and served on the judgment debtor, the sheriff and any garnishee. The judgment creditor shall also serve notice of the date of the hearing on the judgment debtor, the sheriff and any garnishee not less than 5 judicial days before the date set for the hearing.

4. If an objection to the claim of exemption and notice for a hearing are not filed within 8 judicial days after the claim of exemption has been served, the property of the judgment debtor must be released by the person who has control or possession over the property in accordance with the instructions set forth on the form for the claim of exemption provided

pursuant to subsection 2 within 9 judicial days after the claim of exemption has been served.

5. The sheriff is not liable to the judgment debtor for damages by reason of the taking, withholding or sale of any property [] where []:

(a) ~~No affidavit claiming~~ a claim of exemption is *not* served on the sheriff. [] or

(b) ~~An affidavit claiming exemption is served on the sheriff, but the sheriff fails to release the property in accordance with this section.~~

~~5.]~~ 6. Unless the court continues the hearing for good cause shown, the hearing *on an objection to a claim of exemption* to determine whether the property or money is exempt must be held within [10] 7 *judicial* days after the [motion] *objection to the claim and notice* for [the] a hearing is filed.

~~[6. The judgment creditor shall give the judgment debtor at least 5 days' notice of the hearing.]~~ *The judgment debtor has the burden to prove that he or she is entitled to the claimed exemption at such a hearing. After determining whether the judgment debtor is entitled to an exemption, the court shall mail a copy of the order to the judgment debtor, the judgment creditor, any other named party, the sheriff and any garnishee.*

7. *If the sheriff or garnishee does not receive a copy of a claim of exemption from the judgment debtor within 25 calendar days after the property is levied on, the garnishee must release the property to the sheriff or, if the property is held by the sheriff, the sheriff must release the property to the judgment creditor.*

8. *At any time after:*

(a) *An exemption is claimed pursuant to this section, the judgment debtor may withdraw the claim of exemption and direct that the property be released to the judgment creditor.*

(b) *An objection to a claim of exemption is filed pursuant to this section, the judgment creditor may withdraw the objection and direct that the property be released to the judgment debtor.*

9. *The provisions of this section do not limit or prohibit any other remedy provided by law.*

10. *In addition to any other procedure or remedy authorized by law, a person other than the judgment debtor whose property is the subject of a writ of execution or garnishment may follow the procedures set forth in this section for claiming an exemption to have the property released.*

11. *A judgment creditor shall not require a judgment debtor to waive any exemption which the judgment debtor is entitled to claim.*

Sec. 9. Chapter 31 of NRS is hereby amended by adding thereto a new section to read as follows:

A constable may perform any of the duties assigned to a sheriff and has all of the authority granted to a sheriff pursuant to this chapter with respect to a writ of attachment.

Sec. 10. NRS 31.045 is hereby amended to read as follows:

31.045 1. Execution on the writ of attachment by attaching property of the defendant may occur only if:

(a) The judgment creditor serves the defendant with notice of the execution when the notice of the hearing is served pursuant to NRS 31.013;

or

(b) Pursuant to an ex parte hearing, the sheriff serves upon the judgment debtor notice of the execution and a copy of the writ at the same time and in the same manner as set forth in NRS 21.076.

↪ If the attachment occurs pursuant to an ex parte hearing, the clerk of the court shall attach the notice to the writ of attachment at the time the writ is issued.

2. The notice required pursuant to subsection 1 must be substantially in the following form:

NOTICE OF EXECUTION
YOUR PROPERTY IS BEING ATTACHED OR
YOUR WAGES ARE BEING GARNISHED

Plaintiff, (name of person), alleges that you owe the plaintiff money. The plaintiff has begun the procedure to collect that money. To secure satisfaction of judgment, the court has ordered the garnishment of your wages, bank account or other personal property held by third persons or the taking of money or other property in your possession.

Certain benefits and property owned by you may be exempt from execution and may not be taken from you. The following is a partial list of exemptions:

1. Payments received pursuant to the federal Social Security Act, including, without limitation, retirement and survivors' benefits, supplemental security income benefits and disability insurance benefits.

2. Payments for benefits or the return of contributions under the Public Employees' Retirement System.

3. Payments for public assistance granted through the Division of Welfare and Supportive Services of the Department of Health and Human Services or a local governmental entity.

4. Proceeds from a policy of life insurance.

5. Payments of benefits under a program of industrial insurance.

6. Payments received as disability, illness or unemployment benefits.

7. Payments received as unemployment compensation.

8. Veteran's benefits.

9. A homestead in a dwelling or a mobile home, not to exceed \$550,000, unless:

(a) The judgment is for a medical bill, in which case all of the primary dwelling, including a mobile or manufactured home, may be exempt.

(b) Allodial title has been established and not relinquished for the dwelling or mobile home, in which case all of the dwelling or mobile home and its appurtenances are exempt, including the land on which they are located, unless a valid waiver executed pursuant to NRS 115.010 is applicable to the judgment.

10. All money reasonably deposited with a landlord by you to secure an agreement to rent or lease a dwelling that is used by you as your primary residence, except that such money is not exempt with respect to a landlord or the landlord's successor in interest who seeks to enforce the terms of the agreement to rent or lease the dwelling.

11. A vehicle, if your equity in the vehicle is less than \$15,000.

12. Seventy-five percent of the take-home pay for any workweek, unless the weekly take-home pay is less than 50 times the federal minimum hourly wage, in which case the entire amount may be exempt.

13. Money, not to exceed \$500,000 in present value, held in:

(a) An individual retirement arrangement which conforms with the applicable limitations and requirements of section 408 or 408A of the Internal Revenue Code, 26 U.S.C. §§ 408 and 408A;

(b) A written simplified employee pension plan which conforms with the applicable limitations and requirements of section 408 of the Internal Revenue Code, 26 U.S.C. § 408;

(c) A cash or deferred arrangement that is a qualified plan pursuant to the Internal Revenue Code;

(d) A trust forming part of a stock bonus, pension or profit-sharing plan that is a qualified plan pursuant to sections 401 et seq. of the Internal Revenue Code, 26 U.S.C. §§ 401 et seq.; and

(e) A trust forming part of a qualified tuition program pursuant to chapter 353B of NRS, any applicable regulations adopted pursuant to chapter 353B of NRS and section 529 of the Internal Revenue Code, 26 U.S.C. § 529, unless the money is deposited after the entry of a judgment against the purchaser or account owner or the money will not be used by any beneficiary to attend a college or university.

14. All money and other benefits paid pursuant to the order of a court of competent jurisdiction for the support, education and maintenance of a child, whether collected by the judgment debtor or the State.

15. All money and other benefits paid pursuant to the order of a court of competent jurisdiction for the support and maintenance of a former spouse,

including the amount of any arrearages in the payment of such support and maintenance to which the former spouse may be entitled.

16. Regardless of whether a trust contains a spendthrift provision:

(a) A present or future interest in the income or principal of a trust, if the interest has not been distributed from the trust;

(b) A remainder interest in the trust whereby a beneficiary of the trust will receive property from the trust outright at some time in the future under certain circumstances;

(c) A discretionary power held by a trustee to determine whether to make a distribution from the trust, if the interest has not been distributed from the trust;

(d) The power to direct dispositions of property in the trust, other than such a power held by a trustee to distribute property to a beneficiary of the trust;

(e) Certain powers held by a trust protector or certain other persons;

(f) Any power held by the person who created the trust; and

(g) Any other property of the trust that has not been distributed from the trust. Once the property is distributed from the trust, the property is subject to execution.

17. If a trust contains a spendthrift provision:

(a) A mandatory interest in the trust in which the trustee does not have discretion concerning whether to make the distribution from the trust, if the interest has not been distributed from the trust;

(b) A support interest in the trust in which the standard for distribution may be interpreted by the trustee or a court, if the interest has not been distributed from the trust; and

(c) Any other property of the trust that has not been distributed from the trust. Once the property is distributed from the trust, the property is subject to execution.

18. A vehicle for use by you or your dependent which is specially equipped or modified to provide mobility for a person with a permanent disability.

19. A prosthesis or any equipment prescribed by a physician or dentist for you or your dependent.

20. Payments, in an amount not to exceed \$16,150, received as compensation for personal injury, not including compensation for pain and suffering or actual pecuniary loss, by the judgment debtor or by a person upon whom the judgment debtor is dependent at the time the payment is received.

21. Payments received as compensation for the wrongful death of a person upon whom the judgment debtor was dependent at the time of the

wrongful death, to the extent reasonably necessary for the support of the judgment debtor and any dependent of the judgment debtor.

22. Payments received as compensation for the loss of future earnings of the judgment debtor or of a person upon whom the judgment debtor is dependent at the time the payment is received, to the extent reasonably necessary for the support of the judgment debtor and any dependent of the judgment debtor.

23. Payments received as restitution for a criminal act.

24. Personal property, not to exceed \$1,000 in total value, if the property is not otherwise exempt from execution.

25. A tax refund received from the earned income credit provided by federal law or a similar state law.

26. Stock of a corporation described in subsection 2 of NRS 78.746 except as set forth in that section.

↳ These exemptions may not apply in certain cases such as proceedings to enforce a judgment for support of a child or a judgment of foreclosure on a mechanic’s lien. You should consult an attorney immediately to assist you in determining whether your property or money is exempt from execution. If you cannot afford an attorney, you may be eligible for assistance through (name of organization in county providing legal services to the indigent or elderly persons). ***If you do not wish to consult an attorney or receive legal services from an organization that provides assistance to persons who qualify, you may obtain the form to be used to claim an exemption from the clerk of the court.***

PROCEDURE FOR CLAIMING EXEMPT PROPERTY

If you believe that the money or property taken from you is exempt or necessary for the support of you or your family, you must file with the clerk of the court on a form provided by the clerk ~~[a notarized affidavit claiming the]~~ ***an executed claim of*** exemption. A copy of the ~~[affidavit]~~ ***claim of exemption*** must be served upon the sheriff, ***the garnishee*** and the judgment creditor within ~~[8]~~ ~~[20 calendar]~~ ***10*** days after the notice of execution ***or garnishment*** is ~~[mailed]~~ ***served on you by mail pursuant to NRS 21.076 which identifies the specific property that is being levied on.*** The property must be ~~[returned to you]~~ ***released by the garnishee or the sheriff*** within ~~[5]~~ ***9 judicial*** days after you ~~[file]~~ ***serve the [affidavit] claim of exemption upon the sheriff, garnishee and judgment creditor,*** unless the ~~[judgment creditor files a motion]~~ ***sheriff or garnishee receives a copy of an objection to the claim of exemption and a notice*** for a hearing to determine the issue of exemption. If this happens, a hearing will be held to determine whether the property or money is exempt. ***The objection to the claim of exemption and notice for the hearing to determine the issue of exemption must be filed***

within 8 judicial days after the claim of exemption is served on the judgment creditor by mail or in person and served on the judgment debtor, the sheriff and any garnishee not less than 5 judicial days before the date set for the hearing. The hearing must be held within ~~[10]~~ 7 judicial days after the ~~[motion]~~ objection to the claim of exemption and notice for a hearing is filed. *You may be able to have your property released more quickly if you mail to the judgment creditor or the attorney of the judgment creditor written proof that the property is exempt. Such proof may include, without limitation, a letter from the government, an annual statement from a pension fund, receipts for payment, copies of checks, records from financial institutions or any other document which demonstrates that the money in your account is exempt.*

IF YOU DO NOT FILE THE ~~[AFFIDAVIT]~~ EXECUTED CLAIM OF EXEMPTION WITHIN THE TIME SPECIFIED, YOUR PROPERTY MAY BE SOLD AND THE MONEY GIVEN TO THE JUDGMENT CREDITOR, EVEN IF THE PROPERTY OR MONEY IS EXEMPT.

If you received this notice with a notice of a hearing for attachment and you believe that the money or property which would be taken from you by a writ of attachment is exempt or necessary for the support of you or your family, you are entitled to describe to the court at the hearing why you believe your property is exempt. You may also file a motion with the court for a discharge of the writ of attachment. You may make that motion any time before trial. A hearing will be held on that motion.

IF YOU DO NOT FILE THE MOTION BEFORE THE TRIAL, YOUR PROPERTY MAY BE SOLD AND THE MONEY GIVEN TO THE PLAINTIFF, EVEN IF THE PROPERTY OR MONEY IS EXEMPT OR NECESSARY FOR THE SUPPORT OF YOU OR YOUR FAMILY.

Sec. 11. NRS 31.290 is hereby amended to read as follows:

31.290 1. The interrogatories to *be submitted with any writ of execution, attachment or garnishment* to the garnishee may be in substance as follows:

INTERROGATORIES

Are you in any manner indebted to the defendants

.....
.....,
or either of them, either in property or money, and is the debt now due? If not due, when is the debt to become due? State fully all particulars.

Answer:.....
.....

Are you an employer of one or all of the defendants? If so, state the length of your pay period and the amount of disposable earnings, as defined in NRS 31.295, that each defendant presently earns during a pay period. State the minimum amount of disposable earnings that is exempt from this garnishment, which is the federal minimum hourly wage prescribed by section 6(a)(1) of the federal Fair Labor Standards Act of 1938, 29 U.S.C. § 206(a)(1), in effect at the time the earnings are payable multiplied by 50 for each week of the pay period, after deducting any amount required by law to be withheld.

Calculate the attachable amount as follows:

(Check one of the following) The employee is paid:

[A] Weekly: ___ [B] Biweekly: ___ [C] Semimonthly: ___ [D] Monthly: ___

(1) Gross Earnings..... \$

(2) Deductions required by law (not including child support) .. \$

(3) Disposable Earnings [Subtract line 2 from line 1]..... \$

(4) Federal Minimum Wage..... \$

(5) Multiply line 4 by 50..... \$

(6) Complete the following directions in accordance with the letter selected above:

[A] Multiply line 5 by 1..... \$

[B] Multiply line 5 by 2 \$

[C] Multiply line 5 by 52 and then divide by 24..... \$

[D] Multiply line 5 by 52 and then divide by 12..... \$

(7) Subtract line 6 from line 3..... \$

This is the attachable earnings. This amount must not exceed 25% of the disposable earnings from line 3.

Answer:.....

Did you have in your possession, in your charge or under your control, on the date the writ of garnishment was served upon you, any money, property, effects, goods, chattels, rights, credits or choses in action of the defendants, or either of them, or in whichis interested? If so, state its value, and state fully all particulars.

Answer:.....

Do you know of any debts owing to the defendants, whether due or not due, or any money, property, effects, goods, chattels, rights, credits or choses in action, belonging to or in whichis interested, and now in the possession or under the control of others? If so, state particulars.

Answer:.....

Are you a financial institution with a personal account held by one or all of the defendants? If so, state the account number and the amount of money in the account which is subject to garnishment. As set forth in section 3 of this act, \$2,000 or the entire amount in the account, whichever is less, is not subject to garnishment if the financial institution reasonably identifies that an electronic deposit of money has been made into the account within the immediately preceding 45 days which is exempt from execution, including, without limitation, payments of money described in section 3 of this act or, if no such deposit has been made, ~~+\$1,000~~ \$400 or the entire amount in the account, whichever is less, is not subject to garnishment ~~+~~, unless the garnishment is for the recovery of money owed for the support of any person. The amount which is not subject to garnishment does not apply to each account of the judgment debtor, but rather is an aggregate amount that is not subject to garnishment.

Answer:.....

.....
 State your correct name and address, or the name and address of your attorney upon whom written notice of further proceedings in this action may be served.

Answer:.....

.....
 Garnishee

I (insert the name of the garnishee), ~~do solemnly swear (or affirm)~~ **declare under penalty of perjury** that the answers to the foregoing interrogatories by me subscribed are true ~~[-]~~ **and correct.**

.....
 (Signature of garnishee)

~~[SUBSCRIBED and SWORN to before me this day of the month of of the year]~~

2. The garnishee shall answer the interrogatories in writing upon oath or affirmation and submit the answers to the sheriff within the time required by the writ. **The garnishee shall submit his or her answers to the judgment debtor within the same time.** If the garnishee fails to do so, the garnishee shall be deemed in default.

Sec. 12. NRS 31.296 is hereby amended to read as follows:

31.296 1. Except as otherwise provided in subsection 3, if the garnishee indicates in the garnishee's answer to garnishee interrogatories that the garnishee is the employer of the defendant, the writ of garnishment served on the garnishee shall be deemed to continue for 120 days or until the amount demanded in the writ is satisfied, whichever occurs earlier.

2. In addition to the fee set forth in NRS 31.270, a garnishee is entitled to a fee from the plaintiff of \$3 per pay period, not to exceed \$12 per month, for each withholding made of the defendant's earnings. This subsection does not apply to the first pay period in which the defendant's earnings are garnished.

3. If the defendant's employment by the garnishee is terminated before the writ of garnishment is satisfied, the garnishee:

(a) Is liable only for the amount of earned but unpaid, disposable earnings that are subject to garnishment.

(b) Shall provide the plaintiff or the plaintiff's attorney with the last known address of the defendant and the name of any new employer of the defendant, if known by the garnishee.

4. *The judgment creditor who caused the writ of attachment to issue pursuant to NRS 31.013 shall prepare an accounting and provide a report to the judgment debtor, the sheriff and each garnishee every 120 days which sets forth, without limitation, the amount owed by the judgment debtor, the costs and fees allowed pursuant to NRS 18.160 and any accrued interest and costs on the judgment. The report must advise the judgment debtor of the judgment debtor's right to request a hearing pursuant to NRS 18.110 to dispute any accrued interest, fee or other charge. The judgment creditor must submit this accounting with each subsequent application for writ made by the judgment creditor concerning the same debt.*

Sec. 13. NRS 258.230 is hereby amended to read as follows:

258.230 Except with respect to the ~~fee~~ **fees** described in ~~paragraph~~ **paragraphs (a) and (d)** of subsection 2 of NRS 258.125, all fees prescribed in this chapter shall be payable in advance, if demanded. If a constable shall not have received any or all of his or her fees, which may be due the constable for services rendered by him or her in any suit or proceedings, the constable may have execution therefor in his or her own name against the party or parties from whom they are due, to be issued from the court where the action is pending, upon the order of the justice of the peace or court upon affidavit filed.

Sec. 14. NRS 612.710 is hereby amended to read as follows:

612.710 Except as otherwise provided in NRS 31A.150:

1. Any assignment, pledge or encumbrance of any right to benefits which are or may become due or payable under this chapter is void, except for a voluntary assignment of benefits to satisfy an obligation to pay support for a child.

2. Benefits are exempt from levy, execution, attachment, or any other remedy provided for the collection of debt. Benefits received by any person ~~if they are not mingled with other money of the recipient,~~ are exempt from any remedy for the collection of all debts, except debts incurred for

necessaries furnished to the person or the person's spouse or dependents during the time when the person was unemployed.

3. Any other waiver of any exemption provided for in this section is void.

Sec. 15. NRS 21.114 is hereby repealed.

TEXT OF REPEALED SECTION

21.114 Sureties: Submission to jurisdiction of court; exceptions to sufficiency and justification.

1. By entering into any undertaking provided for in NRS 21.112, the sureties thereunder submit themselves to the jurisdiction of the court and irrevocably appoint the clerk of the court as agent upon whom any papers affecting liability on the undertaking may be served. Liability on such undertaking may be enforced on motion to the court without the necessity of an independent action. The motion and such reasonable notice of the motion as the court prescribes may be served on the clerk of the court, who shall forthwith mail copies to the sureties if their addresses are known.

2. Exceptions to the sufficiency of the sureties and their justification may be had and taken in the same manner as upon an undertaking given in other cases under titles 2 and 3 of NRS. If they, or others in their place, fail to justify at the time and place appointed, the sheriff must release the property; but if no exception is taken within 5 days after notice of receipt of the undertaking, the judgment debtor shall be deemed to have waived any and all objections to the sufficiency of the sureties.

Assemblyman Horne moved that the Assembly concur in the Senate Amendment No. 851 to Assembly Bill No. 223.

Remarks by Assemblyman Horne.

Motion carried by a constitutional majority.

Bill ordered enrolled.

RECEDE FROM ASSEMBLY AMENDMENTS

Assemblyman Segerblom moved that the Assembly recede from its action on Senate Bill No. 304.

Remarks by Assemblyman Segerblom.

Motion carried.

REPORTS OF CONFERENCE COMMITTEES

Mr. Speaker:

The Conference Committee concerning Senate Bill No. 264, consisting of the undersigned members, has met and reports that:

It has agreed to recommend that Amendment No. 636 of the Assembly be concurred in.

It has agreed to recommend that the bill be further amended as set forth in Conference Amendment No. 2, which is attached to and hereby made a part of this report.

PEGGY PIERCE
SCOTT HAMMOND
TERESA BENITEZ-THOMPSON
Assembly Conference Committee

SHEILA LESLIE
RUBEN KIHUEN
BEN KIECKHEFER
Senate Conference Committee

Conference Amendment No. CA2.

AN ACT relating to public health; revising requirements for various reports concerning the care provided by certain medical and related facilities; revising provisions relating to administrative fines collected by the Health Division of the Department of Health and Human Services; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires certain medical facilities to submit to the Health Division of the Department of Health and Human Services reports of sentinel events. (NRS 439.835) The term "sentinel event" is defined for the purposes of these reports to mean an unexpected occurrence at the facility which involves facility-acquired infection, 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 a serious adverse outcome. (NRS 439.830) The Health Division is required to prepare annual reports concerning those reports which were submitted by medical facilities located in a county whose population is 100,000 or more (currently Clark and Washoe Counties). (NRS 439.840) **Section 5** of this bill requires the Health Division to prepare such annual reports for medical facilities in every county and to make those reports available on the Department's website. **Section 5** also requires the Health Division to report that information publicly in a format which allows for comparisons of medical facilities.

Existing law requires medical facilities which provide care to 25 or more patients per day to submit information to the Internet-based surveillance system established and maintained by the Centers for Disease Control and Prevention of the United States Department of Health and Human Services and requires the Health Division to analyze that information. (NRS 439.847) **Section 9** of this bill requires the Health Division to report that information publicly in a format which allows for comparisons of medical facilities.

Sections 15.3-17 of this bill require hospitals to submit, as part of the program to increase public awareness of health care information concerning hospitals, data relating to the readmission of a patient if the readmission was potentially preventable and clinically related to the initial admission of the patient. **Section 20** of this bill requires the Department of Health and Human Services to post that information on an Internet website. **Section 16** also

authorizes the Department to report certain information concerning the quality of care provided by hospitals if it can be determined from reports already submitted to the Department. Existing law authorizes the Department to seek injunctive relief or civil penalties against facilities that violate the reporting requirements. (NRS 439A.300, 439A.310)

Sections 21, 22, 24 and 25 of this bill authorize the Health Division to use money which is collected as administrative penalties to administer and carry out the provisions of chapter 449 of NRS and to protect the health and property of the patients and residents of facilities.

Section 35 of this bill repeals NRS 439.825 and 439.850.

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. (Deleted by amendment.)

Sec. 5. NRS 439.840 is hereby amended to read as follows:

439.840 1. The Health Division shall:

(a) Collect and maintain reports received pursuant to NRS 439.835 and 439.843 and any additional information requested by the Health Division pursuant to NRS 439.841;

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

(c) Annually prepare a report of sentinel events reported pursuant to NRS 439.835 by a medical facility , ~~[located in a county whose population is 100,000 or more,]~~ including, without limitation, the type of event, the number of events , *the rate of occurrence of events*, and the medical facility which reported the event [], *and provide the report for inclusion on the Internet website maintained pursuant to NRS 439A.270*; and

(d) Annually prepare a summary of the reports received pursuant to NRS 439.835 and provide a summary for inclusion on the Internet website maintained pursuant to NRS 439A.270. The Health Division shall maintain the confidentiality of the *patient, the provider of health care or other member of the staff of the medical facility identified in the* reports submitted pursuant to NRS 439.835 when preparing the annual summary pursuant to this paragraph.

2. Except as otherwise provided in this section and NRS 239.0115, reports received pursuant to NRS 439.835 and subsection 1 of NRS 439.843 and any additional information requested by the Health Division pursuant to

NRS 439.841 are confidential, not subject to subpoena or discovery and not subject to inspection by the general public.

3. *The report prepared pursuant to paragraph (c) of subsection 1 must provide to the public information concerning each medical facility which provided medical services and care in the immediately preceding calendar year and must:*

(a) Be presented in a manner that allows a person to view and compare the information for the medical facilities;

(b) Be readily accessible and understandable by a member of the general public;

(c) Use standard statistical methodology, including without limitation, risk-adjusted methodology when applicable, and include the description of the methodology and data limitations contained in the report;

(d) Not identify a patient, provider of health care or other member of the staff of the medical facility; and

(e) Not be reported for a medical facility if reporting the data would risk identifying a patient.

Sec. 6. (Deleted by amendment.)

Sec. 7. NRS 439.843 is hereby amended to read as follows:

439.843 1. On or before March 1 of each year, each medical facility shall provide to the Health Division, in the form prescribed by the State Board of Health, a summary of the reports submitted by the medical facility pursuant to NRS 439.835 during the immediately preceding calendar year. The summary must include, without limitation:

(a) The total number and types of sentinel events reported by the medical facility, if any;

(b) A copy of the patient safety plan established pursuant to NRS 439.865;

(c) A summary of the membership and activities of the patient safety committee established pursuant to NRS 439.875; and

(d) Any other information required by the State Board of Health concerning the reports submitted by the medical facility pursuant to NRS 439.835.

2. On or before June 1 of each year, the Health Division shall submit to the State Board of Health an annual summary of the reports and information received by the Health Division pursuant to this section. The annual summary must include, without limitation, a compilation of the information submitted pursuant to subsection 1 and any other pertinent information deemed necessary by the State Board of Health concerning the reports submitted by the medical facility pursuant to NRS 439.835. The Health Division shall maintain the confidentiality of the ***patient, the provider of health care or other member of the staff of the medical facility identified in the reports submitted pursuant to NRS 439.835 and any other identifying***

information *of a person* requested by the State Board of Health concerning those reports when preparing the annual summary pursuant to this section.

Sec. 8. NRS 439.845 is hereby amended to read as follows:

439.845 1. The Health Division shall analyze and report trends regarding sentinel events.

2. When the Health Division receives notice from a medical facility that the medical facility has taken corrective action to remedy the causes or contributing factors, or both, of a sentinel event, the Health Division shall:

- (a) Make a record of the information;
- (b) Ensure that the information is ~~[aggregated]~~ **released in a manner** so as not to reveal the identity of a specific ~~[person or medical facility;]~~ **patient, provider of health care or member of the staff of the facility;** and
- (c) At least quarterly, report its findings regarding the analysis of ~~[aggregated]~~ trends of sentinel events ~~[to the Repository for Health Care Quality Assurance.]~~ **on the Internet website maintained pursuant to NRS 439A.270.**

Sec. 9. NRS 439.847 is hereby amended to read as follows:

439.847 1. Each medical facility which provided medical services and care to an average of 25 or more patients during each business day in the immediately preceding calendar year shall, within 120 days after becoming eligible, participate in the secure, Internet-based surveillance system established by the Division of Healthcare Quality Promotion of the Centers for Disease Control and Prevention of the United States Department of Health and Human Services that integrates patient and health care personnel safety surveillance systems. As part of that participation, the medical facility shall provide, at a minimum, the information required by the Health Division pursuant to this subsection. The Health Division shall by regulation prescribe the information which must be provided by a medical facility, including, without limitation, information relating to infections and procedures.

2. Each medical facility which provided medical services and care to an average of less than 25 patients during each business day in the immediately preceding calendar year may participate in the secure, Internet-based surveillance system established by the Division of Healthcare Quality Promotion of the Centers for Disease Control and Prevention of the United States Department of Health and Human Services that integrates patient and health care personnel safety surveillance systems.

3. A medical facility that participates in the secure, Internet-based surveillance system established by the Division of Healthcare Quality Promotion shall ~~[authorize]~~ :

(a) **Authorize** the Health Division to access all information submitted to the system ~~[, and the Health Division shall enter into an agreement with the~~

~~Division of Healthcare Quality Promotion to carry out the provisions of this section; and~~

(b) Provide consent for the Health Division to include information submitted to the system in the reports posted pursuant to paragraph (b) of subsection 4, including without limitation, permission to identify the medical facility that is the subject of each report.

4. The Health Division shall ~~[analyze]~~:

(a) Analyze the information submitted to the system by medical facilities pursuant to this section and recommend regulations and legislation relating to the reporting required pursuant to NRS 439.800 to 439.890, inclusive.

(b) Annually prepare a report of the information submitted to the system by each medical facility pursuant to this section and provide the reports for inclusion on the Internet website maintained pursuant to NRS 439A.270. The information must be reported in a manner that allows a person to compare the information for the medical facilities and expressed as a total number and a rate of occurrence.

(c) Enter into an agreement with the Division of Healthcare Quality Promotion to carry out the provisions of this section.

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. 15.3. Chapter 439A of NRS is hereby amended by adding thereto a new section to read as follows:

“Potentially preventable readmission” means an unplanned readmission of a patient which:

- 1. Occurs not more than 30 days after the patient is discharged;*
- 2. Is clinically related to the initial admission; and*
- 3. Was preventable.*

Sec. 15.7. NRS 439A.200 is hereby amended to read as follows:

439A.200 As used in NRS 439A.200 to 439A.290, inclusive, *and section 15.3 of this act*, unless the context otherwise requires, the words and terms defined in NRS 439A.205 and 439A.210 *and section 15.3 of this act* have the meanings ascribed to them in those sections.

Sec. 16. NRS 439A.220 is hereby amended to read as follows:

439A.220 1. The Department shall establish and maintain a program to increase public awareness of health care information concerning the hospitals in this State. The program must be designed to assist consumers with comparing the quality of care provided by the hospitals in this State and the charges for that care.

2. The program must include, without limitation, the collection, maintenance and provision of information concerning:

(a) Inpatients and outpatients of each hospital in this State as reported in the forms submitted pursuant to NRS 449.485;

(b) The quality of care provided by each hospital in this State as determined by applying ~~uniform~~ measures of quality ~~prescribed by the Department pursuant to NRS 439A.230;~~

~~(c)~~ ***endorsed by the entities described in subparagraph (1) of paragraph (b) of subsection 1 of NRS 439A.230, expressed as a number of events and rate of occurrence, if such measures can be applied to the information reported in the forms submitted pursuant to NRS 449.485;***

(c) How consistently each hospital follows recognized practices to prevent the infection of patients, to speed the recovery of patients and to avoid medical complications of patients;

(d) For each hospital, the total number of patients discharged, the average length of stay and the average billed charges, reported ~~for the 50 most frequent~~ by diagnosis-related groups for inpatients and *for the* 50 medical treatments for outpatients that the Department determines are most useful for consumers; ~~and~~

(e) The total number of patients discharged from the hospital and the total number of potentially preventable readmissions, which must be expressed as a total number and a rate of occurrence of potentially preventable readmissions, and the average length of stay and the average billed charges for those potentially preventable readmissions; and

(f) Any other information relating to the charges imposed and the quality of the services provided by the hospitals in this State which the Department determines is:

- (1) Useful to consumers;
- (2) Nationally recognized; and
- (3) Reported in a standard and reliable manner.

3. As used in this section, "diagnosis-related group" means groupings of medical diagnostic categories used as a basis for hospital payment schedules by Medicare and other third-party health care plans.

Sec. 17. NRS 439A.230 is hereby amended to read as follows:

439A.230 1. The Department shall, by regulation:

(a) Prescribe the information that each hospital in this State must submit to the Department for the program established pursuant to NRS 439A.220.

(b) Prescribe the measures of quality for hospitals that are required pursuant to paragraph (b) of subsection 2 of NRS 439A.220. In adopting the regulations, the Department shall:

(1) Use the measures of quality endorsed by the Agency for Healthcare Research and Quality, the National Quality Forum, Centers for Medicare and

Medicaid Services of the United States Department of Health and Human Services, a quality improvement organization of the Centers for Medicare and Medicaid Services and the Joint Commission ; ~~for Accreditation of Healthcare Organizations;~~

(2) Prescribe a reasonable number of measures of quality which must not be unduly burdensome on the hospitals; and

(3) Take into consideration the financial burden placed on the hospitals to comply with the regulations.

↪ The measures prescribed pursuant to this paragraph must report health outcomes of hospitals, which do not necessarily correlate with the inpatient diagnosis-related groups or the outpatient treatments that are posted on the Internet website pursuant to NRS 439A.270.

(c) *Prescribe the manner in which a hospital must determine whether the readmission of a patient must be reported pursuant to NRS 439A.220 as a potentially preventable readmission and the form for submission of such information.*

(d) Require each hospital to:

(1) Provide the information prescribed in paragraphs (a) , ~~and~~ (b) *and* (c) in the format required by the Department; and

(2) Report the information separately for inpatients and outpatients.

2. The information required pursuant to this section and NRS 439A.220 must be submitted to the Department not later than 45 days after the last day of each calendar month.

3. If a hospital fails to submit the information required pursuant to this section or NRS 439A.220 or submits information that is incomplete or inaccurate, the Department shall send a notice of such failure to the hospital and to the Health Division of the Department.

Sec. 18. (Deleted by amendment.)

Sec. 19. (Deleted by amendment.)

Sec. 20. NRS 439A.270 is hereby amended to read as follows:

439A.270 1. The Department shall establish and maintain an Internet website that includes the information concerning the charges imposed and the quality of the services provided by the hospitals and surgical centers for ambulatory patients in this State as required by the programs established pursuant to NRS 439A.220 and 439A.240. The information must:

(a) Include, for each hospital in this State, the ~~total~~ :

(1) *Total* number of patients discharged, the average length of stay and the average billed charges, reported for the ~~50 most frequent~~ diagnosis-related groups for inpatients and *the 50* ~~most frequent~~ medical treatments for outpatients that the Department determines are most useful for consumers; *and*

(2) Total number of potentially preventable readmissions reported pursuant to NRS 439A.220, the rate of occurrence of potentially preventable readmissions, and the average length of stay and average billed charges of those potentially preventable readmissions, reported by the diagnosis-related group for inpatients for which the patient originally received treatment at a hospital;

(b) Include, for each surgical center for ambulatory patients in this State, the total number of patients discharged and the average billed charges, reported for 50 medical treatments for outpatients that the Department determines are most useful for consumers;

(c) Be presented in a manner that allows a person to view and compare the information for the hospitals by:

- (1) Geographic location of each hospital;
- (2) Type of medical diagnosis; and
- (3) Type of medical treatment;

(d) Be presented in a manner that allows a person to view and compare the information for the surgical centers for ambulatory patients by:

- (1) Geographic location of each surgical center for ambulatory patients;
- (2) Type of medical diagnosis; and
- (3) Type of medical treatment;

(e) Be presented in a manner that allows a person to view and compare the information separately for:

- (1) The inpatients and outpatients of each hospital; and
- (2) The outpatients of each surgical center for ambulatory patients;

(f) Be readily accessible and understandable by a member of the general public;

(g) Include the annual summary of reports of sentinel events prepared pursuant to paragraph (c) of subsection 1 of NRS 439.840;

(h) Include the annual summary of reports of sentinel events prepared pursuant to paragraph (d) of subsection 1 of NRS 439.840; ~~and~~

~~(h)~~ (i) Include the reports of information prepared for each medical facility pursuant to paragraph (b) of subsection 4 of NRS 439.847; and

(j) Provide any other information relating to the charges imposed and the quality of the services provided by the hospitals and surgical centers for ambulatory patients in this State which the Department determines is:

- (1) Useful to consumers;
- (2) Nationally recognized; and
- (3) Reported in a standard and reliable manner.

2. The Department shall:

- (a) Publicize the availability of the Internet website;
- (b) Update the information contained on the Internet website at least quarterly;

(c) Ensure that the information contained on the Internet website is accurate and reliable;

(d) Ensure that the information contained on the Internet website is aggregated so as not to reveal the identity of a specific inpatient or outpatient of a hospital;

(e) Post a disclaimer on the Internet website indicating that the information contained on the website is provided to assist with the comparison of hospitals and is not a guarantee by the Department or its employees as to the charges imposed by the hospitals in this State or the quality of the services provided by the hospitals in this State, including, without limitation, an explanation that the actual amount charged to a person by a particular hospital may not be the same charge as posted on the website for that hospital;

(f) Provide on the Internet website established pursuant to this section a link to the Internet website of the Centers for Medicare and Medicaid Services of the United States Department of Health and Human Services; and

(g) Upon request, make the information that is contained on the Internet website available in printed form.

3. As used in this section, “diagnosis-related group” means groupings of medical diagnostic categories used as a basis for hospital payment schedules by Medicare and other third-party health care plans.

Sec. 21. NRS 449.0305 is hereby amended to read as follows:

449.0305 1. Except as otherwise provided in subsection 5, a person must obtain a license from the Board to operate a business that provides referrals to residential facilities for groups.

2. The Board shall adopt:

(a) Standards for the licensing of businesses that provide referrals to residential facilities for groups;

(b) Standards relating to the fees charged by such businesses;

(c) Regulations governing the licensing of such businesses; and

(d) Regulations establishing requirements for training the employees of such businesses.

3. A licensed nurse, social worker, physician or hospital, or a provider of geriatric care who is licensed as a nurse or social worker, may provide referrals to residential facilities for groups through a business that is licensed pursuant to this section. The Board may, by regulation, authorize a public guardian or any other person it determines appropriate to provide referrals to residential facilities for groups through a business that is licensed pursuant to this section.

4. A business that is licensed pursuant to this section or an employee of such a business shall not:

(a) Refer a person to a residential facility for groups that is not licensed.

(b) Refer a person to a residential facility for groups that is owned by the same person who owns the business.

↪ A person who violates the provisions of this subsection is liable for a civil penalty to be recovered by the Attorney General in the name of the State Board of Health for the first offense of not more than \$10,000 and for a second or subsequent offense of not less than \$10,000 nor more than \$20,000. Unless otherwise required by federal law, the State Board of Health shall deposit all civil penalties collected pursuant to this section into a separate account in the State General Fund to be used ~~for the enforcement of this section and the protection of~~ **to administer and carry out the provisions of this chapter and to protect** the health, safety, well-being and property of **the patients and** residents of ~~residential~~ facilities ~~for groups~~ **in accordance with applicable state and federal standards.**

5. This section does not apply to a medical facility that is licensed pursuant to NRS 449.001 to 449.240, inclusive, on October 1, 1999.

Sec. 22. NRS 449.163 is hereby amended to read as follows:

449.163 1. If a medical facility or facility for the dependent violates any provision related to its licensure, including any provision of NRS 439B.410 or 449.001 to 449.240, inclusive, or any condition, standard or regulation adopted by the Board, the Health Division, in accordance with the regulations adopted pursuant to NRS 449.165, may:

(a) Prohibit the facility from admitting any patient until it determines that the facility has corrected the violation;

(b) Limit the occupancy of the facility to the number of beds occupied when the violation occurred, until it determines that the facility has corrected the violation;

(c) Impose an administrative penalty of not more than \$1,000 per day for each violation, together with interest thereon at a rate not to exceed 10 percent per annum; and

(d) Appoint temporary management to oversee the operation of the facility and to ensure the health and safety of the patients of the facility, until:

(1) It determines that the facility has corrected the violation and has management which is capable of ensuring continued compliance with the applicable statutes, conditions, standards and regulations; or

(2) Improvements are made to correct the violation.

2. If a violation by a medical facility or facility for the dependent relates to the health or safety of a patient, an administrative penalty imposed pursuant to paragraph (c) of subsection 1 must be in a total amount of not less than \$1,000 and not more than \$10,000 for each patient who was harmed or at risk of harm as a result of the violation.

3. If the facility fails to pay any administrative penalty imposed pursuant to paragraph (c) of subsection 1, the Health Division may:

(a) Suspend the license of the facility until the administrative penalty is paid; and

(b) Collect court costs, reasonable attorney's fees and other costs incurred to collect the administrative penalty.

4. The Health Division may require any facility that violates any provision of NRS 439B.410 or 449.001 to 449.240, inclusive, or any condition, standard or regulation adopted by the Board to make any improvements necessary to correct the violation.

5. Any money collected as administrative penalties pursuant to this section must be accounted for separately and used to **administer and carry out the provisions of this chapter and to** protect the health ~~of~~, **safety, well-being and** property of the **patients and** residents of ~~the facility~~ **facilities** in accordance with applicable **state and** federal standards.

Sec. 23. (Deleted by amendment.)

Sec. 24. NRS 449.210 is hereby amended to read as follows:

449.210 1. Except as otherwise provided in subsection 2 and NRS 449.24897, a person who operates a medical facility or facility for the dependent without a license issued by the Health Division is guilty of a misdemeanor.

2. A person who operates a residential facility for groups without a license issued by the Health Division:

(a) Is liable for a civil penalty to be recovered by the Attorney General in the name of the Health Division for the first offense of not more than \$10,000 and for a second or subsequent offense of not less than \$10,000 or more than \$20,000;

(b) Shall move all of the persons who are receiving services in the residential facility for groups to a residential facility for groups that is licensed at his or her own expense; and

(c) May not apply for a license to operate a residential facility for groups for a period of 6 months after the person is punished pursuant to this section.

3. Unless otherwise required by federal law, the Health Division shall deposit all civil penalties collected pursuant to this section into a separate account in the State General Fund to be used ~~for the protection of~~ **to administer and carry out the provisions of this chapter and to protect** the health, safety, ~~and~~ well-being **and property** of **the** patients ~~including~~ **and** residents of ~~residential~~ **facilities** ~~for groups~~ **in accordance with applicable state and federal standards.**

Sec. 25. NRS 449.2496 is hereby amended to read as follows:

449.2496 1. A person who operates or maintains a home for individual residential care without a license issued by the Health Division pursuant to NRS 449.249 is liable for a civil penalty, to be recovered by the Attorney General in the name of the Health Division, for the first offense of \$10,000

and for a second or subsequent offense of not less than \$10,000 nor more than \$20,000.

2. Unless otherwise required by federal law, the Health Division shall deposit civil penalties collected pursuant to this section into a separate account in the State General Fund ~~[in the State Treasury]~~ to be used ~~[for the protection of]~~ **to administer and carry out the provisions of this chapter and to protect** the health, safety, well-being and property of ~~the~~ patients ~~[- including]~~ and residents of facilities ~~[found deficient by the Health Division.]~~ **in accordance with applicable state and federal standards.**

3. A person against whom a civil penalty is assessed by the court pursuant to subsection 1:

(a) Shall move, at that person's own expense, all persons receiving services in the home for individual residential care to a licensed home for individual residential care.

(b) May not apply for a license to operate a home for individual residential care until 6 months have elapsed since the penalty was assessed.

Sec. 26. (Deleted by amendment.)

Sec. 27. (Deleted by amendment.)

Sec. 28. (Deleted by amendment.)

Sec. 29. (Deleted by amendment.)

Sec. 30. (Deleted by amendment.)

Sec. 31. (Deleted by amendment.)

Sec. 32. (Deleted by amendment.)

Sec. 33. (Deleted by amendment.)

Sec. 34. (Deleted by amendment.)

Sec. 35. NRS 439.825 and 439.850 are hereby repealed.

Sec. 36. (Deleted by amendment.)

Sec. 37. This act becomes effective on July 1, 2011.

TEXT OF REPEALED SECTIONS

439.825 "Repository" defined. "Repository" means the Repository for Health Care Quality Assurance created by NRS 439.850.

439.850 Repository for Health Care Quality Assurance: Creation; function.

1. The Repository for Health Care Quality Assurance is hereby created within the Health Division.

2. The Repository shall, to the extent of legislative appropriation and authorization, function as a clearinghouse of information relating to aggregated trends of sentinel events.

Assemblywoman Pierce moved that the Assembly adopt the report of the Conference Committee concerning Senate Bill No. 264.

Motion carried by a constitutional majority.

CONSIDERATION OF SENATE AMENDMENTS

Assembly Bill No. 80.

The following Senate amendment was read:

Amendment No. 686.

AN ACT relating to the Public Employees' Benefits Program; making various changes relating to the Program; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, the Board of the Public Employees' Benefits Program is required to submit various reports concerning the administration and operation of the Program. (NRS 287.043, 287.04366) **Sections 3, 8 and 14** of this bill make the Executive Officer of the Program, rather than the Board, responsible for submitting such reports.

Under existing law, if a retired public officer or employee of the State or a local governmental agency, or the surviving spouse of such a retired officer or employee, who was formerly covered by health insurance provided under the Program, or under a plan offered by the local governmental employer, reinstates such insurance, the reinstated insurance excludes coverage for certain preexisting conditions during the first 12 months after such reinstatement. (NRS 287.0205, 287.0475) **Sections 4.5 and 12** of this bill eliminate the exclusion for certain preexisting conditions as called for in the Patient Protection and Affordable Care Act. (Pub. L. No. 111-148, 124 Stat. 119) **Section 12** also prohibits a public officer or employee who retired from a local governmental agency, or his or her surviving spouse or domestic partner, from reinstating health insurance under the Program if the Board has adopted regulations that exclude such persons from participation in the Program because they are eligible for health coverage from a health and welfare plan or trust that arose out of certain collective bargaining agreements or under certain federal laws.

Under existing law, a state agency is required to pay to the Program a certain amount to pay a portion of the cost of coverage under the Program for each state officer or employee of that state agency who participates in the Program. State officers and employees are required to pay the remaining portion of the costs of their coverage as well as the full amount of covering their dependents under the Program. The Board is authorized to allocate the money paid by the state agency between the costs of coverage for such officers and employees and for their dependents. (NRS 287.044) **Section 9** of this bill clarifies the manner in which the Board may perform the allocation.

Existing law provides for the payment of a subsidy to cover a portion of the costs of coverage under the Program for certain retired state officers and employees. (NRS 287.046) **Section 10** of this bill clarifies that employees

who are initially hired by the State on or after January 1, 2010, are not entitled to the subsidy for coverage under the Program if they retire with less than 15 years of service, which must include state service and may include local governmental service, with the exception of disabled retirees, or if they fail to maintain continuous coverage under the Program during retirement. **Section 6** of this bill clarifies the application of this provision to persons who retire from employment with local governmental agencies.

Existing law provides that if a state officer or employee or a dependent of a state officer or employee incurs medical costs that are payable under the Program, but for which a third person has the legal liability to pay, the Board is subrogated to the rights of the officer, employee or dependent and may commence, join or intervene in any legal action against the third person to enforce that legal liability. (NRS 287.0465) **Section 11** of this bill extends this provision to apply to any person who participates in the Program, including retired, as well as active, officers and employees of the State and their dependents and to active and retired officers and employees of local governments and their dependents who are covered under the Program.

Existing law provides that the surviving spouse and any surviving child of a police officer or firefighter who was killed in the line of duty are eligible to obtain or continue coverage under the Program or a benefits plan established by his or her local governmental employer under certain circumstances. The public employer of the police officer or firefighter, or the State of Nevada in the case of a volunteer firefighter, is required to pay the entire cost of the coverage for the surviving spouse for life and the entire cost of the coverage for any surviving child at least until the child reaches 18 years of age and until the child reaches 23 years of age so long as the child is a full-time student. (NRS ~~287.021~~, 287.0477) **Sections 5 and 13** of this bill provide that neither the public employer nor the State is required to pay the cost of the coverage for the surviving domestic partner of such a police officer or firefighter. **Sections 5 and 13 also codify that the duration of the coverage for the surviving children of police officers and firefighters killed in the line of duty is the same as the duration of coverage for children otherwise in the public employer's health care plan.**

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

Section 1. Chapter 287 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.

Sec. 2. *“Domestic partner” has the meaning ascribed to it NRS 122A.030.*

Sec. 3. 1. *The Executive Officer shall ~~not~~ submit a report regarding the administration and operation of the Program to the Board ~~of the~~*

~~Public Employees' Benefits Program,] and the Director of the Department of Administration, and to the Director of the Legislative Counsel Bureau for transmittal to the appropriate committees of the Legislature or, if the Legislature is not in regular session, to the Legislative Commission and the Interim Retirement and Benefits Committee of the Legislature created by NRS 218E.420. The report must include, without limitation:~~

(a) An audited financial statement of the Program Fund for the immediately preceding fiscal year. The statement must be prepared by an independent certified public accountant.

(b) An audited financial statement of the Retirees' Fund for the immediately preceding fiscal year. The statement must be prepared by an independent certified public accountant.

(c) A report of the utilization of the Program by participants during the immediately preceding plan year, segregated by benefit, administrative cost, active employees and retirees, including, without limitation, an assessment of the actuarial accuracy of reserves.

(d) Material provided generally to participants or prospective participants in connection with enrollment in the Program for the current plan year, including, without limitation:

(1) Information regarding rates and the costs for participation in the Program paid by participants on a monthly basis; and

(2) A summary of the changes in the plan design for the current plan year from the plan design for the immediately preceding plan year.

2. ~~The Executive Officer shall submit a biennial report to the Board of the Public Employees' Benefits Program,] and the Director of the Department of Administration, and to the Director of the Legislative Counsel Bureau for transmittal to the appropriate committee or committees of the Legislature. The report must include, without limitation:~~

(a) An independent biennial certified actuarial valuation and report of the State's health and welfare benefits for current and future state retirees, which are provided for the purpose of developing the annual required contribution pursuant to the statements issued by the Governmental Accounting Standards Board.

(b) A biennial review of the Program to determine whether the Program complies with federal and state laws relating to taxes and employee benefits. The review must be conducted by an attorney who specializes in employee benefits.

Sec. 4. NRS 287.0205 is hereby amended to read as follows:

287.0205 1. A public officer or employee of any county, school district, municipal corporation, political subdivision, public corporation or other local governmental agency of the State of Nevada who has retired pursuant to NRS 1A.350 or 1A.480, or 286.510 or 286.620, or is enrolled in

a retirement program provided pursuant to NRS 286.802, or the surviving spouse of such a retired public officer or employee who is deceased, may, in any even-numbered year, reinstate any insurance, except life insurance, that, at the time of reinstatement, is provided by the last public employer of the retired public officer or employee to the active officers and employees and their dependents of that public employer:

(a) Pursuant to NRS 287.010, 287.015, 287.020 or paragraph (b), (c) or (d) of subsection 1 of NRS 287.025; or

(b) Under the Public Employees' Benefits Program, if the last public employer of the retired officer or employee participates in the Public Employees' Benefits Program pursuant to paragraph (a) of subsection 1 of NRS 287.025.

2. Reinstatement pursuant to paragraph (a) of subsection 1 must be requested by:

(a) Giving written notice of the intent of the public officer or employee or surviving spouse to reinstate the insurance to the last public employer of the public officer or employee not later than January 31 of an even-numbered year;

(b) Accepting the public employer's current program or plan of insurance and any subsequent changes thereto; and

(c) Except as otherwise provided in ~~subparagraph (2) of~~ paragraph (b) of subsection 4 of NRS 287.023, paying any portion of the premiums or contributions of the public employer's program or plan of insurance, in the manner set forth in NRS 1A.470 or 286.615, which is due from the date of reinstatement and not paid by the public employer.

↪ The last public employer shall give the insurer notice of the reinstatement not later than March 31 of the year in which the public officer or employee or surviving spouse gives notice of the intent to reinstate the insurance.

3. Reinstatement pursuant to paragraph (b) of subsection 1 must be requested pursuant to NRS 287.0475.

4. ~~Reinstatement~~ ***If a plan is considered grandfathered under the Patient Protection and Affordable Care Act, Public Law 111-148, reinstatement*** of insurance pursuant to subsection 1 ~~excludes~~ ***may exclude*** claims for expenses for any condition for which medical advice, treatment or consultation was rendered within 12 months before reinstatement unless the reinstated insurance has been in effect more than 12 consecutive months.

5. The last public employer of a retired officer or employee who reinstates insurance, except life insurance, which was provided to the retired officer or employee and the retired officer's or employee's dependents at the time of retirement pursuant to NRS 287.010, 287.015, 287.020 or paragraph (b), (c) or (d) of subsection 1 of NRS 287.025 shall, for the purpose of establishing actuarial data to determine rates and coverage for such persons,

commingle the claims experience of such persons with the claims experience of active and retired officers and employees and their dependents who participate in that group insurance, plan of benefits or medical and hospital service.

Sec. 4.5. NRS 287.0205 is hereby amended to read as follows:

287.0205 1. A public officer or employee of any county, school district, municipal corporation, political subdivision, public corporation or other local governmental agency of the State of Nevada who has retired pursuant to NRS 1A.350 or 1A.480, or 286.510 or 286.620, or is enrolled in a retirement program provided pursuant to NRS 286.802, or the surviving spouse of such a retired public officer or employee who is deceased, may, in any even-numbered year, reinstate any insurance, except life insurance, that, at the time of reinstatement, is provided by the last public employer of the retired public officer or employee to the active officers and employees and their dependents of that public employer:

(a) Pursuant to NRS 287.010, 287.015, 287.020 or paragraph (b), (c) or (d) of subsection 1 of NRS 287.025; or

(b) Under the Public Employees' Benefits Program, if the last public employer of the retired officer or employee participates in the Public Employees' Benefits Program pursuant to paragraph (a) of subsection 1 of NRS 287.025.

2. Reinstatement pursuant to paragraph (a) of subsection 1 must be requested by:

(a) Giving written notice of the intent of the public officer or employee or surviving spouse to reinstate the insurance to the last public employer of the public officer or employee not later than January 31 of an even-numbered year;

(b) Accepting the public employer's current program or plan of insurance and any subsequent changes thereto; and

(c) Except as otherwise provided in paragraph (b) of subsection 4 of NRS 287.023, paying any portion of the premiums or contributions of the public employer's program or plan of insurance, in the manner set forth in NRS 1A.470 or 286.615, which is due from the date of reinstatement and not paid by the public employer.

↪ The last public employer shall give the insurer notice of the reinstatement not later than March 31 of the year in which the public officer or employee or surviving spouse gives notice of the intent to reinstate the insurance.

3. Reinstatement pursuant to paragraph (b) of subsection 1 must be requested pursuant to NRS 287.0475.

4. ~~If a plan is considered grandfathered under the Patient Protection and Affordable Care Act, Public Law 111-148, reinstatement of insurance pursuant to subsection 1 may exclude claims for expenses for any condition~~

~~for which medical advice, treatment or consultation was rendered within 12 months before reinstatement unless the reinstated insurance has been in effect more than 12 consecutive months.~~

5.] The last public employer of a retired officer or employee who reinstates insurance, except life insurance, which was provided to the retired officer or employee and the retired officer's or employee's dependents at the time of retirement pursuant to NRS 287.010, 287.015, 287.020 or paragraph (b), (c) or (d) of subsection 1 of NRS 287.025 shall, for the purpose of establishing actuarial data to determine rates and coverage for such persons, commingle the claims experience of such persons with the claims experience of active and retired officers and employees and their dependents who participate in that group insurance, plan of benefits or medical and hospital service.

Sec. 5. NRS 287.021 is hereby amended to read as follows:

287.021 1. Except as otherwise provided in subsection 3, the surviving spouse , *surviving domestic partner* and any surviving child of a police officer or firefighter who was:

(a) Employed by a local governmental agency that had established group insurance, a plan of benefits or medical and hospital service pursuant to NRS 287.010, 287.015, 287.020 or paragraph (b), (c) or (d) of subsection 1 of NRS 287.025; and

(b) Killed in the line of duty,

↪ may elect to accept or continue coverage under that group insurance, plan or medical and hospital service if the police officer or firefighter was a participant or would have been eligible to participate in the group insurance, plan or medical and hospital service on the date of the death of the police officer or firefighter. If the surviving spouse , *surviving domestic partner* or child elects to accept coverage under the group insurance, plan or medical and hospital service in which the police officer or firefighter would have been eligible to participate or to discontinue coverage under the group insurance, plan or medical and hospital service in which the police officer or firefighter was a participant, the spouse, *domestic partner*, child or legal guardian of the child must notify in writing the local governmental agency that employed the police officer or firefighter within 60 days after the date of death of the police officer or firefighter.

2. ~~[The]~~ *Except as otherwise provided in this section and NRS 287.023, the* local governmental agency that employed the police officer or firefighter shall pay the entire cost of the premiums or contributions for the group insurance, plan of benefits or medical and hospital service for the surviving spouse or child who meets the requirements set forth in subsection 1.

3. A surviving spouse *or surviving domestic partner* is eligible to receive coverage pursuant to this section for the duration of the life of the

surviving spouse ~~[]~~ **or surviving domestic partner**. A surviving child is eligible to receive coverage pursuant to this section until the child reaches ~~[~~

(a) ~~The [the age of] [18] [26 years] [; or~~

(b) ~~The age of 23 years, if the child is enrolled as a full time student in an accredited university, college or trade school.] [unless the plan is grandfathered pursuant to the provisions of the Patient Protection and Affordable Care Act, Public Law 111-148.]~~ **the age at which the child would not otherwise be eligible to receive coverage under the group insurance, plan of benefits or medical and hospital service.**

4. ~~A local governmental agency is not required to pay the entire cost of [the premiums or contributions]~~ **health care benefits pursuant to subsection 2 for a surviving domestic partner who meets the requirements set forth in subsection 1.**

5. As used in this section “police officer” has the meaning ascribed to it in NRS 617.135.

Sec. 6. NRS 287.023 is hereby amended to read as follows:

287.023 1. Whenever an officer or employee of the governing body of any county, school district, municipal corporation, political subdivision, public corporation or other local governmental agency of the State of Nevada retires under the conditions set forth in NRS 1A.350 or 1A.480, or 286.510 or 286.620 and, during the period in which the person served as an officer or employee, was eligible to be covered or had dependents who were eligible to be covered by any group insurance, plan of benefits or medical and hospital service established pursuant to NRS 287.010, 287.015, 287.020 or paragraph (b), (c) or (d) of subsection 1 of NRS 287.025 or under the Public Employees’ Benefits Program pursuant to paragraph (a) of subsection 1 of NRS 287.025, the officer or employee has the option upon retirement to cancel or continue any such coverage to the extent that such coverage is not provided to the officer or employee or a dependent by the Health Insurance for the Aged Act, 42 U.S.C. §§ 1395 et seq.

2. A retired person who continues coverage under the Public Employees’ Benefits Program shall assume the portion of the premium or contribution costs for the coverage which the governing body or the State does not pay on behalf of retired officers or employees. A dependent of such a retired person has the option, which may be exercised to the same extent and in the same manner as the retired person, to cancel or continue coverage in effect on the date the retired person dies. The dependent is not required to continue to receive retirement payments from the Public Employees’ Retirement System to continue coverage.

3. Notice of the selection of the option must be given in writing to the last public employer of the officer or employee within 60 days after the date of retirement or death, as the case may be. If no notice is given by that date,

the retired officer or employee and any dependents shall be deemed to have selected the option to cancel the coverage for the group insurance, plan of benefits or medical and hospital service established pursuant to NRS 287.010, 287.015, 287.020 or paragraph (b), (c) or (d) of subsection 1 of NRS 287.025 or coverage under the Public Employees' Benefits Program pursuant to paragraph (a) of subsection 1 of NRS 287.025.

4. The governing body of any county, school district, municipal corporation, political subdivision, public corporation or other local governmental agency of this State:

(a) May pay the cost, or any part of the cost, of coverage established pursuant to NRS 287.010, 287.015 or 287.020 or paragraph (b), (c) or (d) of subsection 1 of NRS 287.025 for persons who continue that coverage pursuant to subsection 1, but it must not pay a greater portion than it does for its current officers and employees.

(b) Shall pay the same portion of the cost of coverage under the Public Employees' Benefits Program for *retired* persons who ~~[-~~:

~~(1) Were initially hired before January 1, 2010, and who retire and] are covered under the Program [pursuant to subsection 1 or who subsequently reinstate coverage under the Program pursuant to NRS 287.0205; or~~

~~(2) Are initially hired on or after January 1, 2010, and who retire with:~~

~~(I) At least 15 years of service credit, which must include local governmental service and may include state service, and who have participated in the Program on a continuous basis since their retirement from such employment; or~~

~~(II) At least 5 years of service credit, which must include local governmental service and may include state service, who do not have at least 15 years of service credit to qualify under sub-subparagraph (I) as a result of a disability for which disability benefits are received under the Public Employees' Retirement System or a retirement program for professional employees offered by or through the Nevada System of Higher Education.~~

~~→] as the State pays pursuant to [subsection 1 of] NRS 287.046 for persons retired with state service who participate in the [Public Employees' Benefits] Program.~~

5. The governing body of any county, school district, municipal corporation, political subdivision, public corporation or other local governmental agency of this State shall, for the purpose of establishing actuarial data to determine rates and coverage for persons who continue coverage for group insurance, a plan of benefits or medical and hospital service with the governing body pursuant to subsection 1, commingle the claims experience of those persons with the claims experience of active officers and employees and their dependents who participate in the group insurance, a plan of benefits or medical and hospital service.

Sec. 7. NRS 287.0402 is hereby amended to read as follows:

287.0402 As used in NRS 287.0402 to 287.049, inclusive, *and sections 2 and 3 of this act*, unless the context otherwise requires, the words and terms defined in NRS 287.0404 to 287.04064, inclusive, *and section 2 of this act* have the meanings ascribed to them in those sections.

Sec. 8. NRS 287.043 is hereby amended to read as follows:

287.043 1. The Board shall:

(a) Establish and carry out a program to be known as the Public Employees' Benefits Program which:

(1) Must include a program relating to group life, accident or health insurance, or any combination of these; and

(2) May include:

(I) A plan that offers flexibility in benefits, and for which the rates must be based only on the experience of the participants in the plan and not in combination with the experience of participants in any other plan offered under the Program; or

(II) A program to reduce taxable compensation or other forms of compensation other than deferred compensation,
→ for the benefit of all state officers and employees and other persons who participate in the Program.

(b) Ensure that the Program is funded on an actuarially sound basis and operated in accordance with sound insurance and business practices.

2. In establishing and carrying out the Program, the Board shall:

(a) For the purpose of establishing actuarial data to determine rates and coverage for active and retired state officers and employees and their dependents, commingle the claims experience of such active and retired officers and employees and their dependents for whom the Program provides primary health insurance coverage into a single risk pool.

(b) Except as otherwise provided in this paragraph, negotiate and contract pursuant to paragraph (a) of subsection 1 of NRS 287.025 with the governing body of any county, school district, municipal corporation, political subdivision, public corporation or other local governmental agency of the State of Nevada that wishes to obtain exclusive group insurance for all of its active and retired officers and employees and their dependents, except as otherwise provided in sub-subparagraph (III) of subparagraph (2) of paragraph (h), by participation in the Program. The Board shall establish separate rates and coverage for active and retired officers and employees of those local governmental agencies and their dependents based on actuarial reports that commingle the claims experience of such active and retired officers and employees and their dependents for whom the Program provides primary health insurance coverage into a single risk pool.

(c) Except as otherwise provided in paragraph (d), provide public notice in writing of any proposed changes in rates or coverage to each participating public agency that may be affected by the changes. Notice must be provided at least 30 days before the effective date of the changes.

(d) If a proposed change is a change in the premium or contribution charged for, or coverage of, health insurance, provide written notice of the proposed change to all participants in the Program. The notice must be provided at least 30 days before the date on which a participant in the Program is required to select or change the participant's policy of health insurance.

(e) Purchase policies of life, accident or health insurance, or any combination of these, or, if applicable, a program to reduce the amount of taxable compensation pursuant to 26 U.S.C. § 125, from any company qualified to do business in this State or provide similar coverage through a plan of self-insurance established pursuant to NRS 287.0433 for the benefit of all eligible participants in the Program.

(f) Except as otherwise provided in this title, develop and establish other employee benefits as necessary.

(g) Investigate and approve or disapprove any contract proposed pursuant to NRS 287.0479.

(h) Adopt such regulations and perform such other duties as are necessary to carry out the provisions of NRS 287.010 to 287.245, inclusive, *and sections 2 and 3 of this act*, including, without limitation, the establishment of:

(1) Fees for applications for participation in the Program and for the late payment of premiums or contributions;

(2) Conditions for entry and reentry into and exit from the Program by local governmental agencies pursuant to paragraph (a) of subsection 1 of NRS 287.025, which:

(I) Must include a minimum period of 4 years of participation for entry into the Program;

(II) Must include a requirement that participation of any retired officers and employees of the local governmental agency whose last continuous period of enrollment with the Program began after November 30, 2008, terminates upon termination of the local governmental agency's contract with the Program; and

(III) May allow for the exclusion of active and retired officers and employees of the local governmental agency who are eligible for health coverage from a health and welfare plan or trust that arose out of collective bargaining under chapter 288 of NRS or a trust established pursuant to 29 U.S.C. § 186;

(3) Procedures by which a group of participants in the Program may leave the Program pursuant to NRS 287.0479 and conditions and procedures for reentry into the Program by those participants;

(4) Specific procedures for the determination of contested claims;

(5) Procedures for review and notification of the termination of coverage of persons pursuant to paragraph (b) of subsection 4 of NRS 287.023; and

(6) Procedures for the payments that are required to be made pursuant to paragraph (b) of subsection 4 of NRS 287.023.

~~[(i) Appoint an independent certified public accountant. The accountant shall:~~

~~(1) Provide an annual audit of the Program; and~~

~~(2) Report to the Board and the Interim Retirement and Benefits Committee of the Legislature created pursuant to NRS 218E.420.~~

~~(j) Appoint an attorney who specializes in employee benefits. The attorney shall:~~

~~(1) Perform a biennial review of the Program to determine whether the Program complies with federal and state laws relating to taxes and employee benefits; and~~

~~(2) Report to the Board and the Interim Retirement and Benefits Committee of the Legislature created pursuant to NRS 218E.420.~~

~~3. The Board shall submit an annual report regarding the administration and operation of the Program to the Director of the Legislative Counsel Bureau for transmittal to the appropriate committees of the Legislature, or to the Legislative Commission when the Legislature is not in regular session, for acceptance or rejection not more than 6 months before the Board establishes rates and coverage for participants for the following plan year. The report must include, without limitation:~~

~~(a) Detailed financial results for the Program for the preceding plan year, including, without limitation, identification of the sources of revenue for the Program and a detailed accounting of expenses which are segregated by each type of benefit offered by the Program, and administrative costs. The results must be provided separately concerning:~~

~~(1) Participants who are active and retired state officers and employees and their dependents;~~

~~(2) All participants in the Program other than those described in subparagraph (1); and~~

~~(3) Within the groups described in subparagraphs (1) and (2), active participants, retired participants for which the Program provides primary health insurance coverage and retired participants in the Program who are provided coverage for medical or hospital service, or both, by the Health~~

Insurance for the Aged Act, 42 U.S.C. §§ 1395 et seq., or a plan that provides similar coverage.

~~(b) An assessment of actuarial accuracy and reserves for the current plan year and the immediately preceding plan year.~~

~~(c) A summary of the plan design for the current plan year, including, without limitation, information regarding rates and any changes in the vendors with which the Program has entered into contracts, and a comparison of the plan design for the current plan year to the plan design for the immediately preceding plan year. The information regarding rates provided pursuant to this paragraph must set forth the costs for participation in the Program paid by participants and employers on a monthly basis.~~

~~(d) A description of all written communications provided generally to all participants by the Program during the preceding plan year.~~

~~(e) A discussion of activities of the Board concerning purchasing coalitions.~~

~~4.] 3.~~ The Board may use any services provided to state agencies and shall use the services of the Purchasing Division of the Department of Administration to establish and carry out the Program.

~~{5.] 4.~~ The Board may make recommendations to the Legislature concerning legislation that it deems necessary and appropriate regarding the Program.

~~{6.] 5.~~ A participating public agency is not liable for any obligation of the Program other than indemnification of the Board and its employees against liability relating to the administration of the Program, subject to the limitations specified in NRS 41.0349.

~~{7.] 6.~~ As used in this section, "employee benefits" includes any form of compensation provided to a public employee except federal benefits, wages earned, legal holidays, deferred compensation and benefits available pursuant to chapter 286 of NRS.

Sec. 9. NRS 287.044 is hereby amended to read as follows:

287.044 1. Except as otherwise provided in subsection 2, each participating state agency shall pay to the Program an amount specified by law for every state officer or employee who is employed by a participating public agency on a permanent and full-time basis and elects to participate in the Program.

2. A member of the Senate or Assembly who elects to participate in the Program shall pay the entire premium or contribution for the member's insurance.

3. State officers and employees who elect to participate in the Program must authorize deductions from their compensation for the payment of premiums or contributions for the Program. Any deduction from the compensation of a state officer or employee for the payment of such a

premium or contribution must be based on the actual amount of the premium or contribution after deducting any amount ~~[of the premium or contribution which is paid]~~ **allocated by the Board** pursuant to subsection ~~[1.]~~ **6.**

4. If a state officer or employee chooses to cover any dependents, whenever this option is made available by the Board, except as otherwise provided in NRS 287.021 and 287.0477, the state officer or employee must pay the difference between the amount of the premium or contribution for the coverage for the state officer or employee and such dependents and ~~[the]~~ **any** amount ~~[paid by the participating state agency that employs the officer or employee.]~~ **allocated by the Board pursuant to subsection 6.**

5. A participating state agency shall not pay any part of those premiums or contributions if the group life insurance or group accident or health insurance is not approved by the Board.

6. The Board may allocate the money paid to the Program pursuant to ~~[this section]~~ **subsection 1** between the cost of premiums and contributions for group insurance for each state officer or employee, except a member of the Senate or Assembly, and the dependents of each state officer or employee.

Sec. 10. NRS 287.046 is hereby amended to read as follows:

287.046 1. The Department of Administration shall establish an assessment that is to be used to pay for a portion of the cost of premiums or contributions for the Program for persons who have retired with state service . ~~[before January 1, 1994, or under the circumstances set forth in paragraph (a), (b) or (c) of subsection 3.]~~

2. The money assessed pursuant to subsection 1 must be deposited into the Retirees' Fund and must be based upon ~~[an]~~ **a base** amount approved by the Legislature each session to pay for a portion of the current and future health and welfare benefits for ~~[such retirees.]~~ **persons who retired before January 1, 1994, or for persons who retire on or after January 1, 1994, as adjusted by subsection 3.** Except as otherwise provided in subsection ~~[4.]~~ **5**, the portion to be paid to the Program from the Retirees' Fund on behalf of such persons must be equal to a portion of the cost for each retiree and the retiree's dependents who are enrolled in the plan, as defined for each year of the plan by the Program.

3. ~~[Adjustments]~~ **Except as otherwise provided in subsection 4, adjustments** to the portion **of the amount approved by the Legislature pursuant to subsection 2 to be** paid by the Retirees' Fund ~~[must be as follows:~~

~~(a) For]~~ **for** persons who retire on or after January 1, 1994, with state service ~~[-~~

~~(1)]~~ **must be as follows:**

(a) For each year of service less than 15 years, excluding service purchased pursuant to NRS 1A.310 or 286.300, the portion paid by the Retirees' Fund must be reduced by an amount equal to 7.5 percent of the base funding level defined by the Legislature. In no event may the adjustment exceed 75 percent of the base funding level defined by the Legislature.

~~[(2)]~~ (b) For each year of service greater than 15 years, excluding service purchased pursuant to NRS 1A.310 or 286.300, the portion paid by the Retirees' Fund must be increased by an amount equal to 7.5 percent of the base funding level defined by the Legislature. In no event may the adjustment exceed 37.5 percent of the base funding level defined by the Legislature.

~~[(b) For persons who are]~~

4. No money may be paid by the Retirees' Fund on behalf of a retired person who is initially hired by the State on or after January 1, 2010, and who ~~retire with at least 15 years of service credit, which must include state service and may include local governmental service, and who have~~ :

(a) **Has not** participated in the Program on a continuous basis since ~~their~~ retirement from such employment ~~[, for each year of service greater than 15 years, excluding service purchased pursuant to NRS 1A.310 or 286.300, the portion paid by the Retirees' Fund must be increased by an amount equal to 7.5 percent of the base funding level defined by the Legislature. In no event may the adjustment exceed 37.5 percent of the base funding level defined by the Legislature.~~

~~(c) For persons who are initially hired by the State on or after January 1, 2010, and who retire with at least 5 years of service credit, which must include state service and may include local governmental service, who do] ;~~
or

(b) **Does not** have at least 15 years of service ~~[credit to qualify under paragraph (b) as]~~ , **which must include state service and may include local governmental service, unless the retired person does not have at least 15 years of service as** a result of a disability for which disability benefits are received under the Public Employees' Retirement System or a retirement program for professional employees offered by or through the Nevada System of Higher Education, and ~~who have~~ **has** participated in the Program on a continuous basis since ~~their~~ retirement from such employment . ~~[(~~

~~(1) For each year of service less than 15 years, excluding service purchased pursuant to NRS 1A.310 or 286.300, the portion paid by the Retirees' Fund must be reduced by an amount equal to 7.5 percent of the base funding level defined by the Legislature. In no event may the adjustment exceed 75 percent of the base funding level defined by the Legislature.~~

~~(2) For each year of service greater than 15 years, excluding service purchased pursuant to NRS 1A.310 or 286.300, the portion paid by the Retirees' Fund must be increased by an amount equal to 7.5 percent of the base funding level defined by the Legislature. In no event may the adjustment exceed 37.5 percent of the base funding level defined by the Legislature.~~

~~4.] 5.~~ If the amount calculated pursuant to subsection 3 exceeds the actual premium or contribution for the plan of the Program that the retired participant selects, the balance must be credited to the Program Fund.

~~{5-} 6.~~ For the purposes of subsection ~~{4-} 3:~~

(a) Credit for service must be calculated in the manner provided by chapter 286 of NRS.

(b) No proration may be made for a partial year of ~~{state}~~ service.

~~{6-} 7.~~ The Department shall agree through the Board with the insurer for billing of remaining premiums or contributions for the retired participant and the retired participant's dependents to the retired participant and to the retired participant's dependents who elect to continue coverage under the Program after the retired participant's death.

Sec. 11. NRS 287.0465 is hereby amended to read as follows:

287.0465 1. If ~~{an officer or employee of the State or a dependent of such an officer or employee}~~ **a member** incurs an illness or injury for which medical services are payable under the plan for self-insurance established by the Board and the illness or injury is incurred under circumstances creating a legal liability in some person, other than the ~~{officer, employee or dependent,}~~ **member**, to pay all or part of the cost of those services, the Board is subrogated to the right of the ~~{officer, employee or dependent}~~ **member** to the extent of all such costs, and may join or intervene in any action by the ~~{officer, employee or dependent}~~ **member** or any ~~{successors}~~ **successor** in interest, to enforce that legal liability.

2. If ~~{an officer, employee or dependent}~~ **a member** or any ~~{successors}~~ **successor** in interest fail or refuse to commence an action to enforce that legal liability, the Board may commence an independent action, after notice to the ~~{officer, employee or dependent}~~ **member** or any ~~{successors}~~ **successor** in interest, to recover all costs to which it is entitled. In any such action by the Board, the ~~{officer, employee or dependent}~~ **member** may be joined as a third party defendant.

3. If the Board is subrogated to the rights of the ~~{officer, employee or dependent}~~ **member** or any ~~{successors}~~ **successor** in interest as provided in subsection 1, the Board has a lien upon the total proceeds of any recovery from the persons liable, whether the proceeds of the recovery are by way of a judgment or settlement or otherwise. Within 15 days after recovery by receipt of the proceeds of the judgment, settlement or other recovery, the ~~{officer,~~

~~employee or dependent~~ **member** or any successors in interest shall notify the Board of the recovery and pay the Board the amount due to it pursuant to this section. The ~~officer, employee or dependent~~ **member** or any successors in interest are not entitled to double recovery for the same injury.

4. The ~~officer, employee or dependent~~ **member** or any successors in interest shall notify the Board in writing before entering any settlement or agreement or commencing any action to enforce the legal liability referred to in subsection 1.

5. *As used in this section, "member" means:*

(a) *An active or retired officer or employee of the State or a dependent of such an officer or employee who is covered under the Program; and*

(b) *An active or retired officer or employee of a local governmental agency or a dependent of such an officer or employee who is covered under the Program.*

Sec. 12. NRS 287.0475 is hereby amended to read as follows:

287.0475 1. A retired public officer or employee or the surviving spouse *or surviving domestic partner* of a retired public officer or employee who is deceased may, in any even-numbered year, reinstate any insurance under the Program, except life insurance, that, at the time of reinstatement, is provided by the Program if the retired public officer or employee retired:

(a) Pursuant to NRS 1A.350 or 1A.480, or 286.510 or 286.620, from a participating state agency or was enrolled in a retirement program provided pursuant to NRS 286.802; or

(b) Pursuant to NRS 1A.350 or 1A.480, or 286.510 or 286.620, from employment with a county, school district, municipal corporation, political subdivision, public corporation or other local governmental agency of the State which is a participating local governmental agency at the time of the request for reinstatement ~~[]~~, *unless the retired public officer or employee is excluded from participation in the Program pursuant to sub-subparagraph (III) of subparagraph (2) of paragraph (h) of subsection 2 of NRS 287.043.*

2. Reinstatement pursuant to subsection 1 must be requested by:

(a) Giving written notice to the Program of the intent of the public officer or employee or surviving spouse *or surviving domestic partner* to reinstate the insurance not later than March 15 of an even-numbered year;

(b) Accepting the Program's current plan of insurance and any subsequent changes thereto; and

(c) Except as otherwise provided in NRS 287.046, paying any portion of the premiums or contributions for coverage under the Program, in the manner set forth in NRS 1A.470 or 286.615, which are due from the date of reinstatement and not paid by the public employer.

~~[3. Reinstatement of insurance excludes claims for expenses for any condition for which medical advice, treatment or consultation was rendered~~

~~within 12 months before reinstatement unless the reinstated insurance has been in effect more than 12 consecutive months.]~~

Sec. 13. NRS 287.0477 is hereby amended to read as follows:

287.0477 1. Except as otherwise provided in subsection 4, the surviving spouse, *surviving domestic partner* and any surviving child of a police officer or firefighter who was employed by a participating public agency and who was killed in the line of duty may join or continue coverage under the Public Employees' Benefits Program or another insurer or employee benefit plan approved by the Board pursuant to NRS 287.0479 if the police officer or firefighter was a participant or would have been eligible to participate on the date of the death of the police officer or firefighter. If the surviving spouse, *surviving domestic partner* or child elects to join or discontinue coverage under the Public Employees' Benefits Program pursuant to this subsection, the spouse, *domestic partner*, child or legal guardian of the child must notify in writing the participating public agency that employed the police officer or firefighter within 60 days after the date of death of the police officer or firefighter.

2. Except as otherwise provided in subsection 4, the surviving spouse, *surviving domestic partner* and any surviving child of a volunteer firefighter who was killed in the line of duty and who was officially a member of a volunteer fire department in this State is eligible to join the Public Employees' Benefits Program. If such a spouse, *domestic partner* or child elects to join the Public Employees' Benefits Program, the spouse, *domestic partner*, child or legal guardian of the child must notify in writing the Board within 60 days after the date of death of the volunteer firefighter.

3. ~~Except as otherwise provided in this section, the~~ participating public agency that employed the police officer or firefighter shall pay the entire cost of the premiums or contributions for the Public Employees' Benefits Program or another insurer or employee benefit plan approved by the Board pursuant to NRS 287.0479 for the surviving spouse or child who meets the requirements set forth in subsection 1. The State of Nevada shall pay the entire cost of the premiums or contributions for the Public Employees' Benefits Program for the surviving spouse or child who elects to join the Public Employees' Benefits Program pursuant to subsection 2.

4. A surviving spouse *or surviving domestic partner* is eligible to receive coverage pursuant to this section for the duration of the life of the surviving spouse ~~or~~ *or surviving domestic partner*. A surviving child is eligible to receive coverage pursuant to this section until the child reaches ~~the~~

~~(a) The age of 18; or~~ ~~(b) The age of 26 years; or~~

~~(b) The age of 23 years, if the child is enrolled as a full-time student in an accredited university, college or trade school.]~~ the age at which the child

would not otherwise be eligible to receive coverage under the Public Employees' Benefits Program.

5. *A participating public agency and the State of Nevada are not required to pay the entire cost of ~~the premiums or contributions~~ health care benefits pursuant to subsection 3 for a surviving domestic partner who elects to join the Public Employees' Benefits Program pursuant to subsection 2.*

6. As used in this section "police officer" has the meaning ascribed to it in NRS 617.135.

Sec. 14. NRS 287.04366 is hereby repealed.

Sec. 15. 1. This section and sections 4 and 12 of this act become effective on July 1, 2011.

2. Sections 1, 2, 3, 5 to 11, inclusive, 13 and 14 of this act become effective on October 1, 2011.

3. ~~Section 4 of this act expires by limitation on the date on which the provisions of the Patient Protection and Affordable Care Act, Public Law 111-148, cease to allow a grandfathered health plan to exclude claims for preexisting medical conditions.~~

~~4.]~~ Section 4.5 of this act becomes effective on the date on which the provisions of the Patient Protection and Affordable Care Act, Public Law 111-148, cease to allow a grandfathered health plan to exclude claims for preexisting medical conditions.

TEXT OF REPEALED SECTION

287.04366 Audits and reports. The Board shall provide to the Department of Administration and to the Interim Retirement and Benefits Committee of the Legislature, created by NRS 218E.420:

1. An annual audit of the Retirees' Fund to be conducted by an independent certified public accountant;

2. An annual report concerning the Retirees' Fund; and

3. An independent biennial certified actuarial valuation and report of the State's health and welfare benefits for current and future state retirees, which are provided for the purpose of developing the annual required contribution pursuant to the statements issued by the Governmental Accounting Standards Board.

Assemblywoman Kirkpatrick moved that the Assembly concur in the Senate Amendment No. 686 to Assembly Bill No. 80.

Remarks by Assemblywoman Kirkpatrick.

Motion carried

The following Senate amendment was read:

Amendment No. 845.

AN ACT relating to the Public Employees' Benefits Program; making various changes relating to the Program; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, the Board of the Public Employees' Benefits Program is required to submit various reports concerning the administration and operation of the Program. (NRS 287.043, 287.04366) **Sections 3, 8 and 14** of this bill make the Executive Officer of the Program, rather than the Board, responsible for submitting such reports.

Under existing law, if a retired public officer or employee of the State or a local governmental agency, or the surviving spouse of such a retired officer or employee, who was formerly covered by health insurance provided under the Program, or under a plan offered by the local governmental employer, reinstates such insurance, the reinstated insurance excludes coverage for certain preexisting conditions during the first 12 months after such reinstatement. (NRS 287.0205, 287.0475) **Sections 4.5 and 12** of this bill eliminate the exclusion for certain preexisting conditions as called for in the Patient Protection and Affordable Care Act. (Pub. L. No. 111-148, 124 Stat. 119) **Section 12** also prohibits a public officer or employee who retired from a local governmental agency, or his or her surviving spouse, ~~for domestic partner,~~ from reinstating health insurance under the Program if the Board has adopted regulations that exclude such persons from participation in the Program because they are eligible for health coverage from a health and welfare plan or trust that arose out of certain collective bargaining agreements or under certain federal laws.

Under existing law, a state agency is required to pay to the Program a certain amount to pay a portion of the cost of coverage under the Program for each state officer or employee of that state agency who participates in the Program. State officers and employees are required to pay the remaining portion of the costs of their coverage as well as the full amount of covering their dependents under the Program. The Board is authorized to allocate the money paid by the state agency between the costs of coverage for such officers and employees and for their dependents. (NRS 287.044) **Section 9** of this bill clarifies the manner in which the Board may perform the allocation.

Existing law provides for the payment of a subsidy to cover a portion of the costs of coverage under the Program for certain retired state officers and employees. (NRS 287.046) **Section 10** of this bill clarifies that employees who are initially hired by the State on or after January 1, 2010, are not entitled to the subsidy for coverage under the Program if they retire with less than 15 years of service, which must include state service and may include local governmental service, with the exception of disabled retirees, or if they fail to maintain continuous coverage under the Program during retirement.

Section 6 of this bill clarifies the application of this provision to persons who retire from employment with local governmental agencies.

Existing law provides that if a state officer or employee or a dependent of a state officer or employee incurs medical costs that are payable under the Program, but for which a third person has the legal liability to pay, the Board is subrogated to the rights of the officer, employee or dependent and may commence, join or intervene in any legal action against the third person to enforce that legal liability. (NRS 287.0465) **Section 11** of this bill extends this provision to apply to any person who participates in the Program, including retired, as well as active, officers and employees of the State and their dependents and to active and retired officers and employees of local governments and their dependents who are covered under the Program.

Existing law provides that the surviving spouse and any surviving child of a police officer or firefighter who was killed in the line of duty are eligible to obtain or continue coverage under the Program or a benefits plan established by his or her local governmental employer under certain circumstances. The public employer of the police officer or firefighter, or the State of Nevada in the case of a volunteer firefighter, is required to pay the entire cost of the coverage for the surviving spouse for life and the entire cost of the coverage for any surviving child at least until the child reaches 18 years of age and until the child reaches 23 years of age so long as the child is a full-time student. (NRS 287.021, 287.0477) ~~{Sections 5 and 13 of this bill provide that neither the public employer nor the State is required to pay the cost of the coverage for the surviving domestic partner of such a police officer or firefighter.}~~ **Sections 5 and 13** ~~{also}~~ **of this bill** codify that the duration of the coverage for the surviving children of police officers and firefighters killed in the line of duty is the same as the duration of coverage for children otherwise in the public employer's health care plan.

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

Section 1. Chapter 287 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.

Sec. 2. ~~“Domestic partner” has the meaning ascribed to it NRS 122A.030.~~ **(Deleted by amendment.)**

Sec. 3. 1. *The Executive Officer shall submit a report regarding the administration and operation of the Program to the Board and the Director of the Department of Administration, and to the Director of the Legislative Counsel Bureau for transmittal to the appropriate committees of the Legislature or, if the Legislature is not in regular session, to the Legislative Commission and the Interim Retirement and Benefits Committee of the*

Legislature created by NRS 218E.420. The report must include, without limitation:

(a) An audited financial statement of the Program Fund for the immediately preceding fiscal year. The statement must be prepared by an independent certified public accountant.

(b) An audited financial statement of the Retirees' Fund for the immediately preceding fiscal year. The statement must be prepared by an independent certified public accountant.

(c) A report of the utilization of the Program by participants during the immediately preceding plan year, segregated by benefit, administrative cost, active employees and retirees, including, without limitation, an assessment of the actuarial accuracy of reserves.

(d) Material provided generally to participants or prospective participants in connection with enrollment in the Program for the current plan year, including, without limitation:

(1) Information regarding rates and the costs for participation in the Program paid by participants on a monthly basis; and

(2) A summary of the changes in the plan design for the current plan year from the plan design for the immediately preceding plan year.

2. The Executive Officer shall submit a biennial report to the Board and the Director of the Department of Administration, and to the Director of the Legislative Counsel Bureau for transmittal to the appropriate committee or committees of the Legislature. The report must include, without limitation:

(a) An independent biennial certified actuarial valuation and report of the State's health and welfare benefits for current and future state retirees, which are provided for the purpose of developing the annual required contribution pursuant to the statements issued by the Governmental Accounting Standards Board.

(b) A biennial review of the Program to determine whether the Program complies with federal and state laws relating to taxes and employee benefits. The review must be conducted by an attorney who specializes in employee benefits.

Sec. 4. NRS 287.0205 is hereby amended to read as follows:

287.0205 1. A public officer or employee of any county, school district, municipal corporation, political subdivision, public corporation or other local governmental agency of the State of Nevada who has retired pursuant to NRS 1A.350 or 1A.480, or 286.510 or 286.620, or is enrolled in a retirement program provided pursuant to NRS 286.802, or the surviving spouse of such a retired public officer or employee who is deceased, may, in any even-numbered year, reinstate any insurance, except life insurance, that, at the time of reinstatement, is provided by the last public employer of the

retired public officer or employee to the active officers and employees and their dependents of that public employer:

(a) Pursuant to NRS 287.010, 287.015, 287.020 or paragraph (b), (c) or (d) of subsection 1 of NRS 287.025; or

(b) Under the Public Employees' Benefits Program, if the last public employer of the retired officer or employee participates in the Public Employees' Benefits Program pursuant to paragraph (a) of subsection 1 of NRS 287.025.

2. Reinstatement pursuant to paragraph (a) of subsection 1 must be requested by:

(a) Giving written notice of the intent of the public officer or employee or surviving spouse to reinstate the insurance to the last public employer of the public officer or employee not later than January 31 of an even-numbered year;

(b) Accepting the public employer's current program or plan of insurance and any subsequent changes thereto; and

(c) Except as otherwise provided in ~~subparagraph (2) of~~ paragraph (b) of subsection 4 of NRS 287.023, paying any portion of the premiums or contributions of the public employer's program or plan of insurance, in the manner set forth in NRS 1A.470 or 286.615, which is due from the date of reinstatement and not paid by the public employer.

↪ The last public employer shall give the insurer notice of the reinstatement not later than March 31 of the year in which the public officer or employee or surviving spouse gives notice of the intent to reinstate the insurance.

3. Reinstatement pursuant to paragraph (b) of subsection 1 must be requested pursuant to NRS 287.0475.

4. ~~Reinstatement~~ ***If a plan is considered grandfathered under the Patient Protection and Affordable Care Act, Public Law 111-148, reinstatement*** of insurance pursuant to subsection 1 ~~excludes~~ ***may exclude*** claims for expenses for any condition for which medical advice, treatment or consultation was rendered within 12 months before reinstatement unless the reinstated insurance has been in effect more than 12 consecutive months.

5. The last public employer of a retired officer or employee who reinstates insurance, except life insurance, which was provided to the retired officer or employee and the retired officer's or employee's dependents at the time of retirement pursuant to NRS 287.010, 287.015, 287.020 or paragraph (b), (c) or (d) of subsection 1 of NRS 287.025 shall, for the purpose of establishing actuarial data to determine rates and coverage for such persons, commingle the claims experience of such persons with the claims experience of active and retired officers and employees and their dependents who participate in that group insurance, plan of benefits or medical and hospital service.

Sec. 4.5. NRS 287.0205 is hereby amended to read as follows:

287.0205 1. A public officer or employee of any county, school district, municipal corporation, political subdivision, public corporation or other local governmental agency of the State of Nevada who has retired pursuant to NRS 1A.350 or 1A.480, or 286.510 or 286.620, or is enrolled in a retirement program provided pursuant to NRS 286.802, or the surviving spouse of such a retired public officer or employee who is deceased, may, in any even-numbered year, reinstate any insurance, except life insurance, that, at the time of reinstatement, is provided by the last public employer of the retired public officer or employee to the active officers and employees and their dependents of that public employer:

(a) Pursuant to NRS 287.010, 287.015, 287.020 or paragraph (b), (c) or (d) of subsection 1 of NRS 287.025; or

(b) Under the Public Employees' Benefits Program, if the last public employer of the retired officer or employee participates in the Public Employees' Benefits Program pursuant to paragraph (a) of subsection 1 of NRS 287.025.

2. Reinstatement pursuant to paragraph (a) of subsection 1 must be requested by:

(a) Giving written notice of the intent of the public officer or employee or surviving spouse to reinstate the insurance to the last public employer of the public officer or employee not later than January 31 of an even-numbered year;

(b) Accepting the public employer's current program or plan of insurance and any subsequent changes thereto; and

(c) Except as otherwise provided in paragraph (b) of subsection 4 of NRS 287.023, paying any portion of the premiums or contributions of the public employer's program or plan of insurance, in the manner set forth in NRS 1A.470 or 286.615, which is due from the date of reinstatement and not paid by the public employer.

↪ The last public employer shall give the insurer notice of the reinstatement not later than March 31 of the year in which the public officer or employee or surviving spouse gives notice of the intent to reinstate the insurance.

3. Reinstatement pursuant to paragraph (b) of subsection 1 must be requested pursuant to NRS 287.0475.

4. ~~If a plan is considered grandfathered under the Patient Protection and Affordable Care Act, Public Law 111 148, reinstatement of insurance pursuant to subsection 1 may exclude claims for expenses for any condition for which medical advice, treatment or consultation was rendered within 12 months before reinstatement unless the reinstated insurance has been in effect more than 12 consecutive months.~~

~~5.1~~ The last public employer of a retired officer or employee who reinstates insurance, except life insurance, which was provided to the retired officer or employee and the retired officer's or employee's dependents at the time of retirement pursuant to NRS 287.010, 287.015, 287.020 or paragraph (b), (c) or (d) of subsection 1 of NRS 287.025 shall, for the purpose of establishing actuarial data to determine rates and coverage for such persons, commingle the claims experience of such persons with the claims experience of active and retired officers and employees and their dependents who participate in that group insurance, plan of benefits or medical and hospital service.

Sec. 5. NRS 287.021 is hereby amended to read as follows:

287.021 1. Except as otherwise provided in subsection 3, the surviving spouse ~~or surviving domestic partner~~ and any surviving child of a police officer or firefighter who was:

(a) Employed by a local governmental agency that had established group insurance, a plan of benefits or medical and hospital service pursuant to NRS 287.010, 287.015, 287.020 or paragraph (b), (c) or (d) of subsection 1 of NRS 287.025; and

(b) Killed in the line of duty,

↳ may elect to accept or continue coverage under that group insurance, plan or medical and hospital service if the police officer or firefighter was a participant or would have been eligible to participate in the group insurance, plan or medical and hospital service on the date of the death of the police officer or firefighter. If the surviving spouse ~~or surviving domestic partner~~ or child elects to accept coverage under the group insurance, plan or medical and hospital service in which the police officer or firefighter would have been eligible to participate or to discontinue coverage under the group insurance, plan or medical and hospital service in which the police officer or firefighter was a participant, the spouse, ~~domestic partner~~ child or legal guardian of the child must notify in writing the local governmental agency that employed the police officer or firefighter within 60 days after the date of death of the police officer or firefighter.

2. ~~The~~ **Except as otherwise provided in ~~this section and~~ NRS 287.023, the** local governmental agency that employed the police officer or firefighter shall pay the entire cost of the premiums or contributions for the group insurance, plan of benefits or medical and hospital service for the surviving spouse or child who meets the requirements set forth in subsection 1.

3. A surviving spouse ~~or surviving domestic partner~~ is eligible to receive coverage pursuant to this section for the duration of the life of the surviving spouse ~~or surviving domestic partner~~. A surviving child is eligible to receive coverage pursuant to this section until the child reaches ~~18~~

(a) The age of 18 years; or

(b) The age of 23 years, if the child is enrolled as a full time student in an accredited university, college or trade school.] *the age at which the child would not otherwise be eligible to receive coverage under the group insurance, plan of benefits or medical and hospital service.*

4. ~~A local governmental agency is not required to pay the entire cost of health care benefits pursuant to subsection 2 for a surviving domestic partner who meets the requirements set forth in subsection 1.~~

~~5.~~ As used in this section “police officer” has the meaning ascribed to it in NRS 617.135.

Sec. 6. NRS 287.023 is hereby amended to read as follows:

287.023 1. Whenever an officer or employee of the governing body of any county, school district, municipal corporation, political subdivision, public corporation or other local governmental agency of the State of Nevada retires under the conditions set forth in NRS 1A.350 or 1A.480, or 286.510 or 286.620 and, during the period in which the person served as an officer or employee, was eligible to be covered or had dependents who were eligible to be covered by any group insurance, plan of benefits or medical and hospital service established pursuant to NRS 287.010, 287.015, 287.020 or paragraph (b), (c) or (d) of subsection 1 of NRS 287.025 or under the Public Employees’ Benefits Program pursuant to paragraph (a) of subsection 1 of NRS 287.025, the officer or employee has the option upon retirement to cancel or continue any such coverage to the extent that such coverage is not provided to the officer or employee or a dependent by the Health Insurance for the Aged Act, 42 U.S.C. §§ 1395 et seq.

2. A retired person who continues coverage under the Public Employees’ Benefits Program shall assume the portion of the premium or contribution costs for the coverage which the governing body or the State does not pay on behalf of retired officers or employees. A dependent of such a retired person has the option, which may be exercised to the same extent and in the same manner as the retired person, to cancel or continue coverage in effect on the date the retired person dies. The dependent is not required to continue to receive retirement payments from the Public Employees’ Retirement System to continue coverage.

3. Notice of the selection of the option must be given in writing to the last public employer of the officer or employee within 60 days after the date of retirement or death, as the case may be. If no notice is given by that date, the retired officer or employee and any dependents shall be deemed to have selected the option to cancel the coverage for the group insurance, plan of benefits or medical and hospital service established pursuant to NRS 287.010, 287.015, 287.020 or paragraph (b), (c) or (d) of subsection 1 of

NRS 287.025 or coverage under the Public Employees' Benefits Program pursuant to paragraph (a) of subsection 1 of NRS 287.025.

4. The governing body of any county, school district, municipal corporation, political subdivision, public corporation or other local governmental agency of this State:

(a) May pay the cost, or any part of the cost, of coverage established pursuant to NRS 287.010, 287.015 or 287.020 or paragraph (b), (c) or (d) of subsection 1 of NRS 287.025 for persons who continue that coverage pursuant to subsection 1, but it must not pay a greater portion than it does for its current officers and employees.

(b) Shall pay the same portion of the cost of coverage under the Public Employees' Benefits Program for *retired* persons who {:

~~(1) Were initially hired before January 1, 2010, and who retire and} are covered under the Program [pursuant to subsection 1 or who subsequently reinstate coverage under the Program pursuant to NRS 287.0205; or~~

~~(2) Are initially hired on or after January 1, 2010, and who retire with:~~

~~(I) At least 15 years of service credit, which must include local governmental service and may include state service, and who have participated in the Program on a continuous basis since their retirement from such employment; or~~

~~(II) At least 5 years of service credit, which must include local governmental service and may include state service, who do not have at least 15 years of service credit to qualify under sub-subparagraph (I) as a result of a disability for which disability benefits are received under the Public Employees' Retirement System or a retirement program for professional employees offered by or through the Nevada System of Higher Education.~~

~~↪} as the State pays pursuant to [subsection 1 of] NRS 287.046 for persons retired with state service who participate in the [Public Employees' Benefits] Program.~~

5. The governing body of any county, school district, municipal corporation, political subdivision, public corporation or other local governmental agency of this State shall, for the purpose of establishing actuarial data to determine rates and coverage for persons who continue coverage for group insurance, a plan of benefits or medical and hospital service with the governing body pursuant to subsection 1, commingle the claims experience of those persons with the claims experience of active officers and employees and their dependents who participate in the group insurance, a plan of benefits or medical and hospital service.

Sec. 7. NRS 287.0402 is hereby amended to read as follows:

287.0402 As used in NRS 287.0402 to 287.049, inclusive, ~~and sections~~ ~~and section~~ 3 of this act, unless the context otherwise requires, the words

and terms defined in NRS 287.0404 to 287.04064, inclusive, ~~and section 2 of this act~~ have the meanings ascribed to them in those sections.

Sec. 8. NRS 287.043 is hereby amended to read as follows:

287.043 1. The Board shall:

(a) Establish and carry out a program to be known as the Public Employees' Benefits Program which:

(1) Must include a program relating to group life, accident or health insurance, or any combination of these; and

(2) May include:

(I) A plan that offers flexibility in benefits, and for which the rates must be based only on the experience of the participants in the plan and not in combination with the experience of participants in any other plan offered under the Program; or

(II) A program to reduce taxable compensation or other forms of compensation other than deferred compensation,
↳ for the benefit of all state officers and employees and other persons who participate in the Program.

(b) Ensure that the Program is funded on an actuarially sound basis and operated in accordance with sound insurance and business practices.

2. In establishing and carrying out the Program, the Board shall:

(a) For the purpose of establishing actuarial data to determine rates and coverage for active and retired state officers and employees and their dependents, commingle the claims experience of such active and retired officers and employees and their dependents for whom the Program provides primary health insurance coverage into a single risk pool.

(b) Except as otherwise provided in this paragraph, negotiate and contract pursuant to paragraph (a) of subsection 1 of NRS 287.025 with the governing body of any county, school district, municipal corporation, political subdivision, public corporation or other local governmental agency of the State of Nevada that wishes to obtain exclusive group insurance for all of its active and retired officers and employees and their dependents, except as otherwise provided in sub-subparagraph (III) of subparagraph (2) of paragraph (h), by participation in the Program. The Board shall establish separate rates and coverage for active and retired officers and employees of those local governmental agencies and their dependents based on actuarial reports that commingle the claims experience of such active and retired officers and employees and their dependents for whom the Program provides primary health insurance coverage into a single risk pool.

(c) Except as otherwise provided in paragraph (d), provide public notice in writing of any proposed changes in rates or coverage to each participating public agency that may be affected by the changes. Notice must be provided at least 30 days before the effective date of the changes.

(d) If a proposed change is a change in the premium or contribution charged for, or coverage of, health insurance, provide written notice of the proposed change to all participants in the Program. The notice must be provided at least 30 days before the date on which a participant in the Program is required to select or change the participant's policy of health insurance.

(e) Purchase policies of life, accident or health insurance, or any combination of these, or, if applicable, a program to reduce the amount of taxable compensation pursuant to 26 U.S.C. § 125, from any company qualified to do business in this State or provide similar coverage through a plan of self-insurance established pursuant to NRS 287.0433 for the benefit of all eligible participants in the Program.

(f) Except as otherwise provided in this title, develop and establish other employee benefits as necessary.

(g) Investigate and approve or disapprove any contract proposed pursuant to NRS 287.0479.

(h) Adopt such regulations and perform such other duties as are necessary to carry out the provisions of NRS 287.010 to 287.245, inclusive, ~~and sections 21 and section 3 of this act~~, including, without limitation, the establishment of:

(1) Fees for applications for participation in the Program and for the late payment of premiums or contributions;

(2) Conditions for entry and reentry into and exit from the Program by local governmental agencies pursuant to paragraph (a) of subsection 1 of NRS 287.025, which:

(I) Must include a minimum period of 4 years of participation for entry into the Program;

(II) Must include a requirement that participation of any retired officers and employees of the local governmental agency whose last continuous period of enrollment with the Program began after November 30, 2008, terminates upon termination of the local governmental agency's contract with the Program; and

(III) May allow for the exclusion of active and retired officers and employees of the local governmental agency who are eligible for health coverage from a health and welfare plan or trust that arose out of collective bargaining under chapter 288 of NRS or a trust established pursuant to 29 U.S.C. § 186;

(3) Procedures by which a group of participants in the Program may leave the Program pursuant to NRS 287.0479 and conditions and procedures for reentry into the Program by those participants;

(4) Specific procedures for the determination of contested claims;

(5) Procedures for review and notification of the termination of coverage of persons pursuant to paragraph (b) of subsection 4 of NRS 287.023; and

(6) Procedures for the payments that are required to be made pursuant to paragraph (b) of subsection 4 of NRS 287.023.

~~[(i) Appoint an independent certified public accountant. The accountant shall:~~

~~(1) Provide an annual audit of the Program; and~~

~~(2) Report to the Board and the Interim Retirement and Benefits Committee of the Legislature created pursuant to NRS 218E.420.~~

~~(j) Appoint an attorney who specializes in employee benefits. The attorney shall:~~

~~(1) Perform a biennial review of the Program to determine whether the Program complies with federal and state laws relating to taxes and employee benefits; and~~

~~(2) Report to the Board and the Interim Retirement and Benefits Committee of the Legislature created pursuant to NRS 218E.420.~~

~~3. The Board shall submit an annual report regarding the administration and operation of the Program to the Director of the Legislative Counsel Bureau for transmittal to the appropriate committees of the Legislature, or to the Legislative Commission when the Legislature is not in regular session, for acceptance or rejection not more than 6 months before the Board establishes rates and coverage for participants for the following plan year. The report must include, without limitation:~~

~~(a) Detailed financial results for the Program for the preceding plan year, including, without limitation, identification of the sources of revenue for the Program and a detailed accounting of expenses which are segregated by each type of benefit offered by the Program, and administrative costs. The results must be provided separately concerning:~~

~~(1) Participants who are active and retired state officers and employees and their dependents;~~

~~(2) All participants in the Program other than those described in subparagraph (1); and~~

~~(3) Within the groups described in subparagraphs (1) and (2), active participants, retired participants for which the Program provides primary health insurance coverage and retired participants in the Program who are provided coverage for medical or hospital service, or both, by the Health Insurance for the Aged Act, 42 U.S.C. §§ 1395 et seq., or a plan that provides similar coverage.~~

~~(b) An assessment of actuarial accuracy and reserves for the current plan year and the immediately preceding plan year.~~

~~(c) A summary of the plan design for the current plan year, including, without limitation, information regarding rates and any changes in the vendors with which the Program has entered into contracts, and a comparison of the plan design for the current plan year to the plan design for the immediately preceding plan year. The information regarding rates provided pursuant to this paragraph must set forth the costs for participation in the Program paid by participants and employers on a monthly basis.~~

~~(d) A description of all written communications provided generally to all participants by the Program during the preceding plan year.~~

~~(e) A discussion of activities of the Board concerning purchasing coalitions.~~

~~4.] 3.~~ The Board may use any services provided to state agencies and shall use the services of the Purchasing Division of the Department of Administration to establish and carry out the Program.

~~{5.] 4.~~ The Board may make recommendations to the Legislature concerning legislation that it deems necessary and appropriate regarding the Program.

~~{6.] 5.~~ A participating public agency is not liable for any obligation of the Program other than indemnification of the Board and its employees against liability relating to the administration of the Program, subject to the limitations specified in NRS 41.0349.

~~{7.] 6.~~ As used in this section, "employee benefits" includes any form of compensation provided to a public employee except federal benefits, wages earned, legal holidays, deferred compensation and benefits available pursuant to chapter 286 of NRS.

Sec. 9. NRS 287.044 is hereby amended to read as follows:

287.044 1. Except as otherwise provided in subsection 2, each participating state agency shall pay to the Program an amount specified by law for every state officer or employee who is employed by a participating public agency on a permanent and full-time basis and elects to participate in the Program.

2. A member of the Senate or Assembly who elects to participate in the Program shall pay the entire premium or contribution for the member's insurance.

3. State officers and employees who elect to participate in the Program must authorize deductions from their compensation for the payment of premiums or contributions for the Program. Any deduction from the compensation of a state officer or employee for the payment of such a premium or contribution must be based on the actual amount of the premium or contribution after deducting any amount ~~[of the premium or contribution which is paid]~~ *allocated by the Board* pursuant to subsection ~~{1.] 6.~~

4. If a state officer or employee chooses to cover any dependents, whenever this option is made available by the Board, except as otherwise provided in NRS 287.021 and 287.0477, the state officer or employee must pay the difference between the amount of the premium or contribution for the coverage for the state officer or employee and such dependents and ~~the~~ **any** amount ~~paid by the participating state agency that employs the officer or employee.~~ **allocated by the Board pursuant to subsection 6.**

5. A participating state agency shall not pay any part of those premiums or contributions if the group life insurance or group accident or health insurance is not approved by the Board.

6. The Board may allocate the money paid to the Program pursuant to ~~this section~~ **subsection 1** between the cost of premiums and contributions for group insurance for each state officer or employee, except a member of the Senate or Assembly, and the dependents of each state officer or employee.

Sec. 10. NRS 287.046 is hereby amended to read as follows:

287.046 1. The Department of Administration shall establish an assessment that is to be used to pay for a portion of the cost of premiums or contributions for the Program for persons who have retired with state service ~~. before January 1, 1994, or under the circumstances set forth in paragraph (a), (b) or (c) of subsection 3.~~

2. The money assessed pursuant to subsection 1 must be deposited into the Retirees' Fund and must be based upon ~~an~~ **a base** amount approved by the Legislature each session to pay for a portion of the current and future health and welfare benefits for ~~such retirees.~~ **persons who retired before January 1, 1994, or for persons who retire on or after January 1, 1994, as adjusted by subsection 3.** Except as otherwise provided in subsection ~~[4,]~~ **5**, the portion to be paid to the Program from the Retirees' Fund on behalf of such persons must be equal to a portion of the cost for each retiree and the retiree's dependents who are enrolled in the plan, as defined for each year of the plan by the Program.

3. ~~Adjustments~~ **Except as otherwise provided in subsection 4, adjustments** to the portion **of the amount approved by the Legislature pursuant to subsection 2 to be** paid by the Retirees' Fund ~~must be as follows:~~

~~(a) For~~ **for** persons who retire on or after January 1, 1994, with state service ~~is:~~

~~(1)~~ **must be as follows:**

(a) For each year of service less than 15 years, excluding service purchased pursuant to NRS 1A.310 or 286.300, the portion paid by the Retirees' Fund must be reduced by an amount equal to 7.5 percent of the base funding level defined by the Legislature. In no event may the

adjustment exceed 75 percent of the base funding level defined by the Legislature.

~~[(2)] (b) For each year of service greater than 15 years, excluding service purchased pursuant to NRS 1A.310 or 286.300, the portion paid by the Retirees' Fund must be increased by an amount equal to 7.5 percent of the base funding level defined by the Legislature. In no event may the adjustment exceed 37.5 percent of the base funding level defined by the Legislature.~~

~~[(b) For persons who are]~~

4. No money may be paid by the Retirees' Fund on behalf of a retired person who is initially hired by the State on or after January 1, 2010, and who ~~retire with at least 15 years of service credit, which must include state service and may include local governmental service, and who have~~ :

~~(a) Has not participated in the Program on a continuous basis since ~~their~~ retirement from such employment ~~[, for each year of service greater than 15 years, excluding service purchased pursuant to NRS 1A.310 or 286.300, the portion paid by the Retirees' Fund must be increased by an amount equal to 7.5 percent of the base funding level defined by the Legislature. In no event may the adjustment exceed 37.5 percent of the base funding level defined by the Legislature.~~~~

~~(e) For persons who are initially hired by the State on or after January 1, 2010, and who retire with at least 5 years of service credit, which must include state service and may include local governmental service, who do] ;~~
or

~~(b) Does not have at least 15 years of service ~~[credit to qualify under paragraph (b) as] , which must include state service and may include local governmental service, unless the retired person does not have at least 15 years of service as~~ a result of a disability for which disability benefits are received under the Public Employees' Retirement System or a retirement program for professional employees offered by or through the Nevada System of Higher Education, and ~~[who have] has~~ participated in the Program on a continuous basis since ~~their~~ retirement from such employment . ~~[~~~~

~~(1) For each year of service less than 15 years, excluding service purchased pursuant to NRS 1A.310 or 286.300, the portion paid by the Retirees' Fund must be reduced by an amount equal to 7.5 percent of the base funding level defined by the Legislature. In no event may the adjustment exceed 75 percent of the base funding level defined by the Legislature.~~

~~(2) For each year of service greater than 15 years, excluding service purchased pursuant to NRS 1A.310 or 286.300, the portion paid by the Retirees' Fund must be increased by an amount equal to 7.5 percent of the base funding level defined by the Legislature. In no event may the~~

~~adjustment exceed 37.5 percent of the base funding level defined by the Legislature.~~

~~4.]~~ 5. If the amount calculated pursuant to subsection 3 exceeds the actual premium or contribution for the plan of the Program that the retired participant selects, the balance must be credited to the Program Fund.

~~5.]~~ 6. For the purposes of subsection ~~4.]~~ 3:

(a) Credit for service must be calculated in the manner provided by chapter 286 of NRS.

(b) No proration may be made for a partial year of ~~state~~ service.

~~6.]~~ 7. The Department shall agree through the Board with the insurer for billing of remaining premiums or contributions for the retired participant and the retired participant's dependents to the retired participant and to the retired participant's dependents who elect to continue coverage under the Program after the retired participant's death.

Sec. 11. NRS 287.0465 is hereby amended to read as follows:

287.0465 1. If ~~an officer or employee of the State or a dependent of such an officer or employee~~ **a member** incurs an illness or injury for which medical services are payable under the plan for self-insurance established by the Board and the illness or injury is incurred under circumstances creating a legal liability in some person, other than the ~~officer, employee or dependent,~~ **member**, to pay all or part of the cost of those services, the Board is subrogated to the right of the ~~officer, employee or dependent~~ **member** to the extent of all such costs, and may join or intervene in any action by the ~~officer, employee or dependent~~ **member** or any ~~successors~~ **successor** in interest, to enforce that legal liability.

2. If ~~an officer, employee or dependent~~ **a member** or any ~~successors~~ **successor** in interest fail or refuse to commence an action to enforce that legal liability, the Board may commence an independent action, after notice to the ~~officer, employee or dependent~~ **member** or any ~~successors~~ **successor** in interest, to recover all costs to which it is entitled. In any such action by the Board, the ~~officer, employee or dependent~~ **member** may be joined as a third party defendant.

3. If the Board is subrogated to the rights of the ~~officer, employee or dependent~~ **member** or any ~~successors~~ **successor** in interest as provided in subsection 1, the Board has a lien upon the total proceeds of any recovery from the persons liable, whether the proceeds of the recovery are by way of a judgment or settlement or otherwise. Within 15 days after recovery by receipt of the proceeds of the judgment, settlement or other recovery, the ~~officer, employee or dependent~~ **member** or any successors in interest shall notify the Board of the recovery and pay the Board the amount due to it pursuant to this section. The ~~officer, employee or dependent~~ **member** or any successors in interest are not entitled to double recovery for the same injury.

4. The ~~[officer, employee or dependent]~~ **member** or any successors in interest shall notify the Board in writing before entering any settlement or agreement or commencing any action to enforce the legal liability referred to in subsection 1.

5. *As used in this section, "member" means:*

(a) *An active or retired officer or employee of the State or a dependent of such an officer or employee who is covered under the Program; and*

(b) *An active or retired officer or employee of a local governmental agency or a dependent of such an officer or employee who is covered under the Program.*

Sec. 12. NRS 287.0475 is hereby amended to read as follows:

287.0475 1. A retired public officer or employee or the surviving spouse ~~for surviving domestic partner~~ of a retired public officer or employee who is deceased may, in any even-numbered year, reinstate any insurance under the Program, except life insurance, that, at the time of reinstatement, is provided by the Program if the retired public officer or employee retired:

(a) Pursuant to NRS 1A.350 or 1A.480, or 286.510 or 286.620, from a participating state agency or was enrolled in a retirement program provided pursuant to NRS 286.802; or

(b) Pursuant to NRS 1A.350 or 1A.480, or 286.510 or 286.620, from employment with a county, school district, municipal corporation, political subdivision, public corporation or other local governmental agency of the State which is a participating local governmental agency at the time of the request for reinstatement ~~[-]~~, ***unless the retired public officer or employee is excluded from participation in the Program pursuant to sub-subparagraph (III) of subparagraph (2) of paragraph (h) of subsection 2 of NRS 287.043.***

2. Reinstatement pursuant to subsection 1 must be requested by:

(a) Giving written notice to the Program of the intent of the public officer or employee or surviving spouse ~~for surviving domestic partner~~ to reinstate the insurance not later than March 15 of an even-numbered year;

(b) Accepting the Program's current plan of insurance and any subsequent changes thereto; and

(c) Except as otherwise provided in NRS 287.046, paying any portion of the premiums or contributions for coverage under the Program, in the manner set forth in NRS 1A.470 or 286.615, which are due from the date of reinstatement and not paid by the public employer.

~~[3. Reinstatement of insurance excludes claims for expenses for any condition for which medical advice, treatment or consultation was rendered within 12 months before reinstatement unless the reinstated insurance has been in effect more than 12 consecutive months.]~~

Sec. 13. NRS 287.0477 is hereby amended to read as follows:

287.0477 1. Except as otherwise provided in subsection 4, the surviving spouse ~~for surviving domestic partner~~ and any surviving child of a police officer or firefighter who was employed by a participating public agency and who was killed in the line of duty may join or continue coverage under the Public Employees' Benefits Program or another insurer or employee benefit plan approved by the Board pursuant to NRS 287.0479 if the police officer or firefighter was a participant or would have been eligible to participate on the date of the death of the police officer or firefighter. If the surviving spouse ~~for surviving domestic partner~~ or child elects to join or discontinue coverage under the Public Employees' Benefits Program pursuant to this subsection, the spouse, ~~domestic partner,~~ child or legal guardian of the child must notify in writing the participating public agency that employed the police officer or firefighter within 60 days after the date of death of the police officer or firefighter.

2. Except as otherwise provided in subsection 4, the surviving spouse ~~for surviving domestic partner~~ and any surviving child of a volunteer firefighter who was killed in the line of duty and who was officially a member of a volunteer fire department in this State is eligible to join the Public Employees' Benefits Program. If such a spouse ~~for domestic partner~~ or child elects to join the Public Employees' Benefits Program, the spouse, ~~domestic partner,~~ child or legal guardian of the child must notify in writing the Board within 60 days after the date of death of the volunteer firefighter.

3. ~~The~~ ~~Except as otherwise provided in this section, the~~ participating public agency that employed the police officer or firefighter shall pay the entire cost of the premiums or contributions for the Public Employees' Benefits Program or another insurer or employee benefit plan approved by the Board pursuant to NRS 287.0479 for the surviving spouse or child who meets the requirements set forth in subsection 1. The State of Nevada shall pay the entire cost of the premiums or contributions for the Public Employees' Benefits Program for the surviving spouse or child who elects to join the Public Employees' Benefits Program pursuant to subsection 2.

4. A surviving spouse ~~for surviving domestic partner~~ is eligible to receive coverage pursuant to this section for the duration of the life of the surviving spouse ~~for surviving domestic partner.~~ A surviving child is eligible to receive coverage pursuant to this section until the child reaches ~~for~~

(a) The age of 18 years; or

(b) The age of 23 years, if the child is enrolled as a full time student in an accredited university, college or trade school.] ***the age at which the child would not otherwise be eligible to receive coverage under the Public Employees' Benefits Program.***

5. ~~A participating public agency and the State of Nevada are not required to pay the entire cost of health care benefits pursuant to subsection~~

~~3 for a surviving domestic partner who elects to join the Public Employees' Benefits Program pursuant to subsection 2.~~

~~6.7~~ As used in this section "police officer" has the meaning ascribed to it in NRS 617.135.

Sec. 14. NRS 287.04366 is hereby repealed.

Sec. 15. 1. This section and sections 4 and 12 of this act become effective on July 1, 2011.

2. Sections 1, 2, 3, 5 to 11, inclusive, 13 and 14 of this act become effective on October 1, 2011.

3. Section 4.5 of this act becomes effective on the date on which the provisions of the Patient Protection and Affordable Care Act, Public Law 111-148, cease to allow a grandfathered health plan to exclude claims for preexisting medical conditions.

TEXT OF REPEALED SECTION

287.04366 Audits and reports. The Board shall provide to the Department of Administration and to the Interim Retirement and Benefits Committee of the Legislature, created by NRS 218E.420:

1. An annual audit of the Retirees' Fund to be conducted by an independent certified public accountant;

2. An annual report concerning the Retirees' Fund; and

3. An independent biennial certified actuarial valuation and report of the State's health and welfare benefits for current and future state retirees, which are provided for the purpose of developing the annual required contribution pursuant to the statements issued by the Governmental Accounting Standards Board.

Assemblywoman Kirkpatrick moved that the Assembly concur in the Senate Amendment No. 845 to Assembly Bill No. 80.

Remarks by Assemblywoman Kirkpatrick.

Motion carried by a constitutional majority.

Bill ordered enrolled.

GENERAL FILE AND THIRD READING

Assembly Bill No. 542.

Bill read third time.

Remarks by Assemblywoman Smith.

Roll call on Assembly Bill No. 542:

YEAS—41.

NAYS—None.

EXCUSED—Kirner.

Assembly Bill No. 542 having received a two-thirds 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. 208 be taken from the Chief Clerk's desk and placed on the General File.

Motion carried.

GENERAL FILE AND THIRD READING

Senate Bill No. 208.

Bill read third time.

Remarks by Assemblywoman Carlton.

Roll call on Senate Bill No. 208:

YEAS—26.

NAYS—Ellison, Goedhart, Goicoechea, Grady, Hambrick, Hammond, Hansen, Hardy, Hickey, Kite, Livermore, McArthur, Sherwood, Stewart, Woodbury—15.

EXCUSED—Kirner.

Senate Bill No. 208 having received a constitutional majority, Mr. Speaker declared it passed.

Bill ordered transmitted to the Senate.

MOTIONS, RESOLUTIONS AND NOTICES

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

Remarks by Assemblywoman Mastroluca.

Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 123.

Bill read third time.

The following amendment was proposed by Assemblywoman Mastroluca:

Amendment No. 905.

AN ACT relating to public health; requiring facilities for intermediate care, facilities for skilled nursing, residential facilities for groups and homes for individual residential care to provide itemized statements under certain circumstances; ~~requiring the Health Division of the Department of Health and Human Services to conduct routine inspections of such facilities;~~ requiring facilities **and homes** to provide notices of deficiencies to patients or other responsible persons upon discovering a deficiency during an inspection of such facilities ~~by the Health Division of the Department of Health and Human Services;~~ **by the Health Division of the Department of Health and Human Services;** providing administrative penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 2 of this bill requires facilities for intermediate care, facilities for skilled nursing, residential facilities for groups and homes for individual residential care to provide, upon the request of a person receiving care and

certain other persons, an itemized statement of charges incurred for care provided by the facility or home.

Section 3 of this bill requires ~~the Health Division of the Department of Health and Human Services to inspect every~~ a facility for intermediate care, facility for skilled nursing, residential facility for groups and home for individual residential care ~~at least one time each year. In addition, section 3 requires the facility~~ to provide notice of a deficiency which is discovered during an inspection **conducted by the Health Division of the Department of Health and Human Services** and which affects the health and safety of a patient to the person receiving care at the facility or certain other responsible persons.

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

Section 1. Chapter 449 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.

Sec. 2. 1. *Subject to the provisions of the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191, a facility for intermediate care, facility for skilled nursing, residential facility for groups or home for individual residential care shall, upon request, provide an itemized statement of charges to:*

- (a) *The person who received care in the facility or home;*
- (b) *The parent or guardian of the person who received care in the facility or home; or*
- (c) *Any other natural person designated by the person receiving care at the facility or home.*

2. *An itemized statement of charges provided by a facility for intermediate care, facility for skilled nursing, residential facility for groups or home for individual residential care pursuant to subsection 1 must, without limitation:*

- (a) *Itemize the charges for services, care, food, medicine and other supplies provided to the person receiving care at the facility or home;*
- (b) *Identify the amount of payment allocated to each charge;*
- (c) *Be provided in a manner that is understandable to an ordinary person;*
- (d) *Be provided at no additional cost; and*
- (e) *Be provided in a timely manner.*

Sec. 3. ~~1. The Health Division shall conduct on site inspections of each facility for intermediate care, facility for skilled nursing, residential facility for groups and home for individual residential care which holds a license issued pursuant to this chapter at least one time per year and shall~~

~~conduct such other inspections as the Health Division deems necessary as a result of that inspection.~~

~~2. An inspection conducted pursuant to subsection 1 must determine whether the facility or home is in compliance with all applicable laws and standards.~~

~~3. A facility for intermediate care, facility for skilled nursing, residential facility for groups or home for individual residential care shall immediately provide notice of a deficiency affecting the health and safety of a patient discovered during the course of an inspection of the facility for intermediate care, facility for skilled nursing, residential facility for groups or home for individual residential care conducted by the Health Division to:~~

~~(a) 1. A person receiving care at the facility or home;~~

~~(b) 2. The parent or legal guardian of the person receiving care at the facility or home; or~~

~~(c) 3. Any other natural person designated to receive such notice by the person receiving care at the facility or home or the parent or guardian of the person.~~

Sec. 4. ~~NRS 449.050 is hereby amended to read as follows:~~

~~449.050 1. Except as otherwise provided in subsection 2, each application for a license must be accompanied by such fee as may be determined by regulation of the Board. The Board may, by regulation, allow or require payment of a fee for a license in installments and may fix the amount of each payment and the date that the payment is due.~~

~~2. A facility for the care of adults during the day is exempt from the fees imposed by the Board pursuant to this section.~~

~~3. The fee imposed by the Board for a facility for transitional living for released offenders must be based on the type of facility that is being licensed and must be calculated to produce the revenue estimated to cover the costs related to the license, but in no case may a fee for a license exceed the actual cost to the Health Division of issuing or renewing the license.~~

~~4. If an application for a license for a facility for transitional living for released offenders is denied, any amount of the fee paid pursuant to this section that exceeds the expenses and costs incurred by the Health Division must be refunded to the applicant.~~

~~5. The fee imposed by the Board for a facility for intermediate care, facility for skilled nursing, residential facility for groups or home for individual residential care must be calculated to produce the revenue estimated to cover the costs related to the license, including, without limitation, the costs related to inspecting the facility. (Deleted by amendment.)~~

Sec. 5. NRS 449.070 is hereby amended to read as follows:

449.070 The provisions of NRS 449.001 to 449.240, inclusive, *and sections 2 and 3 of this act* do not apply to:

1. Any facility conducted by and for the adherents of any church or religious denomination for the purpose of providing facilities for the care and treatment of the sick who depend solely upon spiritual means through prayer for healing in the practice of the religion of the church or denomination, except that such a facility shall comply with all regulations relative to sanitation and safety applicable to other facilities of a similar category.

2. Foster homes as defined in NRS 424.014.

3. Any medical facility or facility for the dependent operated and maintained by the United States Government or an agency thereof.

Sec. 6. NRS 449.140 is hereby amended to read as follows:

449.140 1. Money received from licensing medical facilities and facilities for the dependent must be forwarded to the State Treasurer for deposit in the State General Fund.

2. The Health Division shall enforce the provisions of NRS 449.001 to 449.245, inclusive, *and sections 2 and 3 of this act*, and may incur any necessary expenses not in excess of money appropriated for that purpose by the State or received from the Federal Government.

Sec. 7. NRS 449.160 is hereby amended to read as follows:

449.160 1. The Health Division may deny an application for a license or may suspend or revoke any license issued under the provisions of NRS 449.001 to 449.240, inclusive, *and sections 2 and 3 of this act* upon any of the following grounds:

(a) Violation by the applicant or the licensee of any of the provisions of NRS 439B.410 or 449.001 to 449.245, inclusive, *and sections 2 and 3 of this act*, or of any other law of this State or of the standards, rules and regulations adopted thereunder.

(b) Aiding, abetting or permitting the commission of any illegal act.

(c) Conduct inimical to the public health, morals, welfare and safety of the people of the State of Nevada in the maintenance and operation of the premises for which a license is issued.

(d) Conduct or practice detrimental to the health or safety of the occupants or employees of the facility.

(e) Failure of the applicant to obtain written approval from the Director of the Department of Health and Human Services as required by NRS 439A.100 or as provided in any regulation adopted pursuant to this chapter, if such approval is required.

(f) Failure to comply with the provisions of NRS 449.2486.

2. In addition to the provisions of subsection 1, the Health Division may revoke a license to operate a facility for the dependent if, with respect to that

facility, the licensee that operates the facility, or an agent or employee of the licensee:

- (a) Is convicted of violating any of the provisions of NRS 202.470;
- (b) Is ordered to but fails to abate a nuisance pursuant to NRS 244.360, 244.3603 or 268.4124; or
- (c) Is ordered by the appropriate governmental agency to correct a violation of a building, safety or health code or regulation but fails to correct the violation.

3. The Health Division shall maintain a log of any complaints that it receives relating to activities for which the Health Division may revoke the license to operate a facility for the dependent pursuant to subsection 2. The Health Division shall provide to a facility for the care of adults during the day:

- (a) A summary of a complaint against the facility if the investigation of the complaint by the Health Division either substantiates the complaint or is inconclusive;
- (b) A report of any investigation conducted with respect to the complaint; and
- (c) A report of any disciplinary action taken against the facility.

↪ The facility shall make the information available to the public pursuant to NRS 449.2486.

4. On or before February 1 of each odd-numbered year, the Health Division shall submit to the Director of the Legislative Counsel Bureau a written report setting forth, for the previous biennium:

- (a) Any complaints included in the log maintained by the Health Division pursuant to subsection 3; and
- (b) Any disciplinary actions taken by the Health Division pursuant to subsection 2.

Sec. 8. NRS 449.163 is hereby amended to read as follows:

449.163 1. If a medical facility or facility for the dependent violates any provision related to its licensure, including any provision of NRS 439B.410 or 449.001 to 449.240, inclusive, *and sections 2 and 3 of this act*, or any condition, standard or regulation adopted by the Board, the Health Division, in accordance with the regulations adopted pursuant to NRS 449.165, may:

- (a) Prohibit the facility from admitting any patient until it determines that the facility has corrected the violation;
- (b) Limit the occupancy of the facility to the number of beds occupied when the violation occurred, until it determines that the facility has corrected the violation;

(c) Impose an administrative penalty of not more than \$1,000 per day for each violation, together with interest thereon at a rate not to exceed 10 percent per annum; and

(d) Appoint temporary management to oversee the operation of the facility and to ensure the health and safety of the patients of the facility, until:

(1) It determines that the facility has corrected the violation and has management which is capable of ensuring continued compliance with the applicable statutes, conditions, standards and regulations; or

(2) Improvements are made to correct the violation.

2. If a violation by a medical facility or facility for the dependent relates to the health or safety of a patient, an administrative penalty imposed pursuant to paragraph (c) of subsection 1 must be in a total amount of not less than \$1,000 and not more than \$10,000 for each patient who was harmed or at risk of harm as a result of the violation.

3. If the facility fails to pay any administrative penalty imposed pursuant to paragraph (c) of subsection 1, the Health Division may:

(a) Suspend the license of the facility until the administrative penalty is paid; and

(b) Collect court costs, reasonable attorney's fees and other costs incurred to collect the administrative penalty.

4. The Health Division may require any facility that violates any provision of NRS 439B.410 or 449.001 to 449.240, inclusive, **and sections 2 and 3 of this act**, or any condition, standard or regulation adopted by the Board to make any improvements necessary to correct the violation.

5. Any money collected as administrative penalties pursuant to this section must be accounted for separately and used to protect the health or property of the residents of the facility in accordance with applicable federal standards.

Sec. 9. (Deleted by amendment.)

Sec. 10. NRS 449.220 is hereby amended to read as follows:

449.220 1. The Health Division may bring an action in the name of the State to enjoin any person, state or local government unit or agency thereof from operating or maintaining any facility within the meaning of NRS 449.001 to 449.240, inclusive ~~[]~~, **and sections 2 and 3 of this act**:

(a) Without first obtaining a license therefor; or

(b) After his or her license has been revoked or suspended by the Health Division.

2. It is sufficient in such action to allege that the defendant did, on a certain date and in a certain place, operate and maintain such a facility without a license.

Sec. 11. NRS 449.230 is hereby amended to read as follows:

449.230 1. Any authorized member or employee of the Health Division may enter and inspect any building or premises at any time to secure compliance with or prevent a violation of any provision of NRS 449.001 to 449.245, inclusive ~~[,]~~, **and sections 2 and 3 of this act.**

2. The State Fire Marshal or a designee of the State Fire Marshal shall, upon receiving a request from the Health Division or a written complaint concerning compliance with the plans and requirements to respond to an emergency adopted pursuant to subsection 9 of NRS 449.037:

(a) Enter and inspect a residential facility for groups; and

(b) Make recommendations regarding the adoption of plans and requirements pursuant to subsection 9 of NRS 449.037,

↳ to ensure the safety of the residents of the facility in an emergency.

3. The State Health Officer or a designee of the State Health Officer shall enter and inspect at least annually each building or the premises of a residential facility for groups to ensure compliance with standards for health and sanitation.

4. An authorized member or employee of the Health Division shall enter and inspect any building or premises operated by a residential facility for groups within 72 hours after the Health Division is notified that a residential facility for groups is operating without a license.

Sec. 12. ~~[NRS 449.235 is hereby amended to read as follows:~~

~~449.235—[Every] In addition to any inspection required pursuant to section 3 of this act, every medical facility or facility for the dependent may be inspected at any time, with or without notice, as often as is necessary by:~~

~~1. The Health Division to ensure compliance with all applicable regulations and standards; and~~

~~2. Any person designated by the Aging and Disability Services Division of the Department of Health and Human Services to investigate complaints made against the facility.] (Deleted by amendment.)~~

Sec. 13. NRS 449.240 is hereby amended to read as follows:

449.240 The district attorney of the county in which the facility is located shall, upon application by the Health Division, institute and conduct the prosecution of any action for violation of any provisions of NRS 449.001 to 449.245, inclusive ~~[,]~~, **and sections 2 and 3 of this act.**

Sec. 14. ~~[NRS 449.2493 is hereby amended to read as follows:~~

~~449.2493—[The] In addition to any inspection required pursuant to section 3 of this act, the Health Division and the Aging and Disability Services Division of the Department of Health and Human Services may:~~

~~1. Investigate any complaints against a home for individual residential care and, when conducting such an investigation, may inspect the home during normal business hours, with or without notice.~~

~~2.—Report to an appropriate state or local agency any violations of state or local laws or regulations discovered during an investigation conducted pursuant to this section.] (Deleted by amendment.)~~

~~Sec. 15. [This act becomes effective upon passage and approval for the purpose of adopting regulations and on October 1, 2011, for all other purposes.] (Deleted by amendment.)~~

Assemblywoman Mastroluca moved the adoption of the amendment.

Amendment adopted.

Bill ordered to third reading.

Assembly Bill No. 123.

Bill read third time.

Roll call on Assembly Bill No. 123:

YEAS—38.

NAYS—Hansen, Hardy, McArthur—3.

EXCUSED—Kirner.

Assembly Bill No. 123 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered reprinted, reengrossed, and transmitted to the Senate.

REPORTS OF COMMITTEES

Mr. Speaker:

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

Minerals (101-4219)

Administration (101-4554)

Nevada Junior Livestock Show Board (101-4980)

Plant Health & Quarantine Services (101-4540)

Grade & Certification of Ag Products (101-4541)

Registration/Enforcement (101-4545)

Pest, Plant Disease & Noxious Weed Control (101-4552)

Mormon Cricket & Grasshoppers (101-4556)

Livestock Inspection (101-4546)

Veterinary Medical Services (101-4550)

Predatory Animal & Rodent Control (101-4600)

Weights and Measures (101-4551)

Gas Pollution Standards (101-4537)

Indigent Supplemental Account (628-3224)

Mr. Speaker:

Your Committee on Ways and Means has had under consideration the various budgets for the Department of Health and Human Services, Division of Health Care Financing and Policy, and begs leave to report back that the following accounts have been closed by the Committee:

Administration (101-3158)

Intergovernmental Transfer Program (101-3157)

Nevada Medicaid, Title XIX (101-3243)

Nevada Check Up Program (101-3178)
HIFA Medical (101-3247)
HIFA Waiver (101-3155)
Increased Quality of Nursing Care (101-3160)

Mr. Speaker:

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

Special Projects (101-2977)
University of Nevada, Reno (101-2980)
School of Medicine (101-2982)
UNR-Intercollegiate Athletics (101-2983)
UNR-Statewide Programs (101-2985)
System Administration (101-2986)
University of Nevada, Las Vegas (101-2987)
UNLV-Intercollegiate Athletics (101-2988)
Agricultural Experiment Station (101-2989)
Cooperative Extension Service (101-2990)
System Computing Center (101-2991)
UNLV-Law School (101-2992)
State Funded Perkins Loan (101-2993)
Great Basin College (101-2994)
University Press (101-2996)
UNLV-Statewide Programs (101-3001)
UNLV-Dental School (101-3002)
Business Center North (101-3003)
Business Center South (101-3004)
Nevada State College (101-3005)
Desert Research Institute (101-3010)
College of Southern Nevada (101-3011)
Western Nevada College (101-3012)
Truckee Meadows Community College (101-3018)
State Health Laboratory (101-3221)

Mr. Speaker announced if there were no objections, the Assembly would recess subject to the call of the Chair.

Assembly in recess at 12:17 p.m.

ASSEMBLY IN SESSION

At 6:30 p.m.

Mr. Speaker presiding.

Quorum present.

REPORTS OF COMMITTEES

Mr. Speaker:

Your Committee on Ways and Means, to which were referred Assembly Bills Nos. 579, 580, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

Also, your Committee on Ways and Means, to which was referred Assembly Bill No. 494, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

Also, your Committee on Ways and Means, to which was referred Assembly Bill No. 526, 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 referred Assembly Bill No. 571, 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 referred Senate Bill No. 440, 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. 93, 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. 354, 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 4, 2011

To the Honorable the Assembly:

I have the honor to inform your honorable body that the Senate on this day passed Assembly Bills Nos. 224, 255, 432, 529.

Also, I have the honor to inform your honorable body that the Senate amended, and on this day passed, as amended, Assembly Bill No. 359, Amendment No. 875; Assembly Bill No. 474, Amendment No. 874; Assembly Bill No. 524, Amendment No. 803; Assembly Bill No. 525, Amendment No. 878, and respectfully requests your honorable body to concur in said amendments.

Also, I have the honor to inform your honorable body that the Senate on this day receded from its action on Assembly Bill No. 81, Senate Amendment No. 685.

Also, I have the honor to inform your honorable body that the Senate on this day adopted Assembly Concurrent Resolution No. 10; Senate Concurrent Resolution No. 5.

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. 77, Senate Amendments Nos. 772, 617, and requests a conference, and appointed Senators Schneider, Breeden and Roberson 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. 199, Senate Amendment No. 658, and requests a conference, and appointed Senators Schneider, Copening 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 recede from its action on Assembly Bill No. 376, Senate Amendment No. 632, and requests a conference, and appointed Senators Lee, Manendo 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. 379, Senate Amendments Nos. 635, 656, and requests a conference, and appointed Senators Breeden, Kihuen and Gustavson 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. 433, Senate Amendment No. 690, and

requests a conference, and appointed Senators Parks, Denis and Rhoads 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 adopted the report of the Conference Committee concerning Assembly Bill No. 39; Assembly Bill No. 40; Assembly Bill No. 362.

Also, I have the honor to inform your honorable body that the Senate on this day passed Senate Bills Nos. 423, 503, 504, 505.

Also, I have the honor to inform your honorable body that the Senate on this day passed, as amended, Senate Bills Nos. 164, 374, 447, 471, 476, 480.

Also, I have the honor to inform your honorable body that the Senate on this day passed, as amended, Senate Bills Nos. 212, 265.

Also, I have the honor to inform your honorable body that the Senate on this day concurred in the Assembly Amendment No. 651 to Senate Bill No. 18; Assembly Amendment No. 652 to Senate Bill No. 19; Assembly Amendment No. 626 to Senate Bill No. 30; Assembly Amendment No. 665 to Senate Bill No. 32; Assembly Amendments Nos. 666, 825 to Senate Bill No. 34; Assembly Amendment No. 823 to Senate Bill No. 36; Assembly Amendment No. 625 to Senate Bill No. 55; Assembly Amendment No. 647 to Senate Bill No. 82; Assembly Amendments Nos. 670, 809 to Senate Bill No. 140; Assembly Amendment No. 722 to Senate Bill No. 143; Assembly Amendment No. 734 to Senate Bill No. 150; Assembly Amendment No. 648 to Senate Bill No. 151; Assembly Amendment No. 701 to Senate Bill No. 191; Assembly Amendment No. 744 to Senate Bill No. 204; Assembly Amendment No. 719 to Senate Bill No. 215; Assembly Amendment No. 668 to Senate Bill No. 238; Assembly Amendment No. 742 to Senate Bill No. 254; Assembly Amendment No. 654 to Senate Bill No. 259; Assembly Amendment No. 858 to Senate Bill No. 267; Assembly Amendment No. 855 to Senate Bill No. 289; Assembly Amendment No. 655 to Senate Bill No. 292; Assembly Amendment No. 741 to Senate Bill No. 307; Assembly Amendment No. 826 to Senate Bill No. 329; Assembly Amendments Nos. 730, 765 to Senate Bill No. 381; Assembly Amendment No. 739 to Senate Bill No. 403; Assembly Amendment No. 716 to Senate Bill No. 414; Assembly Amendment No. 710 to Senate Bill No. 419; Assembly Amendment No. 812 to Senate Bill No. 432; Assembly Amendment No. 781 to Senate Bill No. 472; Assembly Amendment No. 627 to Senate Joint Resolution No. 3.

Also, I have the honor to inform your honorable body that the Senate on this day concurred in the Assembly Amendment No. 760 to Senate Bill No. 125.

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. 723 to Senate Bill No. 99; Assembly Amendment No. 881 to Senate Bill No. 168; Assembly Amendment No. 815 to Senate Bill No. 294.

Also, I have the honor to inform your honorable body that the Senate on this day appointed Senators Denis, Parks and McGinness as a Conference Committee concerning Senate Bill No. 98.

Also, I have the honor to inform your honorable body that the Senate on this day appointed Senators Schneider, Copening and Settlemeyer as a Conference Committee concerning Senate Bill No. 136.

Also, I have the honor to inform your honorable body that the Senate on this day appointed Senators Wiener, McGinness and Schneider as a Conference Committee concerning Senate Bill No. 200.

Also, I have the honor to inform your honorable body that the Senate on this day appointed Senators Leslie, Parks and Hardy as a Conference Committee concerning Senate Bill No. 249.

Also, I have the honor to inform your honorable body that the Senate on this day appointed Senators Lee, Schneider and Hardy as a Conference Committee concerning Senate Bill No. 268.

Also, I have the honor to inform your honorable body that the Senate on this day appointed Senators Denis, Wiener and Brower as a Conference Committee concerning Senate Bill No. 365.

Also, I have the honor to inform your honorable body that the Senate on this day appointed Senators Wiener, Copening and McGinness as a Conference Committee concerning Senate Bill No. 402.

SHERRY L. RODRIGUEZ
Assistant Secretary of the Senate

MOTIONS, RESOLUTIONS AND NOTICES

Senate Concurrent Resolution No. 5.

Assemblyman Conklin moved that the resolution be referred to the Committee on Legislative Operations and Elections.

Motion carried.

INTRODUCTION, FIRST READING AND REFERENCE

Senate Bill No. 164.

Assemblyman Conklin moved that the bill be referred to the Committee on Commerce and Labor.

Motion carried.

Senate Bill No. 212.

Assemblyman Conklin moved that the bill be referred to the Committee on Education.

Motion carried.

Senate Bill No. 265.

Assemblyman Conklin moved that the bill be referred to the Committee on Judiciary.

Motion carried.

Senate Bill No. 374.

Assemblyman Conklin moved that the bill be referred to the Committee on Ways and Means.

Motion carried.

Senate Bill No. 423.

Assemblyman Conklin moved that the bill be referred to the Committee on Ways and Means.

Motion carried.

Senate Bill No. 447.

Assemblyman Conklin moved that the bill be referred to the Committee on Ways and Means.

Motion carried.

Senate Bill No. 471.

Assemblyman Conklin moved that the bill be referred to the Committee on Ways and Means.

Motion carried.

Senate Bill No. 476.

Assemblyman Conklin moved that the bill be referred to the Committee on Ways and Means.

Motion carried.

Senate Bill No. 480.

Assemblyman Conklin moved that the bill be referred to the Committee on Ways and Means.

Motion carried.

Senate Bill No. 503.

Assemblyman Conklin moved that the bill be referred to the Committee on Ways and Means.

Motion carried.

Senate Bill No. 504.

Assemblyman Conklin moved that the bill be referred to the Committee on Ways and Means.

Motion carried.

Senate Bill No. 505.

Assemblyman Conklin moved that the bill be referred to the Committee on Ways and Means.

Motion carried.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblywoman Kirkpatrick moved that the record reflect Assemblymen Grady, Goedhart, Ohrenschall, Pierce, and Woodbury excused.

Motion carried.

UNFINISHED BUSINESS

RECEDE FROM ASSEMBLY AMENDMENTS

Assemblyman Atkinson moved that the Assembly do not recede from its action on Senate Bill No. 99, 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 Carlton, Ohrenschall, and Hickey as a Conference Committee to meet with a like committee of the Senate for the further consideration of Senate Bill No. 99.

Mr. Speaker appointed Assemblymen Carlton, Pierce, and Grady as a Conference Committee to meet with a like committee of the Senate for the further consideration of Assembly Bill No. 77.

Mr. Speaker appointed Assemblymen Carlton, Segerblom, and Hickey as a Conference Committee to meet with a like committee of the Senate for the further consideration of Assembly Bill No. 199.

Mr. Speaker appointed Assemblymen Segerblom, Daly, and Goedhart as a Conference Committee to meet with a like committee of the Senate for the further consideration of Assembly Bill No. 433.

REPORTS OF CONFERENCE COMMITTEES

Mr. Speaker:

The Conference Committee concerning Assembly Bill No. 277, consisting of the undersigned members, has met and reports that:

It has agreed to recommend that Amendment No. 677 of the Senate be concurred in.

ELLIOT ANDERSON
TERESA BENITEZ-THOMPSON
JOHN HAMBRICK
Assembly Conference Committee

SHIRLEY BREEDEN
MARK MANENDO
ELIZABETH HALSETH
Senate Conference Committee

Assemblyman Anderson moved that the Assembly adopt the report of the Conference Committee concerning Assembly Bill No. 277.

Motion carried by a constitutional majority.

CONSIDERATION OF SENATE AMENDMENTS

Assembly Bill No. 359.

The following Senate amendment was read:

Amendment No. 875.

AN ACT relating to energy; revising the categories of uses, capacity goals and prospective expiration of the Waterpower Energy Systems Demonstration Program; revising provisions governing net metering for waterpower energy systems; ~~revising the cumulative capacity requirement for net metering systems;~~ **revising provisions governing net metering for certain wind energy systems;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

The Waterpower Energy Systems Demonstration Program was established for agricultural uses with a goal of the installation of not less than 500

kilowatts of waterpower energy systems in this State by 2012. (NRS 701B.820, 701B.840) The Waterpower Program is currently set to expire on June 30, 2011. **Section 1** of this bill expands the Waterpower Program to encompass Indian tribes and tribal organizations that are customers of a utility. **Section 2** of this bill increases the capacity goals for the Waterpower Program ~~and limits the amount of any rebate provided pursuant to the Waterpower Program.~~ and **sections 9-11** of this bill extend the Waterpower Program until June 30, 2016. **Section 6** of this bill authorizes a person who installs a waterpower energy system to participate in net metering if the waterpower energy system is located on property owned by the customer-generator and generates electricity primarily intended to offset the customer-generator's requirements for electricity on that property or contiguous property owned by the customer-generator. **Section 6 also authorizes certain persons who install certain wind energy systems on property owned or leased by an institution of higher education in this State to participate in net metering. Section 3.7 of this bill provides that persons who own or operate such wind energy systems are not considered public utilities.**

~~Each electric utility in this State is required to offer net metering to customer generators of the utility until the cumulative capacity of net metering systems in the service area of the utility is equal to 1 percent of the utility's peak capacity. (NRS 704.773) Section 7 of this bill requires a utility to offer net metering until the cumulative capacity of net metering systems is equal to 1 percent of the total peak capacity of all utilities in this State and further authorizes the Public Utilities Commission of Nevada to increase the cumulative capacity requirement for net metering to 1.5 percent of the total peak capacity of all utilities in this State under certain circumstances.~~

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

Section 1. NRS 701B.820 is hereby amended to read as follows:

701B.820 1. The Waterpower Energy Systems Demonstration Program is hereby created.

2. The Waterpower Demonstration Program is created for ~~agricultural uses.~~:

(a) *Agricultural uses; and*

(b) *Indian tribes and tribal organizations that are customers of a utility.*

3. To be eligible to participate in the Waterpower Demonstration Program, a person must meet the qualifications established pursuant to subsection 4, apply to a utility and be selected by the utility for inclusion in the Waterpower Demonstration Program.

4. The Commission shall adopt regulations providing for the qualifications an applicant must meet to qualify to participate in the Waterpower Demonstration Program.

Sec. 2. NRS 701B.840 is hereby amended to read as follows:

701B.840 The Commission shall adopt regulations that establish:

1. The capacity goals for the Program, which must be designed to meet the goal of the Legislature of the installation of not less than ~~[500 kilowatts of waterpower energy systems in this State by 2012]~~ **5 megawatts of waterpower energy systems in this State by 2016** and the goals for each category of the Program. ***The regulations must provide that not less than 1 megawatt of capacity must be set aside for the installation of waterpower energy systems with a nameplate capacity of 100 kilowatts or less.***

2. A system of incentives that are based on rebates that decline as the capacity goals for the Program and the goals for each category of the Program are met. The rebates must be based on predicted energy savings. ~~[The regulations must provide that the amount of any rebate provided pursuant to the Program must not exceed 50 percent of the total cost of the installation of the waterpower energy system for which the rebate is provided.]~~

3. The procedure for claiming incentives, including, without limitation, the form and content of the incentive claim form.

Sec. 3. (Deleted by amendment.)

Sec. 3.5. Chapter 704 of NRS is hereby amended by adding thereto a new section to read as follows:

“Contiguous” means either abutting directly on the boundary or separated by a street, alley, public right-of-way, creek, river or the right-of-way of a railroad or other public service corporation.

Sec. 3.7. NRS 704.021 is hereby amended to read as follows:

704.021 “Public utility” or “utility” does not include:

1. Persons engaged in the production and sale of natural gas, other than sales to the public, or engaged in the transmission of natural gas other than as a common carrier transmission or distribution line or system.

2. Persons engaged in the business of furnishing, for compensation, water or services for the disposal of sewage, or both, to persons within this State if:

(a) They serve 25 persons or less; and

(b) Their gross sales for water or services for the disposal of sewage, or both, amounted to \$25,000 or less during the immediately preceding 12 months.

3. Persons not otherwise engaged in the business of furnishing, producing or selling water or services for the disposal of sewage, or both, but who sell or furnish water or services for the disposal of sewage, or both, as

an accommodation in an area where water or services for the disposal of sewage, or both, are not available from a public utility, cooperative corporations and associations or political subdivisions engaged in the business of furnishing water or services for the disposal of sewage, or both, for compensation, to persons within the political subdivision.

4. Persons who are engaged in the production and sale of energy, including electricity, to public utilities, cities, counties or other entities which are reselling the energy to the public.

5. Persons who are subject to the provisions of NRS 590.465 to 590.645, inclusive.

6. Persons who are engaged in the sale or use of special fuel as defined in NRS 366.060.

7. Persons who provide water from water storage, transmission and treatment facilities if those facilities are for the storage, transmission or treatment of water from mining operations.

8. Persons who are video service providers, as defined in NRS 711.151, except for those operations of the video service provider which consist of providing a telecommunication service to the public, in which case the video service provider is a public utility only with regard to those operations of the video service provider which consist of providing a telecommunication service to the public.

9. **Persons who own or operate a net metering system described in paragraph (c) of subsection 1 of NRS 704.771.**

10. Persons who for compensation own or operate individual systems which use renewable energy to generate electricity and sell the electricity generated from those systems to not more than one customer of the public utility per individual system if each individual system is:

(a) Located on the premises of another person;

(b) Used to produce not more than 150 percent of that other person's requirements for electricity on an annual basis for the premises on which the individual system is located; and

(c) Not part of a larger system that aggregates electricity generated from renewable energy for resale or use on premises other than the premises on which the individual system is located.

↪ As used in this subsection, "renewable energy" has the meaning ascribed to it in NRS 704.7811.

Sec. 4. NRS 704.766 is hereby amended to read as follows:

704.766 It is hereby declared to be the purpose and policy of the Legislature in enacting NRS 704.766 to 704.775, inclusive, **and section 3.5 of this act** to:

1. Encourage private investment in renewable energy resources;
2. Stimulate the economic growth of this State;

3. Enhance the continued diversification of the energy resources used in this State; and

4. Streamline the process for customers of a utility to apply for and install net metering systems.

Sec. 5. NRS 704.767 is hereby amended to read as follows:

704.767 As used in NRS 704.766 to 704.775, inclusive, **and section 3.5 of this act**, unless the context otherwise requires, the words and terms defined in NRS 704.768 to 704.772, inclusive, **and section 3.5 of this act** have the meanings ascribed to them in those sections.

Sec. 6. NRS 704.771 is hereby amended to read as follows:

704.771 1. "Net metering system" means ~~[(a)]~~:

~~[(a)]~~ (a) A facility or energy system for the generation of electricity that:

~~[(a)]~~ (1) Uses renewable energy as its primary source of energy to generate electricity;

~~[(b)]~~ (2) Has a generating capacity of not more than 1 megawatt;

~~[(c)]~~ (3) Is located on the customer-generator's premises;

~~[(d)]~~ (4) Operates in parallel with the utility's transmission and distribution facilities; and

~~[(e)]~~ (5) Is intended primarily to offset part or all of the customer-generator's requirements for electricity ~~[-]; ~~for]~~~~

(b) A facility or energy system for the generation of electricity that:

(1) Uses waterpower as its primary source of energy to generate electricity;

(2) Is located on property owned by the customer-generator;

(3) Has a generating capacity of not more than 1 megawatt;

(4) Generates electricity that is delivered to the transmission and distribution facilities of the utility; and

(5) Is intended primarily to offset all or part of the customer-generator's requirements for electricity on that property or contiguous property owned by the customer-generator ~~[-]; ~~for]~~~~; or

(c) A facility or energy system for the generation of electricity:

(1) Which uses wind power as its primary source of energy to generate electricity;

(2) Which is located on property owned or leased by an institution of higher education in this State;

(3) Which has a generating capacity of not more than 1 megawatt;

(4) Which operates in parallel with the utility's transmission and distribution facilities;

(5) Which is intended primarily to offset all or part of the customer-generator's requirements for electricity on that property or on contiguous property owned or leased by the customer-generator;

(6) Which is used for research and workforce training; and

(7) The construction or installation of which is commenced on or before December 31, 2011, and is completed on or before December 31, 2012.

2. The term does not include a facility or energy system for the generation of electricity which has a generating capacity that exceeds the greater of:

(a) The limit on the demand that the class of customer of the customer-generator may place on the system of the utility; or

(b) One hundred ~~{fifty}~~ percent of the ~~{peak demand of the customer.}~~ **customer-generator's annual requirements for electricity.**

Sec. 7. NRS 704.773 is hereby amended to read as follows:

704.773 1. ~~A {Except as otherwise provided in this subsection, a} utility shall offer net metering, as set forth in NRS 704.775, to the customer-generators operating within its service area until the cumulative capacity of all such net metering systems is equal to 1 percent of the utility's ~~{total}~~ peak capacity . {of all utilities in this State. If, at any time, the Commission determines that the cumulative capacity of all such net metering systems is 0.8 percent or more of the total peak capacity of all utilities in this State, the Commission may issue an order requiring a utility to offer net metering, as set forth in NRS 704.775, to the customer-generators operating within its service area until the cumulative capacity of all such net metering systems is equal to 1.5 percent of the total peak capacity of all utilities in this State.}~~

2. If the net metering system of a customer-generator who accepts the offer of a utility for net metering has a capacity of not more than ~~{100}~~ 25 kilowatts, the utility:

(a) Shall offer to make available to the customer-generator an energy meter that is capable of registering the flow of electricity in two directions.

(b) May, at its own expense and with the written consent of the customer-generator, install one or more additional meters to monitor the flow of electricity in each direction.

(c) Shall not charge a customer-generator any fee or charge that would increase the customer-generator's minimum monthly charge to an amount greater than that of other customers of the utility in the same rate class as the customer-generator.

3. If the net metering system of a customer-generator who accepts the offer of a utility for net metering has a capacity of more than ~~{100}~~ 25 kilowatts, the utility:

(a) May require the customer-generator to install at its own cost:

(1) An energy meter that is capable of measuring generation output and customer load; and

(2) Any upgrades to the system of the utility that are required to make the net metering system compatible with the system of the utility.

(b) Except as otherwise provided in paragraph (c), may charge the customer-generator any applicable fee or charge charged to other customers of the utility in the same rate class as the customer-generator, including, without limitation, customer, demand and facility charges.

(c) Shall not charge the customer-generator any standby charge.

↪ At the time of installation or upgrade of any portion of a net metering system, the utility must allow a customer-generator governed by this subsection to pay the entire cost of the installation or upgrade of the portion of the net metering system.

4. *If the net metering system of a customer-generator is a net metering system described in paragraph (b) or (c) of subsection 1 of NRS 704.771 and:*

(a) *The system is intended primarily to offset part or all of the customer-generator's requirements for electricity on property contiguous to the property on which the net metering system is located; and*

(b) *The customer-generator sells or transfers his or her interest in the contiguous property,*

↪ *the net metering system ceases to be eligible to participate in net metering.*

5. The Commission shall adopt regulations prescribing the form and substance for a net metering tariff and a standard net metering contract. The regulations must include, without limitation:

(a) The particular provisions, limitations and responsibilities of a customer-generator which must be included in a net metering tariff with regard to:

- (1) Metering equipment;
- (2) Net energy metering and billing; and
- (3) Interconnection,

↪ based on the allowable size of the net metering system.

(b) The particular provisions, limitations and responsibilities of a customer-generator and the utility which must be included in a standard net metering contract.

(c) A timeline for processing applications and contracts for net metering applicants.

(d) Any other provisions the Commission finds necessary to carry out the provisions of NRS 704.766 to 704.775, inclusive ~~[-]~~, **and section 3.5 of this act.**

Sec. 8. (Deleted by amendment.)

Sec. 8.5. NRS 704.7815 is hereby amended to read as follows:

704.7815 "Renewable energy system" means:

1. A facility or energy system that uses renewable energy or energy from a qualified energy recovery process to generate electricity and:

(a) Uses the electricity that it generates from renewable energy or energy from a qualified recovery process in this State; or

(b) Transmits or distributes the electricity that it generates from renewable energy or energy from a qualified energy recovery process to a provider of electric service for delivery into and use in this State.

2. A solar energy system that reduces the consumption of electricity or any fossil fuel.

3. A net metering system used by a customer-generator pursuant to NRS 704.766 to 704.775, inclusive ~~[]~~, **and section 3.5 of this act.**

Sec. 9. Section 113 of chapter 509, Statutes of Nevada 2007, at page 2999, is hereby amended to read as follows:

Sec. 113. 1. This act becomes effective:

(a) Upon passage and approval for the purposes of adopting regulations and taking such other actions as are necessary to carry out the provisions of this act; and

(b) For all other purposes besides those described in paragraph (a):

(1) For this section and sections 1, 30, 32, 36 to 46, inclusive, 49, 51 to 61, inclusive, 107, 109, 110 and 111 of this act, upon passage and approval.

(2) For sections 1.5 to 29, inclusive, 43.5, 47, 51.3, 51.7, 108, 112 and 112.5 of this act, on July 1, 2007.

(3) For sections 62 to 106, inclusive, of this act, on October 1, 2007.

(4) For sections 31, 32.3, 32.5, 32.7, 33, 34 and 35 of this act, on January 1, 2009.

(5) For section 48 of this act, on January 1, 2010.

(6) For section 50 of this act, on January 1, 2011.

2. Sections 62 to ~~[106.]~~ **86**, inclusive, of this act expire by limitation on June 30, 2011.

3. Sections 87 to 105, inclusive, of this act expire by limitation on June 30, 2016.

Sec. 10. Section 13 of chapter 246, Statutes of Nevada 2009, at page 1002, is hereby amended to read as follows:

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

2. ~~[Sections 2 and 3]~~ **Section 2** of this act ~~[expire]~~ **expires** by limitation on June 30, 2011.

3. Section 3 of this act expires by limitation on June 30, 2016.

Sec. 11. Section 21 of chapter 321, Statutes of Nevada 2009, at page 1410, is hereby amended to read as follows:

Sec. 21. 1. This section and sections 1 to 1.51, inclusive, 1.55 to 19.7, inclusive, and 19.9 to 20.9, inclusive, of this act become effective upon passage and approval.

2. Sections 1.51, 1.85, 1.87, 1.92, 1.93 ~~[1.95.]~~ **and** 4.3 to ~~[9.]~~ **7**, inclusive, ~~[and 19.4]~~ of this act expire by limitation on June 30, 2011.

3. ~~[Sections 1.53 and 19.8]~~ *Section 1.53* of this act ~~[become]~~ *becomes* effective on July 1, 2011.

4. *Sections 1.95 and 7.1 to 9, inclusive, of this act expire by limitation on June 30, 2016.*

5. *Section 19.8 of this act becomes effective on July 1, 2016.*

Sec. 12. 1. This section and sections 9, 10 and 11 of this act become effective upon passage and approval.

2. Sections 1 to 8.5, inclusive, of this act become effective on July 1, 2011.

3. Sections 1 and 2 of this act expire by limitation on June 30, 2016.

Assemblywoman Smith moved that the Assembly concur in the Senate amendment to Assembly Bill No. 359.

Remarks by Assemblywoman Smith.

Motion carried by a constitutional majority.

Bill ordered enrolled.

Assembly Bill No. 524.

The following Senate amendment was read:

Amendment No. 803.

~~SUMMARY—[Increases certain fees for residential and general appraisers to cover an increase in federal registry fees.]~~ **Revises provisions relating to appraisers of real estate.** (BDR 54-1199)

AN ACT relating to appraisers of real estate; **revising provisions governing continuing education requirements for certified and licensed appraisers and registered interns; requiring the Commission of Appraisers of Real Estate to establish certain requirements concerning continuing education; requiring the Commission to establish certain fees relating to continuing education; requiring the Real Estate Division of the Department of Business and Industry to conduct certain investigations and examinations of each certified or licensed appraiser; requiring an appraiser who is investigated or examined by the Division to pay certain costs relating to the investigation or examination; authorizing the Division to contract for or procure the services of certain persons to assist in or carry out investigations and examinations of appraisers;** revising certain fees for the issuance or renewal of a license or certificate; **making an appropriation;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires an appraiser to complete certain continuing education as a condition for the renewal or reinstatement of a certificate or license and further requires the Commission of Appraisers of Real Estate to adopt regulations governing the continuing education

requirements for appraisers. (NRS 645C.430, 645C.440) Section 2 of this bill requires appraisers and interns to complete a course of continuing education which must include education in ethics and issues relating to the appraisal of real property with an emphasis on trends and market conditions in Nevada and any changes in law which affect the appraisal of real property. Section 2 requires the Commission to establish a reasonable fee for the cost of the course. Section 2 additionally requires the Real Estate Division of the Department of Business and Industry to develop the curriculum for the course and submit the curriculum to the Commission for approval. Section 3 of this bill creates the Account for Real Estate Appraisal Audit and Education in the State General Fund and provides that the fees collected by the Division for the cost of the course of continuing education required by section 2 must be deposited in the Account and used to defray the costs of the Commission and the Division in carrying out the provisions of section 2.

Section 4 of this bill requires the Division to conduct an examination and investigation of each certified or licensed appraiser not less frequently than every 4 years. Section 4 authorizes the Division to contract for and procure the services of examiners and other specialized technical or professional assistance as may reasonably be required to carry out such examinations and investigations. Section 5 of this bill requires an appraiser who is subject to such examination or investigation to pay certain costs relating to the examination or investigation. Section 6 of this bill requires that all money collected pursuant to section 5 be used to pay the expenses relating to the examination or investigation of an appraiser or for any other purpose authorized by the Legislature.

Section 7.7 of this bill requires the Real Estate Administrator to employ an administrative assistant and an investigator to carry out the provisions of this bill and makes an appropriation from the State General Fund to the Real Estate Administration Account in Fiscal Year 2011-2012 and Fiscal Year 2012-2013 to pay the salaries and related expenses of these two new positions.

Under existing law, a fee of \$290 is charged for the issuance or biennial renewal of a license or certificate as a residential appraiser, and a fee of \$390 is charged for the issuance or biennial renewal of a certificate as a general appraiser. (NRS 645C.450) A portion of that fee, currently \$50, is retained by the Real Estate Division ~~[of the Department of Business and Industry]~~ for payment of the registry fee to the Federal Financial Institutions Examination Council. (NRS 645C.240) On July 21, 2010, the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) was signed into law.

(Pub. L. No. 111-203, 124 Stat. 1376) The Dodd-Frank Act revised 12 U.S.C. § 3338 to increase the annual registry fee from \$25 to \$40.

~~¶ This~~ **Section 7 of this** bill increases the biennial fees charged for the issuance or renewal of a license or certificate as a residential appraiser and for the issuance or renewal of a certificate as a general appraiser by \$30 to cover the annual \$15 increase in the federal registry fee.

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

Section 1. Chapter 645C of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 6, inclusive, of this act.

Sec. 2. 1. As a condition of the renewal or reinstatement of a certificate, license or registration issued pursuant to this chapter, and as a component of the continuing education required pursuant to NRS 645C.430 and 645C.440, each certified appraiser, licensed appraiser and registered intern in this State shall complete a course of continuing education which meets the requirements established by the Commission pursuant to paragraph (a) of subsection 2 and pay to the Division the fee established by the Commission pursuant to paragraph (b) of subsection 2.

2. The Commission shall by regulation establish:

(a) The requirements for a course of continuing education which must include, without limitation, education in ethics and issues relating to the appraisal of real property with an emphasis on trends and market conditions in this State and any changes in the law in this State which affect the appraisal of real property; and

(b) A reasonable fee for the cost of the course of continuing education required by this section.

3. The Division shall develop the curriculum for the course of continuing education required by this section in accordance with the requirements established by the Commission pursuant to subsection 2 and submit the curriculum to the Commission for approval.

Sec. 3. 1. The Account for Real Estate Appraisal Audit and Education is hereby created in the State General Fund. The Administrator shall administer the Account.

2. All money paid to the Division pursuant to section 2 of this act must be deposited in the Account. All interest and income earned on money in the Account must be credited to the Account. The money in the Account does not revert to the State General Fund at the end of any fiscal year.

3. All claims against the Account must be paid as other claims against the State are paid.

4. The money in the Account must be used to defray the costs and expenses incurred by the Commission and the Division in carrying out the

provisions of section 2 of this act and may be used to defray any other costs incurred by the Division in enforcing the provisions of this chapter.

Sec. 4. 1. In addition to any other examinations and investigations expressly authorized, the Division shall, not less frequently than every 4 years, conduct an examination and investigation of each certified or licensed appraiser to determine whether any such appraiser has violated the Uniform Standards of Appraisal Practice of the Appraisal Institute or its successor or any provision of this chapter or to secure information useful in the lawful enforcement or administration of any such uniform standard or provision of law. Such examinations and investigations must include, without limitation:

(a) An examination of the appraisals, work files and records of each certified or licensed appraiser; and

(b) If an appraiser is not a resident of this State, submission to the Division by the appraiser of a log of appraisals performed by the appraiser from which the Division may select appraisals to be submitted to the Division for review.

2. The Division may contract for and procure the services of examiners and other specialized technical or professional assistance, as independent contractors or for a fee, as may reasonably be required to carry out the provisions of this section. None of the persons providing those services or assistance pursuant to a contract or for a fee may be in the classified service of the State.

3. The Division may adopt regulations to carry out the provisions of this section.

Sec. 5. The expenses of the examination or investigation of an appraiser pursuant to section 4 of this act must be borne by the person examined or investigated. Such expenses include only the reasonable and proper expenses of the Administrator, the employees of the Division and the examiners and assistants of the Division, including expert assistance and reasonable compensation as to such examiners and assistants incurred in the examination or investigation. The person examined or investigated shall promptly pay to the Division the expenses of the examination or investigation upon presentation by the Division of a reasonably detailed written statement thereof.

Sec. 6. All money received by the Division pursuant to section 5 of this act and all interest and income earned on such money must be deposited with the State Treasurer for credit to the State General Fund and:

1. Must be used to pay the compensation and other necessary and authorized expenses incurred by an employee, examiner, assistant or other representative of the Division in the examination or investigation of any

person required to pay, and making payment of, the expenses of the examination or investigation pursuant to section 5 of this act; and

2. May be expended for any other purpose authorized by the Legislature.

~~Section 1.~~ Sec. 7. NRS 645C.450 is hereby amended to read as follows:

645C.450 1. The following fees may be charged and collected by the Division:

| | |
|--|----------------------|
| Application for a certificate, license or registration card..... | \$100 |
| Issuance or renewal of a certificate or license as a residential appraiser..... | {290} 320 |
| Issuance or renewal of a certificate as a general appraiser..... | {390} 420 |
| Issuance of a permit..... | 115 |
| Issuance or renewal of a registration card..... | 190 |
| Issuance of a duplicate certificate or license for an additional office..... | 50 |
| Change in the name or location of a business..... | 20 |
| Reinstatement of an inactive certificate or license..... | 30 |
| Annual approval of a course of instruction offered in preparation for an initial certificate or license..... | 100 |
| Original approval of a course of instruction offered for continuing education..... | 100 |
| Renewal of approval of a course of instruction offered for continuing education..... | 50 |

2. The Division shall adopt regulations which establish the fees to be charged and collected by the Division to pay the costs of:

(a) Any examination for a certificate or license, including any costs which are necessary for the administration of such an examination.

(b) Any investigation of a person's background.

Sec. 7.5. The Real Estate Division of the Department of Business and Industry and the Commission of Appraisers of Real Estate shall adopt the regulations required by this act on or before December 31, 2011.

Sec. 7.7. 1. To carry out the provisions of sections 2 to 6, inclusive, of this act, the Real Estate Administrator shall employ an investigator and an administrative assistant who are in the classified service of the State.

2. There is hereby appropriated from the State General Fund to the Real Estate Administration Account:

(a) For the 2011-2012 Fiscal Year the sum of \$80,880.

(b) For the 2012-2013 Fiscal Year the sum of \$105,787.

3. The money appropriated by subsection 2 must be expended to pay the salaries and related expenses of the positions authorized by subsection 1.

4. Any remaining balance of the appropriation made by paragraph (a) of subsection 2 must be transferred and added to the money appropriated by paragraph (b) of subsection 2 and may be expended as that money is expended.

5. Any remaining balance of the appropriation made by subsection 2 must not be committed for expenditure after June 30, 2013, and must be reverted to the State General Fund on or before September 20, 2013.

~~{Sec. 2.}~~ **Sec. 8. 1. This section becomes effective upon passage and approval.**

2. Sections 1 to 7.5, inclusive, of this act ~~{becomes}~~ become effective upon passage and approval for the purpose of adopting regulations and on January 1, 2012, ~~{,}~~, for all other purposes.

3. Except as otherwise provided in subsection 4, section 7.7 of this act becomes effective on July 1, 2011.

4. Paragraph (b) of subsection 2 of section 7.7 of this act becomes effective on July 1, 2012.

Assemblywoman Smith moved that the Assembly do not concur in the Senate amendment to Assembly Bill No. 524.

Remarks by Assemblywoman Smith.

Motion carried.

Bill ordered transmitted to Senate.

Assembly Bill No. 525.

The following Senate amendment was read:

Amendment No. 878.

AN ACT relating to wildlife; requiring the Department of Wildlife to establish the Wildlife Trust Fund; authorizing the Department to accept any gift, donation, bequest or devise from any private source for the Wildlife Trust Fund; requiring the Director to report income and expenditures from the Wildlife Trust Fund to the Chief of the Budget Division of the Department of Administration, ~~{and}~~ the Interim Finance Committee, ~~{,}~~ **and the Board of Wildlife Commissioners;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

This bill requires the Department of Wildlife to establish the Wildlife Trust Fund for the purposes of receiving any gift, donation, bequest or devise from any private source for the Wildlife Trust Fund. The money in the Wildlife Trust Fund must be used either for the specified purpose of the donor who donated the money or, if the donor specified no purpose, then in the sound discretion of the Director of the Department. This bill further establishes that the money in the Wildlife Trust Fund is private money and exempts the expenditure of money in the Wildlife Trust Fund from the provisions of the

State Purchasing Act. Finally, this bill requires the Director to report the income and expenditures of the Wildlife Trust Fund to the Chief of the Budget Division of the Department of Administration ~~and to~~ the Interim Finance Committee ~~and~~ **and the Board of Wildlife Commissioners.**

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

Section 1. Chapter 501 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The Department shall establish the Wildlife Trust Fund. The Department may accept any gift, donation, bequest or devise from any private source for deposit in the Wildlife Trust Fund. Any money received is private money and not state money. All money must be accounted for in the Wildlife Trust Fund.

2. All of the money in the Wildlife Trust Fund must be deposited in a financial institution to draw interest or to be expended, invested and reinvested pursuant to the specific instructions of the donor, or if no such specific instructions exist, in the sound discretion of the Director. The provisions of NRS 356.011 apply to any accounts in financial institutions maintained pursuant to this section.

3. The money in the Wildlife Trust Fund must be budgeted and expended, within any limitations which may have been specified by particular donors, at the discretion of the Director. The Director may authorize independent contractors that may be funded in whole or in part from the money in the Wildlife Trust Fund.

4. The Director or the Director's designee shall submit semiannually to the Interim Finance Committee and the Commission a report concerning the investment and expenditure of the money in the Wildlife Trust Fund in such form and detail as the Interim Finance Committee determines is necessary.

5. A separate statement concerning the anticipated amount and proposed expenditures of the money in the Wildlife Trust Fund must be submitted to the Chief of the Budget Division of the Department of Administration for his or her information at the same time and for the same fiscal years as the requested budget of the Department submitted pursuant to NRS 353.210. The statement must be attached to the requested budget for the Department when the requested budget is submitted to the Fiscal Analysis Division of the Legislative Counsel Bureau pursuant to NRS 353.211.

6. The provisions of chapter 333 of NRS do not apply to the expenditure of money in the Wildlife Trust Fund.

Sec. 2. NRS 501.356 is hereby amended to read as follows:

501.356 1. Money received by the Department from:

- (a) The sale of licenses;
 - (b) Fees pursuant to the provisions of NRS 488.075 and 488.1795;
 - (c) Remittances from the State Treasurer pursuant to the provisions of NRS 365.535;
 - (d) Appropriations made by the Legislature; and
 - (e) All other sources, except money derived from the forfeiture of any property described in NRS 501.3857 or money deposited in the Wildlife Heritage Trust Account pursuant to NRS 501.3575 , ~~for~~ in the Trout Management Account pursuant to NRS 502.327 ~~for~~ *or in the Wildlife Trust Fund pursuant to section 1 of this act,*
- ↪ must be deposited with the State Treasurer for credit to the Wildlife Account in the State General Fund.

2. The interest and income earned on the money in the Wildlife Account, after deducting any applicable charges, must be credited to the Account.

3. Except as otherwise provided in subsection 4, the Department may use money in the Wildlife Account only to carry out the provisions of this title and chapter 488 of NRS and as provided in NRS 365.535, and the money must not be diverted to any other use.

4. Except as otherwise provided in NRS 502.250 and 504.155, all fees for the sale or issuance of stamps, tags, permits and licenses that are required to be deposited in the Wildlife Account pursuant to the provisions of this title and any matching money received by the Department from any source must be accounted for separately and must be used:

- (a) Only for the management of wildlife; and
- (b) If the fee is for the sale or issuance of a license, permit or tag other than a tag specified in subsection 5 or 6 of NRS 502.250, under the guidance of the Commission pursuant to subsection 2 of NRS 501.181.

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

Assemblywoman Smith moved that the Assembly do not concur in the Senate amendment to Assembly Bill No. 525.

Remarks by Assemblywoman Smith.

Motion carried.

Bill ordered transmitted to Senate.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblywoman Bustamante Adams moved that Assembly Bill No. 331 be taken from the Chief Clerk's desk and placed on the General File.

Motion carried.

Assemblyman Conklin moved that Senate Bill No. 149 be taken from the Chief Clerk's desk and placed on the General File for the next legislative day.

Motion carried.

Assemblywoman Kirkpatrick moved that the record reflect Assemblymen Ohrenschall and Woodbury as present.

Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 494.

Bill read third time.

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

Amendment No. 897.

AN ACT making appropriations to restore the balances in the State Claims Account, Emergency Account, Reserve for Statutory Contingency Account and Contingency Fund; and providing other matters properly relating thereto.

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

Section 1. There is hereby appropriated from the State General Fund to the:

1. State Claims Account created by NRS 353.097 the sum of ~~[\$5,500,000]~~ **\$3,500,000** to restore the balance in the Account.
2. Emergency Account created by NRS 353.263 the sum of ~~[\$150,000]~~ **\$50,000** to restore the balance in the Account.
3. Reserve for Statutory Contingency Account created by NRS 353.264 the sum of ~~[\$3,000,000]~~ **\$2,200,000** to restore the balance in the Account.
4. Contingency Fund created by NRS 353.266 the sum of \$5,000,000 to restore the balance in the Fund.

Sec. 2. This act becomes effective upon passage and approval.

Assemblyman Hickey moved the adoption of the amendment.

Amendment adopted.

Bill ordered to third reading.

Assembly Bill No. 93.

Bill read third time.

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

Amendment No. 900.

AN ACT relating to criminal offenders; requiring the Department of Corrections to establish a pilot diversion program for certain probation

violators to receive treatment for alcohol or drug abuse or mental illness; ~~requiring the Department of Health and Human Services to provide such treatment; making an appropriation;~~ and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides that a person who violates the conditions of his or her probation must be brought before the court to determine the actions to be taken, which may include causing the sentence imposed to be executed. (NRS 176A.630) Existing law also authorizes the establishment of programs of treatment for alcohol and drug abuse by the district courts for the treatment of certain offenders. (NRS 453.580) A person who elects to participate in such a treatment program may have his or her sentence set aside upon successful completion of the treatment program. (NRS 458.330) **Section 1** of this bill requires the Department of Corrections to establish a pilot diversion program within the facilities maintained by the Department. The pilot diversion program must be used to provide ~~intensive~~ treatment to certain probation violators ~~who are determined to be~~ **if a court has reasonable cause to believe that the probation violators are** alcoholics or drug addicts or in need of treatment for a mental illness and **if the probation violators** are ordered to the custody of the Department to receive such treatment. The Department of Corrections is required to provide food and housing as well as emergency medical services, but is not responsible for providing treatment to the persons placed in the facilities ~~which instead is to be provided by the Department of Health and Human Services.~~ **Section 1** also requires probationers to release in writing the Department of Corrections from liability as a condition of participation in the pilot diversion program. ~~Section 2 of this bill requires the Director of the Department of Health and Human Services to provide for the evaluation of probation violators referred to the Department of Health and Human Services by the court and authorizes the Director to enter into contracts with qualified persons or entities to provide such evaluations and treatment.~~

Section 3 of this bill identifies the probation violators who are eligible to elect placement in the pilot diversion program. **Section 6** of this bill provides that a person placed in the pilot diversion program is required to pay for the cost of his or her treatment and supervision to the extent of his or her financial resources and authorizes a court to require such a person to perform community service upon completion of treatment to contribute toward the cost of his or her treatment and supervision.

Section 7.5 of this bill provides that upon satisfaction of the terms and conditions imposed upon a probation violator for participation in the pilot diversion program, the court shall release the probationer from supervision and order the probationer to complete any period of probation. If a probation

violation violates the rules of the program or does not satisfy the terms and conditions of participation or successfully complete treatment, the court may revoke probation. **Section 8** of this bill requires the Department of Corrections ~~[, the Department of Health and Human Services]~~ and the Division of Parole and Probation of the Department of Public Safety to jointly provide a report which provides certain data for the Interim Finance Committee. ~~[Section 10 of this bill makes an appropriation to the Department of Health and Human Services to pay for the evaluation and treatment of probation violators.]~~ This bill is established as a pilot program, and **section 11** of this bill makes it expire by limitation on July 1, 2015.

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

Section 1. 1. The Department of Corrections shall establish a pilot diversion program within the correctional institutions or other facilities maintained by the Department.

2. The Department of Corrections shall ensure that facilities of adequate capacity for the pilot diversion program are available in one or more suitable locations within the State. The Department shall not be required to provide housing for more than 50 probation violators at one time.

3. The Department of Corrections shall provide a healthful diet and appropriate, secure and sanitary housing and necessary emergency medical services for the probation violators who are placed in the pilot diversion program, but the Department is not responsible for providing treatment to the probation violators remanded to the pilot diversion program pursuant to section 3 of this act.

4. As a condition of participation in the program, a probationer must release in writing the Department from liability and agree to abide by the applicable rules and regulations of the Department.

Sec. 2. ~~[1. To the extent practicable within the appropriation provided in section 10 of this act, the Director of the Department of Health and Human Services shall provide for the evaluation of each probation violator who is ordered to be evaluated by a court pursuant to section 5 of this act to determine if the probation violator is an abuser of alcohol or drugs or in need of treatment for a mental illness, and shall provide treatment to any such probation violator who is remanded to the pilot diversion program pursuant to section 5 of this act. The Director may:~~

~~(a) Enter into contracts with persons or private entities that are qualified to evaluate and provide such treatment to probation violators who are alcohol or drug abusers or in need of treatment for a mental illness; and~~

~~(b) Accept donations, gifts or grants of money or services to supplement the appropriation in section 10 of this act.~~

~~2. When a person has completed treatment for the term for which the person was assigned to the pilot diversion program, the Director of the Department or a designee of the Director shall submit a report certifying to the court:~~

- ~~(a) Whether the person successfully completed the treatment;~~
- ~~(b) Whether the person is believed to be rehabilitated; and~~
- ~~(c) Any recommendations for actions to ensure that the person does not begin to abuse alcohol or drugs upon release.~~

~~3. The Director of the Department may adopt any regulations necessary to carry out the provisions of this section.] (Deleted by amendment.)~~

Sec. 3. 1. A district court may remand a probationer who is returned to the district court for a violation of his or her probation to the pilot diversion program established pursuant to section 1 of this act for supervision ~~[1]~~, **subject to such terms and conditions as established by the court.** The court may allow the probationer who is remanded to the pilot diversion program to:

- (a) Leave the facilities of the Department of Corrections during the day for education, treatment or employment; or
- (b) Reside outside the facilities of the Department.

2. The court may require the probationer to receive treatment for alcohol or drug abuse or a mental illness if the court has reason to believe that the probationer is an alcoholic or drug addict or in need of treatment for a mental illness and the court finds that the probationer:

- (a) Agrees to participate in the pilot diversion program;
- (b) Was not returned to the court for committing an act involving violence, the use of force, or the threat of violence or the use of force;
- (c) Meets the requirements for assignment to an institution or facility of minimum security as set forth in NRS 209.481; and
- (d) Is not rejected for participation in the pilot diversion program by the Department of Corrections as posing a threat to the health, safety and welfare of:

- (1) Other probationers remanded to the program; **or**
- (2) Employees of the Department of Corrections and its agents. ~~[1-0#~~
- ~~(3) Employees of the Department of Health and Human Services and its agents.]~~

Sec. 4. (Deleted by amendment.)

Sec. 5. ~~[1. Before a court remands a probation violator to the pilot diversion program, the court may order the examination of the probationer by the Department of Health and Human Services or by a person or entity designated by the Director of the Department to determine whether the probationer is an alcoholic or drug addict or in need of treatment for a mental illness and is likely to be rehabilitated through treatment.~~

~~2. If the court determines that the probation violator would benefit from and is likely to be rehabilitated through treatment and the court remands the probationer to the pilot diversion program, the court shall establish the terms and conditions for successful completion of the treatment, in addition to the terms and conditions that the court establishes pursuant to section 3 of this act.] (Deleted by amendment.)~~

Sec. 6. 1. A probation violator who is placed in the pilot diversion program for supervision and, if appropriate, to receive treatment for alcohol or drug abuse or a mental illness shall pay the cost of his or her treatment and supervision to the extent of his or her financial resources.

2. A court shall not refuse to place a probation violator in the pilot diversion program if the probation violator does not have the financial resources to pay any or all of the related costs.

3. The court may order a probation violator who is placed in the pilot diversion program to perform a specified amount of community service upon release from the program to contribute toward the cost of his or her treatment and supervision. Any such community service must be performed for and under the supervising authority of a county, city, town or other political subdivision or agency of the State of Nevada or a charitable organization that renders service to the community or its residents.

4. The court may issue a judgment against a probation violator and in favor of the State for the costs of treatment and supervision which remain unpaid when the probationer is released from the pilot diversion program but in no event may the amount of the judgment include any amount of debt which was extinguished by the successful completion of community service pursuant to subsection 3.

Sec. 7. (Deleted by amendment.)

Sec. 7.5. 1. When the court determines that a probation violator who was remanded to the pilot diversion program has satisfied the applicable terms and conditions established pursuant to ~~sections 3 and 5]~~ **section 3** of this act, the court shall release the probationer from supervision and order the probationer to complete any remaining or additional period of probation as determined by the court.

2. If the court determines that a probation violator who was remanded to the pilot diversion program is violating the rules of participation in the program, has not satisfied the terms or conditions of participation in the program or has not successfully completed the treatment for alcohol or drug abuse or a mental illness, the court may revoke probation.

Sec. 8. The Department of Corrections ~~[, the Department of Health and Human Services]~~ and the Division of Parole and Probation of the Department of Public Safety shall jointly submit a report at least twice annually to the

Director of the Legislative Counsel Bureau for transmittal to the Interim Finance Committee. The report must include:

1. The number of probationers participating in the pilot diversion program;
2. The reasons the probationers entered the program;
3. The number of probationers who satisfied the terms and conditions of their participation in the program; and
4. The status of the probationers who are in the program at the time the report is prepared.

Sec. 9. (Deleted by amendment.)

Sec. 10. ~~[1. There is hereby appropriated from the State General Fund to the Department of Health and Human Services for the evaluation of probation violators to determine whether they are alcoholics or drug addicts or in need of treatment for mental illness and to provide treatment to such probation violators who are remanded to the pilot diversion program as required pursuant to section 5 of this act:~~

~~For the Fiscal Year 2011-2012 \$250,000~~

~~For the Fiscal Year 2012-2013 \$250,000~~

~~2. The sums appropriated by subsection 1 are available for either fiscal year. Any remaining balance of those sums 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. 11. ~~[1. This section and sections 1 to 9, inclusive, of this act:~~

~~(a) Become] **This act becomes** effective upon passage and approval ~~for the purposes of adopting regulations, entering into contracts for the provision of services and taking any other preparatory actions to carry out the provisions of this act and on January 1, 2012, for all other purposes.~~~~

~~(b) Expire] **and expires** by limitation on July 1, 2015.~~

~~[2. Section 10 of this act becomes effective on July 1, 2011.]~~

Assemblyman Hickey moved the adoption of the amendment.

Amendment adopted.

Bill ordered to third reading.

Assembly Bill No. 354.

Bill read third time.

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

Amendment No. 901.

AN ACT relating to the State Personnel System; ~~providing for the final adjustment of certain grievances by an arbitrator, abolishing~~ **clarifying the selection process of the Chair of the Employee-Management Committee; making various changes related to the hearing process of the Committee; requiring the Personnel Commission to adopt certain regulations;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, the Employee-Management Committee performs several duties relating to the administration of the State Personnel System, including holding hearings and making final decisions for the adjustment of certain grievances. (NRS **284.068,** 284.073, 284.384) **The Committee consists of an equal number of persons who represent management within the Executive Department of State Government and persons who represent employees within the Executive Department of State Government. Section 1 of this bill** ~~provides for an arbitrator, rather than the Committee, to make final decisions for the adjustment of certain grievances. Section 2 of this bill abolishes the Committee.~~ **clarifies that the Chair of the Committee is chosen by a majority of all persons appointed to the Committee, including persons appointed as alternate members. Section 1.3 of this bill requires that an equal number of persons representing management within the Executive Department and persons representing employees of the Executive Department participate in hearings and the making of final decisions. Section 1.7 of this bill requires the Personnel Commission of the Department of Personnel to adopt regulations which provide procedures for the use of resolution conferences by the Committee.**

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

Section 1. NRS 284.071 is hereby amended to read as follows:

284.071 1. The Chair of the Employee-Management Committee must be chosen by a majority vote of ~~the members.~~ **all persons appointed to serve as members pursuant to NRS 284.068, including, without limitation, the persons appointed to serve as alternates.**

2. The Committee shall adopt such rules as it deems necessary for its own management.

3. The Committee shall meet at least once every 3 months and at such other times as the Chair may designate.

4. The Department shall provide secretarial services for the Committee.

Sec. 1.3. NRS 284.073 is hereby amended to read as follows:

284.073 1. The Employee-Management Committee shall:

~~1.1~~ (a) Serve in an advisory capacity to the Governor, the Commission and the Department with respect to all matters of personnel administration and relations between management and employees.

~~1.2~~ (b) Receive, consider and make recommendations on matters relating to personnel administration, policy and procedures.

~~1.3~~ (c) Provide a forum for the hearing of employees' suggestions, complaints or disciplinary problems.

~~1.4~~ (d) Provide a means of communication for disseminating information to employees regarding the personnel program.

~~1.5. Hold~~ (e) *Except as otherwise provided in subsection 2, hold* hearings, when requested, and make final decisions for the adjustment of grievances as provided by the regulations of the Commission.

2. *The Committee shall not hold any hearing or make a final decision for the adjustment of a grievance unless an equal number of members appointed pursuant to paragraphs (a) and (b) of subsection 2 of NRS 284.068 attend the hearing and take part in making the final decision.*

~~Section 1.1~~ **Sec. 1.7.** NRS 284.384 is hereby amended to read as follows:

284.384 1. The Commission shall adopt regulations which provide for the adjustment of grievances for which a hearing is not provided by **federal law or** NRS 284.165, 284.245, 284.3629, 284.376 or 284.390. Any grievance for which a hearing is not provided by NRS 284.165, 284.245, 284.3629, 284.376 or 284.390 is subject to adjustment pursuant to this section.

2. The regulations must provide procedures for:

(a) Consideration and adjustment of the grievance within the agency in which it arose.

(b) Submission to the Employee-Management Committee ~~an arbitrator~~ for a final decision if the employee is still dissatisfied with the resolution of the dispute.

(c) *If requested by an employee or agency, the use of a resolution conference to resolve a grievance.*

3. The regulations must include provisions for:

(a) ~~Selection of an arbitrator for the purposes of this section by the parties to the grievance;~~

~~(b) Except as otherwise provided in this section, payment to an arbitrator for the purposes of this section;~~

~~(c)~~ Submitting each proposed resolution of a dispute which has a fiscal effect to the Budget Division of the Department of Administration for a determination by that Division whether the resolution is feasible on the basis of its fiscal effects; and

(b) ~~[(d)]~~ Making the resolution binding.

4. Any grievance which is subject to adjustment pursuant to this section may be appealed to the Employee-Management Committee ~~an arbitrator~~ for a final decision. Except as otherwise provided in subsection 3, a final decision of the ~~[Employee-Management] Committee~~ ~~arbitrator~~ is binding. The Committee ~~arbitrator~~ or an employee may petition a court of competent jurisdiction for enforcement of the Committee's ~~arbitrator's~~ binding decisions.

5. The employee may represent himself or herself at any hearing regarding a grievance which is subject to adjustment pursuant to this section or be represented by an attorney or other person of the employee's own choosing.

6. ~~If an arbitrator issues a final decision pursuant to this section and the regulations adopted pursuant thereto, the parties to the grievance shall each pay one half of the costs incurred by the arbitrator.~~

7. ~~Except as otherwise provided in this section and the regulations adopted pursuant thereto, the provisions of NRS 38.206 to 38.248, inclusive, apply to an arbitration governed by this section and the regulations adopted pursuant thereto.~~

~~§~~ As used in this section, "grievance" means an act, omission or occurrence which an employee who has attained permanent status feels constitutes an injustice relating to any condition arising out of the relationship between an employer and an employee, including, but not limited to, compensation, working hours, working conditions, membership in an organization of employees or the interpretation of any law, regulation or disagreement.

Sec. 2. ~~[NRS 284.068, 284.071, 284.073, 284.074 and 284.0745 are hereby repealed.] (Deleted by amendment.)~~

Sec. 3. The Personnel Commission ~~is~~ of the Department of Personnel shall, before ~~[October 1, 2011.]~~ **January 1, 2012**, adopt the regulations required by NRS 284.384, as amended by section ~~1.7~~ **1.7** of this act.

Sec. 4. **1. This section and section 3 of this act become effective upon passage and approval.**

2. Sections 1 and 1.3 of this act become effective on October 1, 2011.

3. Section 1.7 of this act becomes effective on January 1, 2012.

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LEADLINES OF REPEALED SECTIONS

~~284.068—Employee Management Committee: Creation; appointment and terms of members.~~

~~284.071—Employee Management Committee: Chair; rules; meetings; secretarial services.~~

~~284.073 Employee Management Committee: Duties.~~

~~284.074 Employee Management Committee: Issuance and enforcement of subpoenas.~~

~~284.0745 Employee Management Committee: Subpoenas extend to all parts of state; service of subpoenas; fees, mileage and expenses of witnesses.]~~

Assemblyman Hickey moved the adoption of the amendment.

Amendment adopted.

Bill ordered to third reading.

Assembly Bill No. 526.

Bill read third time.

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

Amendment No. 898.

SUMMARY—~~[Repeals]~~ **Revises** the requirement for the State Fire Marshal to inspect state buildings. (BDR 42-1204)

AN ACT relating to the State Fire Marshal; ~~[repealing]~~ **revising** the requirement that the State Fire Marshal ~~[annually]~~ inspect all state buildings; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, the State Fire Marshal is required to annually inspect all state buildings and to issue certain orders to provide for the protection of the property against fire. If an agency fails to comply with an order of the State Fire Marshal, the State Fire Marshal is required to report the failure to the State Public Works Board, which must take any necessary steps to correct the situation. (NRS 477.035) The State Public Works Board is required to inspect all state buildings and physical plant facilities periodically. (NRS 341.201)

This bill ~~[repeals]~~ **revises** the provisions that require the State Fire Marshal to annually inspect all state buildings ~~[and to issue certain orders to provide for the protection of the property against fire.]~~ **to instead require the State Fire Marshal to maintain a prioritized schedule for the inspection of state buildings and to adopt regulations that establish the criteria for the prioritization of inspections.**

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

Section 1. ~~[NRS 477.035 is hereby repealed.]~~ **(Deleted by amendment.)**

Sec. 1.5. NRS 477.035 is hereby amended to read as follows:

477.035 1. The State Fire Marshal shall:

(a) ~~Inspect~~ Maintain a prioritized schedule to inspect or cause to be inspected ~~annually,~~ all state buildings ~~and order such fire extinguishing and safety appliances as the State Fire Marshal deems necessary for the protection of the property against fire.]~~ to determine the extent of compliance with the provisions of all laws or regulations adopted by the State to protect employees, the general public and property against fire.

(b) Order ~~the removal of combustibles and rubbish from the property, or order such changes in the entrances or exits of the buildings as will promote the safety of the occupants, or order the provision of such fire escapes as~~ any changes that the State Fire Marshal may deem necessary ~~to comply with any laws or regulations adopted by the State to protect employees, the general public and property against fire.~~

(c) Provide inspection forms and maintain records of inspections of state-owned or state-occupied buildings.

2. If the agency in charge of any state property fails to comply with the order of the State Fire Marshal for any structural change within 30 days after the receipt of such order, the State Fire Marshal shall report such failure to the State Public Works Board. The State Public Works Board shall thereupon take necessary steps to correct the situation as ordered.

3. The State Fire Marshal may contract with local authorities for the inspection of state-owned or state-occupied buildings.

4. The State Fire Marshal shall adopt regulations establishing the criteria for the prioritization of inspections of state buildings pursuant to this section.

Sec. 2. This act becomes effective on July 1, 2011.

†

~~TEXT OF REPEALED SECTION~~

~~477.035 Inspection of state buildings; duties of State Public Works Board.~~

~~1. The State Fire Marshal shall:~~

~~(a) Inspect or cause to be inspected annually, all state buildings and order such fire extinguishing and safety appliances as the State Fire Marshal deems necessary for the protection of the property against fire.~~

~~(b) Order the removal of combustibles and rubbish from the property, or order such changes in the entrances or exits of the buildings as will promote the safety of the occupants, or order the provision of such fire escapes as the State Fire Marshal may deem necessary.~~

~~(c) Provide inspection forms and maintain records of inspections of state-owned or state-occupied buildings.~~

~~2. If the agency in charge of any state property fails to comply with the order of the State Fire Marshal for any structural change within 30 days after the receipt of such order, the State Fire Marshal shall report such failure to~~

~~the State Public Works Board. The State Public Works Board shall thereupon take necessary steps to correct the situation as ordered.~~

~~3. The State Fire Marshal may contract with local authorities for the inspection of state owned or state occupied buildings.]~~

Assemblyman Hickey moved the adoption of the amendment.

Amendment adopted.

Bill ordered to third reading.

Mr. Speaker announced if there were no objections, the Assembly would recess subject to the call of the Chair.

Assembly in recess at 7:02 p.m.

ASSEMBLY IN SESSION

At 7:04 p.m.

Mr. Speaker presiding.

Quorum present.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Atkinson moved that Senate Bill No. 207 be taken from the Chief Clerk's desk and placed on the General File.

Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 571.

Bill read third time.

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

Amendment No. 924.

AN ACT relating to smoking; ~~providing that smoking tobacco is not prohibited in age restricted stand alone bars, taverns and saloons;~~ revising the definition of "stand-alone bar, tavern or saloon" as used in provisions regulating smoking tobacco; **revising provisions governing the areas in which smoking is not prohibited;** revising, removing and reenacting certain provisions of the Nevada Clean Indoor Air Act; **providing civil and criminal penalties;** making an appropriation; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

The Nevada Clean Indoor Air Act, which is currently codified as NRS 202.2483, was proposed by an initiative petition and approved by the voters at the 2006 General Election. The Act generally prohibits smoking tobacco within indoor places of employment, within school buildings and on school property but allows smoking tobacco in certain areas or establishments,

including: (1) stand-alone bars, taverns and saloons; and (2) in certain circumstances, the area of a convention facility in which a meeting or trade show is being held. (NRS 202.2483)

Section 1 of this bill ~~also~~ **revises provisions governing the areas in which smoking is allowed. Section 1** extends the provisions allowing smoking tobacco to: **(1) age-restricted stand-alone bars, taverns and saloons;** and **(2) completely enclosed areas within other stand-alone bars, taverns and saloons in which patrons under 21 years of age are prohibited from entering. Section 1 also** revises the definition of “stand-alone bar, tavern or saloon” to provide that food service or sales in the bar, tavern or saloon may or may not be incidental services or sales, as determined by the operator. **Under section 1, if a supervisor on duty or employee of an age-restricted stand-alone bar, tavern or saloon or a stand-alone bar, tavern or saloon permits a person under 21 years of age to loiter in an area in which smoking is prohibited: (1) the supervisor or employee is guilty of a misdemeanor; and (2) the age-restricted stand-alone bar, tavern or saloon or stand-alone bar, tavern or saloon is liable for a civil penalty. Section 1** also removes the provisions which allow smoking in certain circumstances in the area of a convention facility in which a meeting or trade show is being held.

Section 2 of this bill reenacts the provisions which allow smoking in certain circumstances in the area of a convention facility in which a meeting or trade show is being held.

Section 3 of this bill makes an appropriation of \$15,000 from the State General Fund to the Interim Finance Committee to contract, through competitive bidding, with a qualified independent consultant to conduct a study regarding the implementation of the Nevada Clean Indoor Air Act.

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

Section 1. 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~~ Completely enclosed areas within stand-alone bars, taverns and saloons in which patrons under 21 years of age are prohibited from entering; ~~and age-restricted~~

(c) Age-restricted stand-alone bars, taverns and saloons;

~~(e)~~ (d) Strip clubs or brothels;

~~(d)~~ (e) Retail tobacco stores; **and**

~~(e)~~ (f) 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. A supervisor on duty or employee of an age-restricted stand-alone bar, tavern or saloon or a stand-alone bar, tavern or saloon shall not allow a person who is under 21 years of age to loiter in an age-restricted stand-alone bar, tavern or saloon or an area of a stand-alone bar, tavern or saloon where smoking is allowed pursuant to this section. A person who violates the provisions of this subsection is guilty of a misdemeanor.

5. If a supervisor on duty or employee of an age-restricted stand-alone bar, tavern or saloon or a stand-alone bar, tavern or saloon violates the provisions of subsection 4, the age-restricted stand-alone bar, tavern or saloon or stand-alone bar, tavern or saloon is liable for a civil penalty of:

(a) For the first offense, \$1,000.

(b) For a second or subsequent offense, \$2,000.

6. In any prosecution or other proceeding for a violation of the provisions of subsection 4 or 5, it is no excuse for a supervisor, employee, age-restricted bar, tavern or saloon, or stand-alone bar, tavern or saloon alleged to have committed the violation to plead that a supervisor or employee believed that the person who was permitted to loiter was 21 years of age or older.

7. 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.

~~§ 8.~~ **8.** 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.

~~§ 9.~~ **9.** “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.

~~§ 10.~~ **10.** 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.

~~§ 11.~~ **11.** 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.

~~§ 12.~~ **12.** For the purposes of this section, the following terms have the following definitions:

(a) *“Age-restricted stand-alone bar, tavern or saloon” means an establishment:*

(1) Devoted primarily to the sale of alcoholic beverages to be consumed on the premises;

(2) In which food service or sales may or may not be incidental food service or sales, in the discretion of the operator of the establishment;
~~and~~

(3) In which patrons under 21 years of age are prohibited at all times from entering the premises ~~and~~; and

(4) That must be located within:

(I) A physically independent building that does not share a common entryway or indoor area with a restaurant, public place or any other indoor workplace where smoking is prohibited by this section; or

(II) A completely enclosed area of a larger structure, which may include, without limitation, a strip mall or an airport, provided that indoor windows must remain closed at all times and doors must remain closed when not actively in use.

(b) “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)]~~ (c) “Child care facility” has the meaning ascribed to it in NRS 432A.024.

~~[(e)]~~ (d) “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)]~~ (e) “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)]~~ (f) “Health authority” has the meaning ascribed to it in NRS 202.2485.

~~[(f)]~~ (g) “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)]~~ (h) “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)]~~ (i) “Public places” means any enclosed areas to which the public is invited or in which the public is permitted.

~~[(i)]~~ (j) “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)]~~ (k) “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)]~~ (l) “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)]~~ (m) “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)]~~ (n) “Stand-alone bar, tavern or saloon” means an establishment ~~[devoted]~~:

(1) *Devoted* primarily to the sale of alcoholic beverages to be consumed on the premises ~~[-in];~~

(2) *In* which food service ~~[-is]~~ *or sales may or may not be* incidental ~~[-to its operation, and provided that]~~ *food service or sales, in the discretion of the operator of the establishment;*

(3) *In which* 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];~~ *and*

(4) *That* must be housed in either:

~~[(1)]~~ (I) 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)]~~ (II) 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.

~~[(a)]~~ (o) "Video arcade" has the meaning ascribed to it in paragraph (d) of subsection 3 of NRS 453.3345.

~~[(10)]~~ **13.** Any statute or regulation inconsistent with this section is null and void.

~~[(11)]~~ **14.** 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. 2. 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) Completely enclosed areas within stand-alone bars, taverns and saloons in which patrons under 21 years of age are prohibited from entering;

- (c) Age-restricted stand-alone bars, taverns and saloons;
- (d) Strip clubs or brothels;
- (e) Retail tobacco stores; ~~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; and*
- (g) 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.

4. A supervisor on duty or employee of an age-restricted stand-alone bar, tavern or saloon or a stand-alone bar, tavern or saloon shall not allow a person who is under 21 years of age to loiter in an age-restricted stand-alone bar, tavern or saloon or an area of a stand-alone bar, tavern or saloon where smoking is allowed pursuant to this section. A person who violates a provision of this section is guilty of a misdemeanor.

5. If a supervisor on duty or employee of an age-restricted stand-alone bar, tavern or saloon or a stand-alone bar, tavern or saloon violates the provisions of subsection 4, the age-restricted stand-alone bar, tavern or saloon or stand-alone bar, tavern or saloon is liable for a civil penalty of:

- (a) For the first offense, \$1,000.
- (b) For a second or subsequent offense, \$2,000.

6. In any prosecution or other proceeding for a violation of the provisions of subsection 4 or 5, it is no excuse for a supervisor, employee, age-restricted bar, tavern or saloon, or stand-alone bar, tavern or saloon alleged to have committed the violation to plead that a supervisor or employee believed that the person who was permitted to loiter was 21 years of age or older.

7. 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.

8. 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.

9. "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.

10. 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.

11. 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.

12. For the purposes of this section, the following terms have the following definitions:

(a) "Age-restricted stand-alone bar, tavern or saloon" means an establishment:

(1) Devoted primarily to the sale of alcoholic beverages to be consumed on the premises;

(2) In which food service or sales may or may not be incidental food service or sales, in the discretion of the operator of the establishment;

(3) In which patrons under 21 years of age are prohibited at all times from entering the premises; and

(4) That must be located within:

(I) A physically independent building that does not share a common entryway or indoor area with a restaurant, public place or any other indoor workplace where smoking is prohibited by this section; or

(II) A completely enclosed area of a larger structure, which may include, without limitation, a strip mall or an airport, provided that indoor windows must remain closed at all times and doors must remain closed when not actively in use.

(b) "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.

(c) "Child care facility" has the meaning ascribed to it in NRS 432A.024.

(d) "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.

(e) "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.

(f) “Health authority” has the meaning ascribed to it in NRS 202.2485.

(g) “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.

(h) “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.

(i) “Public places” means any enclosed areas to which the public is invited or in which the public is permitted.

(j) “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.

(k) “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.

(l) “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.

(m) “School property” means the grounds of any public school described in NRS 388.020 and any private school as defined in NRS 394.103.

(n) “Stand-alone bar, tavern or saloon” means an establishment:

(1) Devoted primarily to the sale of alcoholic beverages to be consumed on the premises;

(2) In which food service or sales may or may not be incidental food service or sales, in the discretion of the operator of the establishment;

(3) In which smoke from such establishments does not infiltrate into areas where smoking is prohibited under the provisions of this section; and

(4) That must be housed in either:

(I) 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

(II) 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.

(o) “Video arcade” has the meaning ascribed to it in paragraph (d) of subsection 3 of NRS 453.3345.

13. Any statute or regulation inconsistent with this section is null and void.

14. 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. 3. 1. There is hereby appropriated from the State General Fund to the Interim Finance Committee the sum of \$15,000 to contract, through competitive bidding, with a qualified independent consultant to conduct a study regarding the implementation of the Nevada Clean Indoor Air Act, NRS 202.2483.

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.

Sec. 4. 1. This section and sections 1 and 3 of this act become effective upon passage and approval.

2. Section 2 of this act becomes effective one minute after passage and approval of this act.

Assemblyman Hickey moved the adoption of the amendment.

Amendment adopted.

Bill ordered to third reading.

Assembly Bill No. 579.

Bill read third time.

Remarks by Assemblymen Smith and Bobzien.

Assemblyman Conklin moved that the following remarks be entered in the Journal.

Motion carried.

ASSEMBLYWOMAN SMITH:

Thank you, Mr. Speaker. Assembly Bill 579 is the bill that funds the K-12 education system for this biennium. It appropriates \$1.088 billion in the first year and \$1.111 billion in the second year of the biennium from the State General Fund to the Distributive School Account, known as the DSA. In addition, there are \$252.6 million and \$260 million of other revenues authorized to be received and expended for the state support of public education for the next two years. These other revenues include an annual tax on slot machines, sales tax collected on out-of-state sales,

interest earned on the Permanent School Fund, revenue from mineral leases on federal land, and room tax revenues from the legislatively approved 2009 Initiative Petition, or IP 1.

The statewide average basic support per pupil increases over the upcoming biennium from the revised amount of \$5,192 in the current year to \$5,263 in the first year of the biennium and \$5,374 in the second year. Enrollment is projected to decline by .14 percent in the first year and grow by .36 percent in the second year of the biennium.

State funding for special education continues to be allocated on the basis of special education units. Total funding for the units amounts to \$121.3 million for 3,049 units of \$39,768 each year of the biennium. As in the past, 40 of those units will be reserved for the State Board of Education to assign to districts that have unexpected needs and to charter schools.

To fund adult high school diploma programs, including those in prison facilities, this bill appropriates \$17 million and \$17.8, respectively, in this biennium. The bill includes funding for the Early Childhood Education programs of \$3.3 million for each year of the biennium. For continued support of the Class-Size Reduction Program, this bill appropriates \$140.8 million and \$144.2 million for the biennium. This includes the salaries and benefits of at least 2,127 teachers hired to reduce pupil-teacher ratios in the first year and 2,144 teachers in the second year of the biennium. The bill continues the Class-Size Reduction program in the DSA and maintains the separate expenditure category to highlight the program. Funds will be allocated based upon the number of teachers needed in each school district to reach the pupil-teacher ratios of 16 to 1 in first grade and second grade and 19 to 1 in third grade—the same ratios as in the current biennium.

To assist school districts in addressing budget shortfalls in this biennium, the bill grants flexibility for school districts to elect to increase class size by up to two students for Grades 1 through 3. Savings achieved must be used to minimize the impact of budget reductions on class size in grades 4 through 12. Members who were here previously will remember that we granted this flexibility in the last special session, and this continues that flexibility.

The bill also appropriates \$8 million and \$7.6 million for the Other State Education Programs Account, such as Peer Mediation, Career and Technical education, Library Books, Public Broadcasting, and the National Board Certification program for teachers.

It continues the Account for Programs for Innovation and the Prevention of Remediation in the amount of \$24.2 million and \$24.6 million to continue the Full-Day Kindergarten program for at-risk schools in this state. The bill also appropriates \$7.6 million each year of the biennium for the Regional Professional Development programs to train teachers and administrators.

The bill continues the Grant Fund for Incentives for Licensed Educational Personnel with appropriations of \$13.4 million to fund the cost of retirement credits and teacher incentives earned in Fiscal Year 2011 and \$15.9 million for Fiscal Year 2013.

Additionally, the legislation provides for funding in the amount of \$20 million from the school districts' funds for capital projects be used as local funds available for operating purposes. The bill also temporarily transfers estimated funding of \$111.3 million and \$115.1 million in Fiscal Years 2012 and 2013, respectively, from the State Supplemental School Support Fund to the DSA for this biennium.

I support this K-12 funding bill. We have heard a lot of discussion; we have had more discussion on the K-12 budget in this legislative session than I can remember in my five sessions here. We started out with some proposed cuts that would have been very traumatic for our school system. Over the course of this four months and our budget resolution, I think the school districts can sustain these cuts and minimize the impacts to the classroom. I have had discussions with the districts and believe that the layoffs will be minimal and hopefully won't affect the classroom. This will allow us to support our ongoing efforts for reform and increasing student achievement in this state. I hope my colleagues will support this legislation.

ASSEMBLYMAN BOBZIEN:

Thank you, Mr. Speaker. I rise in support of A.B. 579. As chair of your policy committee on this, I think the story we heard all session long was one of both reform and resources. While

some clamored and said we have to have reforms before we can provide resources, I think what we are doing this evening—coming together and supporting this bill—is acknowledging that reforms and changes to our schools have to come with resources.

I am hopeful that in the years to come, we will be able to look back at this session, and look back at the disasters that were averted with this budget and the reforms that we came together and moved forward. We will be able to see that this was the start of the journey and that in the years to come, we can continue to make improvements to our schools. We can continue to support our students and continue to build our future.

Roll call on Assembly Bill No. 579:

YEAS—34.

NAYS—Ellison, Hambrick, Hardy, McArthur—4.

EXCUSED—Goedhart, Grady, Kirner, Pierce—4.

Assembly Bill No. 579 having received a constitutional majority, Mr. Speaker declared it passed.

Bill ordered transmitted to the Senate.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Conklin moved that Assembly Bill No. 580 be taken from the General File and placed on the Chief Clerk's desk.

Remarks by Assemblyman Conklin.

Motion carried.

GENERAL FILE AND THIRD READING

Senate Bill No. 440.

Bill read third time.

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

Amendment No. 896.

AN ACT relating to health insurance; creating the Silver State Health Insurance Exchange; setting forth the purposes of the Exchange; providing for the composition, appointment and terms of members and powers and duties of the Board of Directors of the Exchange; providing for the appointment and powers and duties of the Executive Director of the Exchange; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

This bill creates the Silver State Health Insurance Exchange to provide services relating to the purchase and sale of health insurance by residents and certain employers in this State. The Exchange is governed by the Board of Directors consisting of five voting members appointed by the Governor, one voting member appointed by the Senate Majority Leader and one voting member appointed by the Speaker of the Assembly. The Board also consists of the directors, or designees thereof, of the Department of Health and Human Services, the Department of Business and Industry and the Department of Administration as ex officio nonvoting members to assist the

voting members by providing advise and expertise. Voting members of the Board serve terms of 3 years each. The Board appoints an Executive Director of the Exchange, who in turn may employ such persons as are necessary and as funding allows. Among other duties, the Exchange is required to create and administer a state-based health insurance exchange, facilitate the purchase and sale of qualified health plans, provide for the establishment of a program to help certain small employers in Nevada in facilitating the enrollment of employees in qualified health plans, and perform all other duties that are required of it pursuant to the federal Patient Protection and Affordable Care Act, the federal Health Care and Education Reconciliation Act of 2010 and any amendments to or regulations or guidance issued pursuant to those acts. (Pub. L. No. 111-148, Pub. L. No. 111-152)

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

Section 1. Title 57 of NRS is hereby amended by adding thereto a new chapter to consist of the provisions set forth as sections 2 to 27, inclusive, of this act.

Sec. 2. *As used in this chapter, unless the context otherwise requires, the words and terms defined in sections 3 to 12, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 3. *“Board” means the Board of Directors of the Exchange.*

Sec. 4. *“Exchange” means the Silver State Health Insurance Exchange.*

Sec. 5. *“Executive Director” means the Executive Director of the Exchange.*

Sec. 6. *“Federal Act” means the federal Patient Protection and Affordable Care Act, Public Law 111-148, as amended by the federal Health Care and Education Reconciliation Act of 2010, Public Law 111-152, and any amendments to, or regulations or guidance issued pursuant to, those acts.*

Sec. 7. *“Medical facility” has the meaning ascribed to it in NRS 449.0151.*

Sec. 8. *“Provider of health care” has the meaning ascribed to it in NRS 629.031.*

Sec. 9. *Except as otherwise provided in section 22 of this act, “qualified health plan” has the meaning ascribed to it in § 1301 of the Federal Act.*

Sec. 10. *“Qualified individual” means a person, including, without limitation, a minor, who:*

1. Is seeking to enroll in a qualified health plan offered to persons through the Exchange;

2. *Resides in Nevada;*

3. *At the time of enrollment is not incarcerated, unless the person is incarcerated pending the disposition of charges; and*

4. *Is, and is reasonably expected to be, for the entire period for which enrollment is sought, a citizen of the United States or an alien lawfully present in the United States.*

Sec. 11. *“Qualified small employer” means a small employer that chooses to make all of its full-time employees eligible for one or more qualified health plans offered through the Exchange to assist qualified small employers in Nevada in facilitating the enrollment of their employees in qualified health plans offered in the small group market, if the employer:*

1. *Has its principal place of business in Nevada and chooses to provide coverage through the Exchange to all of its eligible employees, regardless of where those employees are employed; or*

2. *Regardless of the location of its principal place of business, chooses to provide coverage through the Exchange to all of its eligible employees who are principally employed in Nevada.*

Sec. 12. *“Small employer” has the meaning ascribed to it in NRS 689C.095.*

Sec. 13. *The Silver State Health Insurance Exchange is hereby established to:*

1. *Facilitate the purchase and sale of qualified health plans in the individual market in Nevada;*

2. *Assist qualified small employers in Nevada in facilitating the enrollment and purchase of coverage and the application for subsidies for small business enrollees;*

3. *Reduce the number of uninsured persons in Nevada;*

4. *Provide a transparent marketplace for health insurance and consumer education on matters relating to health insurance; and*

5. *Assist residents of Nevada with access to programs, premium assistance tax credits and cost-sharing reductions.*

Sec. 14. 1. *The Exchange shall:*

(a) *Create and administer a state-based health insurance exchange;*

(b) *Facilitate the purchase and sale of qualified health plans;*

(c) *Provide for the establishment of a program to assist qualified small employers in Nevada in facilitating the enrollment of their employees in qualified health plans offered in the small group market;*

(d) *Make only qualified health plans available to qualified individuals and qualified small employers on or after January 1, 2014; and*

(e) Unless the Federal Act is repealed or is held to be unconstitutional or otherwise invalid or unlawful, perform all duties that are required of the Exchange to implement the requirements of the Federal Act.

2. The Exchange may:

(a) Enter into contracts with any person, including, without limitation, a local government, a political subdivision of a local government and a governmental agency, to assist in carrying out the duties and powers of the Exchange or the Board; and

(b) Apply for and accept any gift, donation, bequest, grant or other source of money to carry out the duties and powers of the Exchange or the Board.

3. The Exchange is subject to the provisions of chapter 333 of NRS.

Sec. 15. 1. The governing authority of the Exchange is the Board, consisting of seven voting members and three ex officio nonvoting members.

2. Subject to the provisions of subsections 3, 4 and 5:

(a) The Governor shall appoint five voting members of the Board;

(b) The Senate Majority Leader shall appoint one voting member of the Board; and

(c) The Speaker of the Assembly shall appoint one voting member of the Board.

3. Each voting member of the Board must have:

(a) Expertise in the individual or small employer health insurance market;

(b) Expertise in health care administration, health care financing or health information technology;

(c) Expertise in the administration of health care delivery systems;

(d) Experience as a consumer who would benefit from services provided by the Exchange; or

(e) Experience as a consumer advocate, including, without limitation, experience in consumer outreach and education for those who would benefit from services provided by the Exchange.

4. When making an appointment pursuant to subsection 2, the Governor, the Majority Leader and the Speaker of the Assembly shall consider the collective expertise and experience of the voting members of the Board and shall attempt to make each appointment so that:

(a) The areas of expertise and experience described in subsection 3 are collectively represented by the voting members of the Board; and

(b) The voting members of the Board represent a range and diversity of skills, knowledge, experience and geographic and stakeholder perspectives.

5. A voting member of the Board may not be a Legislator or hold any elective office in State Government.

6. *While serving on the Board, a voting member may not be in any way affiliated with a health insurer, including, without limitation, being an employee of, consultant to or member of the board of directors of a health insurer, having an ownership interest in a health insurer or otherwise being a representative of a health insurer.*

7. *The following are ex officio nonvoting members of the Board who shall assist the voting members of the Board by providing advice and expertise:*

(a) *The Director of the Department of Health and Human Services, or his or her designee;*

(b) *The Director of the Department of Business and Industry, or his or her designee; and*

(c) *The Director of the Department of Administration, or his or her designee.*

Sec. 16. 1. *After the initial terms, the term of each voting member of the Board is 3 years.*

2. *A voting member of the Board may be reappointed to the Board.*

3. *The appointing authority who appoints a voting member of the Board may remove that voting member if the voting member neglects his or her duty or commits misfeasance, malfeasance or nonfeasance in office.*

4. *A vacancy on the Board in the position of a voting member must be filled in the same manner as the original appointment.*

5. *Upon the expiration of his or her term of office, a voting member of the Board may continue to serve until he or she is reappointed or a person is appointed as a successor.*

Sec. 17. 1. *The Board shall elect a Chair and a Vice Chair from among its members.*

2. *The terms of the Chair and Vice Chair are 1 year.*

3. *The Chair and Vice Chair may be reelected to one or more terms.*

4. *If a vacancy occurs, the members of the Board shall elect a replacement Chair or Vice Chair, as applicable, for the remainder of the unexpired term.*

Sec. 18. 1. *Except as otherwise provided in subsection 2, the voting members of the Board shall serve without compensation.*

2. *If sufficient money is available from federal grant funds or revenues generated by the Exchange, each member is entitled to receive the per diem allowance and travel expenses provided for state officers and employees generally while attending meetings of the Board or otherwise engaged in the business of the Board.*

Sec. 19. 1. *The Board shall meet:*

(a) *At least once each calendar quarter; and*

(b) At other times upon the call of the Chair or a majority of the voting members.

2. A majority of the voting members of the Board constitutes a quorum for the transaction of business.

3. A member of the Board may not vote by proxy.

Sec. 20. 1. *The Board may appoint subcommittees and advisory committees composed of members of the Board, former members of the Board and members of the general public who have experience with or knowledge of matters relating to health care to consider specific problems or other matters within the scope of the powers, duties and functions of the Board.*

2. To the extent practicable, the members of such a subcommittee or advisory committee must be representative of the various geographic areas and ethnic groups of this State.

3. A member of a subcommittee or an advisory committee will not be compensated or reimbursed for travel or other expenses relating to any duties as a member of the subcommittee or advisory committee.

Sec. 21. *The Board and any subcommittee or advisory committee appointed by the Board shall comply with the provisions of chapter 241 of NRS.*

Sec. 22. 1. *The Board shall:*

(a) Adopt bylaws setting forth its procedures and governing its operations;

(b) On or before June 30 and December 31 of each year, submit a written fiscal and operational report to the Governor and the Legislature, which must include, without limitation, any recommendations concerning the Exchange;

(c) On or before December 31 of each year, prepare a report for the public summarizing the activities of the Board and the contributions of the Exchange to the health of the residents of Nevada during the previous year;

(d) Provide for an annual audit of its functions and operations;

(e) Submit all reports required by federal law to the appropriate federal agency and in a timely manner; and

(f) If the Federal Act is repealed or is held unconstitutional or otherwise invalid or unlawful, define by regulation “qualified health plan” for the purposes of this act.

2. *The Board may:*

(a) Adopt regulations to carry out the duties and powers of the Exchange;

(b) Prepare special reports concerning the Exchange for the Governor, the Legislature and the public; and

(c) *Contract for the services of such legal, professional, technical and operational personnel and consultants as the execution of its duties and powers and the operation of the Exchange may require.*

3. *The Board is subject to Legislative and Executive Branch audits.*

Sec. 23. 1. *The Board shall appoint an Executive Director of the Exchange.*

2. *The Executive Director:*

(a) *Is in the ~~nonclassified~~ unclassified service of the State;*

(b) *Is responsible to the Board and serves at the pleasure of the Board;*

(c) *Must have experience in the administration of health care or health insurance; and*

(d) *Is responsible for the administrative matters of the Board.*

3. *Subject to the limits of available funding, the Executive Director may appoint and remove such employees of the Exchange as are necessary for the administration of the Exchange.*

4. *Employees of the Exchange appointed pursuant to subsection 3 are in the ~~nonclassified~~ unclassified service of the State.*

Sec. 24. 1. *The Board and the Department of Health and Human Services shall ensure that the Exchange coordinates with Medicaid, the Children's Health Insurance Program and any other applicable state or local public programs to create a single point of entry for users of the Exchange who are eligible for such programs and to promote continuity of coverage and care.*

2. *As used in this section, "Children's Health Insurance Program" has the meaning ascribed to it in NRS 422.021.*

Sec. 25. *The Department of Health and Human Services, the Division of Insurance of the Department of Business and Industry and any other relevant state agency shall work with and provide support to the Exchange as it carries out its duties and powers, including, without limitation, entering into agreements to share information and intergovernmental agreements with the Exchange.*

Sec. 26. 1. *If the Executive Director determines that the current expenses of the Exchange exceed the amount of money available because of a delay in the receipt of money from federal grants or a delay in the receipt of revenue from other sources, the Executive Director may request from the Department of Administration an advance from the State General Fund for the payment of authorized expenses.*

2. *If the Director of the Department of Administration approves a request made pursuant to subsection 1, he or she shall notify the State Controller and the Fiscal Analysis Division of the Legislative Counsel Bureau of the amount of advance approved.*

3. *Upon receiving notification pursuant to subsection 2, the State Controller shall draw his or her warrant for payment of the approved amount.*

4. *An advance made pursuant to this section must not exceed 25 percent of the revenue expected to be received from any source other than legislative appropriation during the fiscal year in which the request is made.*

5. *Any money which is advanced pursuant to this section must be repaid by the Exchange to the State General Fund not later than August 31 immediately after the end of the fiscal year during which the advance is made.*

Sec. 27. *Nothing in this act, and no action taken by the Exchange pursuant to this act, shall be construed to preempt or supersede the authority of the Commissioner to regulate the business of insurance within this State.*

Sec. 28. NRS 233B.039 is hereby amended to read as follows:

233B.039 1. The following agencies are entirely exempted from the requirements of this chapter:

- (a) The Governor.
- (b) Except as otherwise provided in NRS 209.221, the Department of Corrections.
- (c) The Nevada System of Higher Education.
- (d) The Office of the Military.
- (e) The State Gaming Control Board.
- (f) Except as otherwise provided in NRS 368A.140, the Nevada Gaming Commission.
- (g) The Division of Welfare and Supportive Services of the Department of Health and Human Services.
- (h) Except as otherwise provided in NRS 422.390, the Division of Health Care Financing and Policy of the Department of Health and Human Services.
- (i) The State Board of Examiners acting pursuant to chapter 217 of NRS.
- (j) Except as otherwise provided in NRS 533.365, the Office of the State Engineer.
- (k) The Division of Industrial Relations of the Department of Business and Industry acting to enforce the provisions of NRS 618.375.
- (l) The Administrator of the Division of Industrial Relations of the Department of Business and Industry in establishing and adjusting the schedule of fees and charges for accident benefits pursuant to subsection 2 of NRS 616C.260.
- (m) The Board to Review Claims in adopting resolutions to carry out its duties pursuant to NRS 590.830.
- (n) *The Silver State Health Insurance Exchange.*

2. Except as otherwise provided in subsection 5 and NRS 391.323, the Department of Education, the Board of the Public Employees' Benefits Program and the Commission on Professional Standards in Education are subject to the provisions of this chapter for the purpose of adopting regulations but not with respect to any contested case.

3. The special provisions of:

(a) Chapter 612 of NRS for the distribution of regulations by and the judicial review of decisions of the Employment Security Division of the Department of Employment, Training and Rehabilitation;

(b) Chapters 616A to 617, inclusive, of NRS for the determination of contested claims;

(c) Chapter 703 of NRS for the judicial review of decisions of the Public Utilities Commission of Nevada;

(d) Chapter 91 of NRS for the judicial review of decisions of the Administrator of the Securities Division of the Office of the Secretary of State; and

(e) NRS 90.800 for the use of summary orders in contested cases,

↪ prevail over the general provisions of this chapter.

4. The provisions of NRS 233B.122, 233B.124, 233B.125 and 233B.126 do not apply to the Department of Health and Human Services in the adjudication of contested cases involving the issuance of letters of approval for health facilities and agencies.

5. The provisions of this chapter do not apply to:

(a) Any order for immediate action, including, but not limited to, quarantine and the treatment or cleansing of infected or infested animals, objects or premises, made under the authority of the State Board of Agriculture, the State Board of Health, or any other agency of this State in the discharge of a responsibility for the preservation of human or animal health or for insect or pest control;

(b) An extraordinary regulation of the State Board of Pharmacy adopted pursuant to NRS 453.2184; or

(c) A regulation adopted by the State Board of Education pursuant to NRS 392.644 or 394.1694.

6. The State Board of Parole Commissioners is subject to the provisions of this chapter for the purpose of adopting regulations but not with respect to any contested case.

Sec. 29. On or before July 1, 2011:

1. The Governor shall appoint two voting members of the Board of Directors of the Silver State Health Insurance Exchange to terms commencing July 1, 2011, and expiring June 30, 2012.

2. The Governor and the Speaker of the Assembly shall each appoint one voting member of the Board of Directors of the Silver State Health Insurance Exchange to terms commencing July 1, 2011, and expiring June 30, 2013.

3. The Governor shall appoint two voting members of the Board of Directors of the Silver State Health Insurance Exchange, and the Senate Majority Leader shall appoint one voting member of the Board of Directors of the Silver State Health Insurance Exchange, to terms commencing July 1, 2011, and expiring June 30, 2014.

Sec. 30. On or before December 31, 2011, the Board of Directors of the Silver State Health Insurance Exchange shall adopt a plan for the implementation and operation of the Silver State Health Insurance Exchange and shall submit the plan to the Governor and the Legislature.

Sec. 31. Until an Executive Director of the Silver State Health Insurance Exchange is appointed pursuant to section 23 of this act, the Director of the Department of Health and Human Services is ex officio responsible for the administrative matters of the Board of Directors of the Silver State Health Insurance Exchange.

Sec. 32. This act becomes effective upon passage and approval for the purpose of appointing voting members of the Board of Directors of the Silver State Health Insurance Exchange and on July 1, 2011, for all other purposes.

Assemblyman Hickey moved the adoption of the amendment.

Amendment adopted.

Bill ordered to third reading.

Assembly Bill No. 331.

Bill read third time.

The following amendment was proposed by Assemblywoman Bustamante Adams:

Amendment No. 880.

AN ACT relating to employment; prohibiting a person from ~~procuring~~ **requesting or considering** a consumer report for purposes relating to employment except under certain circumstances; revising provisions relating to the release of a consumer report that is subject to a security freeze; providing civil remedies; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, a person who complies with the requirements of the Fair Credit Reporting Act, 15 U.S.C. §§ 1681 et seq., and chapter 598C of NRS is allowed to obtain a consumer report for purposes relating to the employment of the consumer. ~~Section~~ **Sections 1 and 2.5** of this bill ~~prohibits~~ **prohibit** a person from ~~procuring~~ **requesting or considering** a consumer report for purposes of evaluating a consumer for employment,

promotion, reassignment or retention as an employee unless: (1) the use of the report is required or authorized by state or federal law; (2) the person reasonably believes that the consumer has engaged in specific ~~illegal~~ activity which **may constitute a violation of state or federal law and** is likely to be reflected in the ~~consumer~~ report; or (3) the information in the report is ~~substantially~~ **reasonably** related to the ~~evaluation of the consumer's likely performance of the duties of the particular~~ position for which ~~he or she~~ **the consumer** is being evaluated. ~~Section 1 also provides that a person who is prohibited from procuring a consumer report for purposes related to employment is also prohibited from requesting a consumer to furnish his or her consumer report to the person or to authorize a reporting agency to furnish the report for those purposes.~~

Existing law provides that if a consumer places a security freeze on his or her file maintained by a credit reporting agency, the agency is not allowed to release the consumer report without the consumer's consent except for certain purposes, which include certain purposes relating to employment of the consumer. (NRS 598C.350, 598C.380) **Section 2** of this bill revises the scope of that exception to conform with **section 1** of this bill.

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

Section 1. Chapter 598C of NRS is hereby amended by adding thereto a new section to read as follows:

~~1.~~ *A person ~~shall not procure~~ **may request or consider a consumer report for the purpose of evaluating a consumer for employment, promotion, reassignment or retention as an employee** ~~unless~~*

~~(a)~~ *if:*

*1. **The person is required or authorized, pursuant to state or federal law, to use a consumer report for that purpose;***

~~2.~~ ***The person reasonably believes that the consumer has engaged in specific ~~illegal~~ activity which ~~is likely to be reflected in the consumer report;~~ may constitute a violation of state or federal law; or***

~~3.~~ ***The information contained in the consumer report is ~~substantially~~ reasonably related to the ~~evaluation of the consumer's likely performance of the duties of a particular~~ position ~~for which the consumer is being evaluated for employment, promotion, reassignment or retention as an employee.~~ The information in the consumer report shall be deemed to be ~~substantially~~ reasonably related to such an evaluation if the duties of the position involve:***

~~1.~~ ***(a) The care, custody and handling of or responsibility for money, financial accounts, corporate credit or debit cards, or other assets;***

~~†(2)†~~ (b) Access to trade secrets or other proprietary or confidential information;

~~† (3) Significant managerial responsibility; or
(4)†~~

(c) Managerial or supervisory responsibility;

(d) The direct exercise of law enforcement authority as an employee of a state or local law enforcement agency ~~††~~;

(e) The care, custody and handling of or responsibility for the personal information, as defined in NRS 603A.040, of another person;

(f) Access to the personal financial information of another person;

(g) Employment with a financial institution that is chartered under federal or state law; or

(h) Employment with a licensed gaming establishment, as defined in NRS 463.0169.

~~† 2. A person who is prohibited from procuring a consumer report pursuant to subsection 1 shall not request the consumer to furnish his or her consumer report to the person or to authorize a reporting agency to furnish the consumer report to the person.†~~

Sec. 2. NRS 598C.380 is hereby amended to read as follows:

598C.380 Notwithstanding that a security freeze has been placed in the file of a consumer, a reporting agency may release the consumer report of the consumer to:

1. A person with whom the consumer has an existing business relationship, or the subsidiary, affiliate or agent of that person, for any purpose relating to that business relationship.

2. A licensed collection agency to which an account of the consumer has been assigned for the purposes of collection.

3. A person with whom the consumer has an account or contract or to whom the consumer has issued a negotiable instrument, or the subsidiary, affiliate, agent, assignee or prospective assignee of that person, for purposes relating to that account, contract or negotiable instrument.

4. A person seeking to use information in the file of the consumer for the purposes of prescreening pursuant to the Fair Credit Reporting Act, 15 U.S.C. §§ 1681 et seq.

5. A subsidiary, affiliate, agent, assignee or prospective assignee of a person to whom access has been granted pursuant to NRS 598C.350 for the purposes of facilitating the extension of credit.

6. A person seeking to provide the consumer with a copy of the consumer report or the credit score of the consumer upon the request of the consumer.

7. A person administering a credit file monitoring subscription service to which the consumer has subscribed.

8. A person requesting the consumer report pursuant to a court order, warrant or subpoena.

9. A federal, state or local governmental entity, agency or instrumentality that is acting within the scope of its authority, including, without limitation, an agency which is seeking to collect child support payments pursuant to Part D of Title IV of the Social Security Act, 42 U.S.C. §§ 651 et seq.

10. A person holding a license issued by the Nevada Gaming Commission pursuant to title 41 of NRS, or the subsidiary, affiliate, agent, assignee or prospective assignee of that person, for purposes relating to any activities conducted pursuant to the license.

11. ~~{An}~~ *Except as otherwise provided in section 1 of this act, an employer, or the subsidiary, affiliate, agent, assignee or prospective assignee of that employer, for purposes of:*

(a) Preemployment screenings relating to the consumer; or

(b) Decisions or investigations relating to the consumer's current or former employment with the employer.

Sec. 2.5. Chapter 613 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Except as otherwise provided in section 1 of this act, a person shall not request or consider a consumer report for the purpose of evaluating any other person for employment, promotion, reassignment or retention as an employee.

2. As used in this section, "consumer report" has the meaning ascribed to it in NRS 598C.060.

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

Assemblywoman Bustamante Adams moved the adoption of the amendment.

Amendment adopted.

Bill ordered to third reading.

Senate Bill No. 207.

Bill read third time.

Roll call on Senate Bill No. 207:

YEAS—25.

NAYS—Ellison, Goicoechea, Hambrick, Hammond, Hansen, Hardy, Hickey, Kite, Livermore, McArthur, Sherwood, Stewart, Woodbury—13.

EXCUSED—Goedhart, Grady, Kirner, Pierce—4.

Senate Bill No. 207 having received a constitutional majority, Mr. Speaker declared it passed.

Bill ordered transmitted to the Senate.

Assembly Bill No. 494.

Bill read third time.

Remarks by Assemblywoman Smith.

Roll call on Assembly Bill No. 494:

YEAS—38.

NAYS—None.

EXCUSED—Goedhart, Grady, Kirner, Pierce—4.

Assembly Bill No. 494 having received a constitutional majority,

Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 93.

Bill read third time.

Roll call on Assembly Bill No. 93:

YEAS—30.

NAYS—Ellison, Hammond, Hansen, Hardy, Livermore, McArthur, Sherwood, Woodbury—8.

EXCUSED—Goedhart, Grady, Kirner, Pierce—4.

Assembly Bill No. 93 having received a constitutional majority,

Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 354.

Bill read third time.

Roll call on Assembly Bill No. 354:

YEAS—25.

NAYS—Ellison, Goicoechea, Hambrick, Hammond, Hansen, Hardy, Hickey, Kite, Livermore,

McArthur, Sherwood, Stewart, Woodbury—13.

EXCUSED—Goedhart, Grady, Kirner, Pierce—4.

Assembly Bill No. 354 having received a constitutional majority,

Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 526.

Bill read third time.

Remarks by Assemblywoman Smith.

Roll call on Assembly Bill No. 526:

YEAS—38.

NAYS—None.

EXCUSED—Goedhart, Grady, Kirner, Pierce—4.

Assembly Bill No. 526 having received a constitutional majority,

Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Conklin moved that Assembly Bill No. 571 be taken from the General File and placed on the General File for the next legislative day.

Motion carried.

GENERAL FILE AND THIRD READING

Senate Bill No. 440.

Bill read third time.

Remarks by Assemblywoman Smith.

Roll call on Senate Bill No. 440:

YEAS—38.

NAYS—None.

EXCUSED—Goedhart, Grady, Kirner, Pierce—4.

Senate Bill No. 440 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 331.

Bill read third time.

Roll call on Assembly Bill No. 331:

YEAS—30.

NAYS—Ellison, Hammond, Hansen, Hardy, Hickey, McArthur, Sherwood, Stewart—8.

EXCUSED—Goedhart, Grady, Kirner, Pierce—4.

Assembly Bill No. 331 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

UNFINISHED BUSINESS

RECEDE FROM ASSEMBLY AMENDMENTS

Assemblyman Atkinson moved that the Assembly do not recede from its action on Senate Bill No. 294, 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 Atkinson, Carlton, and Ellison as a Conference Committee to meet with a like committee of the Senate for the further consideration of Senate Bill No. 294.

Mr. Speaker announced if there were no objections, the Assembly would recess subject to the call of the Chair.

Assembly in recess at 7:29 p.m.

ASSEMBLY IN SESSION

At 7:33 p.m.
Mr. Speaker presiding.
Quorum present.

UNFINISHED BUSINESS

SIGNING OF BILLS AND RESOLUTIONS

There being no objections, the Speaker and Chief Clerk signed Assembly Bills Nos. 301, 360, 410, 473, 504, 528, 549; Assembly Joint Resolution No. 5; Senate Bills Nos. 24, 40, 65, 92, 110, 251, 262, 400.

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 Jade Zahreddine.

On request of Assemblyman Hambrick, the privilege of the floor of the Assembly Chamber for this day was extended to Nancy Hambrick.

On request of Assemblyman Hickey, the privilege of the floor of the Assembly Chamber for this day was extended to Nancy Sorensen.

On request of Assemblyman Ohrenschall, the privilege of the floor of the Assembly Chamber for this day was extended to Riana Durrett and Robin Camacho.

Assemblyman Conklin moved that the Assembly adjourn until Sunday, June 5, 2011, at 12 noon.

Motion carried.

Assembly adjourned at 7:34 p.m.

Approved:

JOHN OCEGUERA
Speaker of the Assembly

Attest: SUSAN FURLONG
Chief Clerk of the Assembly