

THE ONE HUNDRED NINETEENTH DAY

CARSON CITY (Sunday), June 5, 2011

Assembly called to order at 1:09 p.m.

Mr. Speaker presiding.

Roll called.

All present.

Prayer by the Chaplain, Albert Tilstra.

Save this moment, O God, from being merely a gesture to custom or convenience, and make it a real experience for each one of us in this place as we call on You for guidance and help.

You have admonished us: "When we stand praying, forgive if You have resentment against any," then give us grace to lay aside all bitterness and resentment we may be nursing in our hearts, lest their acid eat into our peace and corrode our spirits. You have said: "It is more blessed to give than to receive." Give us the grace today to think not of what we can get but of what we give, that a new spirit may come into our work here with a new vision and a new purpose that You can be delighted in and bless.

These things we leave in Your hands, knowing that You will give us what is best.

AMEN.

Pledge of allegiance to the Flag.

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

Motion carried.

REPORTS OF COMMITTEES

Mr. Speaker:

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

- Budget and Planning (101-1340)
- Special Appropriations (101-1301)
- Administrative Services Division (716-1371)
- Insurance & Loss Prevention (715-1352)
- Division of Internal Audits (101-1342)
- Motor Pool (711-1354)
- Motor Pool Vehicle Purchase (711-1356)
- Hearings Division (101-1015)
- Victims of Crime (287-4895)

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

Cultural Affairs Administration (101-2892)
 Nevada Humanities (101-2894)
 Nevada State Library (101-2891)
 Micrographics and Imaging (101-1055)
 Archives and Records (101-1052)
 Literacy (101-2893)
 CLAN (101-2895)
 Division of Museums and History Administration (101-2941)
 Lost City Museum (101-1350)
 Nevada Historical Society (101-2870)
 Nevada State Museum, Carson City (101-2940)
 Nevada State Museum, Las Vegas (101-2943)
 State Railroad Museums (101-4216)
 Nevada Arts Council (101-2979)
 DCNR - State Historic Preservation Office (101-4205)
 DCNR - Comstock Historic District (101-5030)

Also, your Committee on Ways and Means has had under consideration the Public Utilities Commission budget, and begs leave to report back that the budget has been closed by the Committee.

Also, your Committee on Ways and Means has had under consideration the various budgets for the Commission on Tourism, and begs leave to report back that the following accounts have been closed by the Committee:

Tourism Development Fund (225-1522)
 Tourism Development (225-1523)
 Indian Affairs Commission (101-2600)
 Nevada Magazine (530-1530)

DEBBIE SMITH, *Chair*

Mr. Speaker

Your Committee on Education, to which was referred Senate Bill No. 276, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

DAVID P. BOBZIEN, *Chair*

Mr. Speaker:

Your Committee on Health and Human Services, to which were referred Senate Bills Nos. 129, 278, 338, 437, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

APRIL MASTROLUCA, *Chair*

Mr. Speaker:

Your Committee on Legislative Operations and Elections, to which were referred Assembly Bills Nos. 576, 577, 578, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

TICK SEGERBLOM, *Chair*

Mr. Speaker:

Your Committee on Ways and Means, to which was referred Assembly Bill No. 476, 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. 560, 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 were referred Senate Bills Nos. 374, 423, 447, 449, 471, 476, 480, 503, 504, 505, 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 Senate Bill No. 483, 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. 114, 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. 195, 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. 401, 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. 416, 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. 427, 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. 536, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass, as amended.

DEBBIE SMITH, *Chair*

GENERAL FILE AND THIRD READING

Assembly Bill No. 114.

Bill read third time.

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

Amendment No. 915.

AN ACT relating to water; revising the amount of the fee for issuing and recording a permit to change the point of diversion or place of use only of an existing water right for irrigational purposes; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law sets forth a schedule of fees that the State Engineer is required to collect for providing various services relating to the appropriation of water for beneficial uses in Nevada. In 2009, a fee of \$200 for issuing and recording a permit to change the point of diversion or place of use only of an existing water right for irrigational purposes was eliminated and the following fee became applicable to such a permit: (1) a fee of \$250 for issuing and recording a permit to change an existing water right for any

purpose other than for watering livestock or wildlife purposes or for certain uses concerning the generation of hydroelectric power; and (2) an additional fee of \$3 for each acre-foot of water or fraction thereof approved in the permit by the State Engineer. (Chapter 250, Statutes of Nevada 2009, p. 1014; NRS 533.435) This bill reinstates and increases to ~~(\$500)~~ **\$750** the flat fee that had been eliminated in 2009 for issuing and recording a permit to change the point of diversion or place of use only of an existing water right for irrigational purposes. Thus, under this bill, a person who is issued such a permit is required to pay a flat fee of ~~(\$500)~~ **\$750** rather than a fee of \$250 plus an additional fee of \$3 for each acre-foot of water or fraction thereof approved in the permit by the State Engineer.

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

Section 1. NRS 533.435 is hereby amended to read as follows:

533.435 1. The State Engineer shall collect the following fees:

For examining and filing an application for a permit to appropriate water\$300.00

This fee includes the cost of publication, which is \$50.

For reviewing a corrected application or map, or both, in connection with an application for a permit to appropriate water 100.00

For examining and acting upon plans and specifications for construction of a dam..... 1,000.00

For examining and filing an application for each permit to change the point of diversion, manner of use or place of use of an existing right.....200.00

This fee includes the cost of the publication of the application, which is \$50.

For issuing and recording each permit to appropriate water for any purpose, except for generating hydroelectric power which results in nonconsumptive use of the water or watering livestock or wildlife purposes 300.00

plus \$3 per acre-foot approved or fraction thereof.

~~For issuing and recording each permit to change an existing right whether temporary or permanent for any purpose, except~~ **Except** for generating hydroelectric power which results in nonconsumptive use of the water, for watering livestock or wildlife purposes which change the point of diversion or place of use only **or for irrigational purposes which change the point of diversion or place of use only, for issuing and recording each permit to change an existing right whether temporary or permanent for any purpose**..... 250.00

plus \$3 per acre-foot approved or fraction thereof.

For issuing and recording each permit to change the point of diversion or place of use only of an existing right whether temporary or permanent for irrigational purposes ~~(\$500.00)~~ **\$750.00**

For issuing and recording each permit to appropriate or change the point of diversion or place of use of an existing right only whether temporary or permanent for watering livestock or wildlife purposes 200.00
 plus \$50 for each second-foot of water approved or fraction thereof.

For issuing and recording each permit to appropriate or change an existing right whether temporary or permanent for water for generating hydroelectric power which results in nonconsumptive use of the water 400.00
 plus \$50 for each second-foot of water approved or fraction thereof.

For issuing a waiver in connection with an application to drill a well \$100.00

For filing a secondary application under a reservoir permit 250.00

For approving and recording a secondary permit under a reservoir permit 450.00

For reviewing each tentative subdivision map 150.00
 plus \$1 per lot.

For reviewing and approving each final subdivision map 100.00

For storage approved under a dam permit for privately owned nonagricultural dams which store more than 50 acre-feet 400.00
 plus \$1 per acre-foot storage capacity. This fee includes the cost of inspection and must be paid annually.

For filing proof of completion of work 50.00

For filing proof of beneficial use 50.00

For filing proof of resumption of a water right 300.00

For filing any protest 25.00

For filing any application for extension of time within which to file proofs, for each year for which the extension of time is sought 100.00

For reviewing a cancellation of a water right pursuant to a petition for review 300.00

For examining and filing a report of conveyance filed pursuant to paragraph (a) of subsection 1 of NRS 533.384 \$100.00
 plus \$20 per conveyance document

For filing any other instrument 10.00

For making a copy of any document recorded or filed in the Office of the State Engineer, for the first page 1.00

For each additional page20

For certifying to copies of documents, records or maps, for each certificate 5.00

For each blueprint copy of any drawing or map, per square foot.....5.00
 The minimum charge for a blueprint copy, per print3.00
 For colored mylar plots 10.00

2. When fees are not specified in subsection 1 for work required of the Office of the State Engineer, the State Engineer shall collect the actual cost of the work.

3. Except as otherwise provided in this subsection, all fees collected by the State Engineer under the provisions of this section must be deposited in the State Treasury for credit to the State General Fund. All fees received for blueprint copies of any drawing or map must be kept by the State Engineer and used only to pay the costs of printing, replacement and maintenance of printing equipment. Any publication fees received which are not used by the State Engineer for publication expenses must be returned to the persons who paid the fees. If, after exercising due diligence, the State Engineer is unable to make the refunds, the State Engineer shall deposit the fees in the State Treasury for credit to the State General Fund. The State Engineer may maintain, with the approval of the State Board of Examiners, a checking account in any bank or credit union qualified to handle state money to carry out the provisions of this subsection. The account must be secured by a depository bond satisfactory to the State Board of Examiners to the extent the account is not insured by the Federal Deposit Insurance Corporation, the National Credit Union Share Insurance Fund or a private insurer approved pursuant to NRS 678.755.

Sec. 2. 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. 195.

Bill read third time.

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

Amendment No. 916.

AN ACT relating to court records; revising requirements for saving images of court records before the records may be destroyed; ~~authorizing the State Library and Archives Administrator to receive the court records of the Supreme Court or of a district court into the State Archives under certain circumstances;~~ and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, the Clerk of the Supreme Court, a county clerk, a deputy clerk of a justice court or a clerk of a municipal court may destroy documents, records, instruments, books, papers, depositions and transcripts

of court actions and proceedings if the action or proceeding is not on appeal or review in any court. (NRS 239.110) The clerk is required to maintain a microphotographic film copy of every such record destroyed, and the copies are deemed to be the original documents.

Section 1 of this bill instead requires that, before a court record is destroyed by the Clerk of the Supreme Court, a deputy clerk of the Supreme Court, a county clerk, the clerk of a district court or a deputy clerk of a district court, the clerk must place an image of the record on microfilm or save the image in an electronic recordkeeping system. However, a deputy clerk of a justice court or a clerk of a municipal court may destroy a court record pursuant to a schedule for the retention and disposition of court records established by the Supreme Court without placing an image of the record on microfilm or saving the image in an electronic recordkeeping system. **Section 1** also: (1) requires the microfilm or saved image to be durable, accurate, complete and clear; (2) clarifies that a reproduction of a court record is considered to be the original, regardless of whether the actual original document exists; and (3) requires the clerk who microfilms or saves the court records to store the microfilm or the medium used to save the image in a manner and place so as to protect it reasonably from loss or damage and as prescribed by the Supreme Court. ~~Section 3 of this bill authorizes the State Library and Archives Administrator to receive into the State Archives any court record from the Supreme Court or a district court if: (1) the Administrator finds that the court record is of historical value; (2) the record is provided to the State Archives by an order of the Supreme Court; or (3) the Administrator and the Supreme Court or a district court, as applicable, enter into an agreement for the Administrator to receive into the State Archives any other record from the Supreme Court or district court. Section 4 of this bill authorizes the State Library and Archives Administrator to establish, maintain and operate a center for storing and retrieving records for the Supreme Court or a district court pending acceptance of the records by the Division of State Library and Archives of the Department of Cultural Affairs or disposition of the records by law.]~~

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

Section 1. NRS 239.110 is hereby amended to read as follows:

239.110 1. ~~{The}~~ *In addition to any other requirement of this section, the Clerk of the Supreme Court, a deputy clerk of the Supreme Court, a county clerk, the clerk of a district court, a deputy clerk of a district court, a deputy clerk of a justice court or a clerk of a municipal court may destroy all documents, records, instruments, books, papers, depositions and transcripts in any action or proceeding in the Supreme Court, district court, justice court*

~~or municipal court, respectively, or otherwise filed in the clerk's office pursuant to law, including transcripts of coroners' inquests and depositions, if the records of the clerk do not show that the action or proceeding is pending on appeal or review in any court, except that:~~

~~(a) If the written consent of the district attorney is first obtained, transcripts of preliminary hearings may be destroyed as provided in this section; and~~

~~(b) Minutes of the Supreme Court, district court, justice court or municipal court, affidavits supporting applications for marriage licenses, after those licenses have been issued, and certificates of fictitious names of businesses may be destroyed immediately subject to the provisions of subsections 2 and 3.~~

~~2. The clerk shall maintain for the use of the public a microphotographic film print or copy of each document, record, instrument, book, paper, deposition or transcript so destroyed, if the print or copy is placed and kept in a sealed container under certificate of the clerk and properly indexed. This print or copy shall be deemed to be the original.~~

~~3. The clerk shall promptly seal and store at least one original negative of each microphotographic film in such manner and place as may reasonably ensure its preservation indefinitely against loss, theft, defacement or destruction.~~

~~4.] a court record only in accordance with a schedule for the retention and disposition of court records which is approved by the Supreme Court.~~

~~2. The Clerk of the Supreme Court, a deputy clerk of the Supreme Court, a county clerk, the clerk of a district court or a deputy clerk of a district court who destroys a court record pursuant to this section may do so only if an image of the court record has been placed on microfilm or has been saved in an electronic recordkeeping system which permits the retrieval of the information contained in the court record and the reproduction of the court record.~~

~~3. Except as otherwise prohibited by law, a deputy clerk of a justice court or a clerk of a municipal court may destroy a court record pursuant to a schedule for the retention and disposition of court records established by the Supreme Court without placing an image of the court record on microfilm or saving an image of the court record in an electronic recordkeeping system.~~

~~4. A reproduction of an image of a court record that has been placed on microfilm or saved pursuant to this section shall be deemed to be the original court record, regardless of whether the original exists.~~

~~5. A microfilmed image of a court record or an image of a court record saved in an electronic recordkeeping system pursuant to this section must be durable, accurate, complete and clear.~~

6. *If, pursuant to this section, an image of a court record is placed on microfilm or is saved in an electronic recordkeeping system, the clerk who does so shall promptly store at least one copy of the microfilm or any tape, disc or other medium used for the storage of the saved image in a manner and place:*

- (a) *So as to protect it reasonably from loss or damage; and*
- (b) *As prescribed by the Supreme Court.*

7. The Supreme Court may provide by rule for the destruction, without prior microfilming, of such other documents of the several courts of this State as are held in the offices of the clerks but which:

- (a) No longer serve any legal, financial or administrative purpose; and
- (b) Do not have any historical value.

~~{5.}~~ 8. The Court Administrator may request the Division to advise and assist the Supreme Court in its establishment of the rules ~~{ }~~ *or of a schedule for the retention and disposition of court records.*

9. *As used in this section, “court record” means any document, device or item, regardless of physical form or characteristic, that:*

- (a) *Is created by, received by or comes under the jurisdiction of the Supreme Court or a district court, justice court or municipal court; and*
- (b) *Documents the organization, functions, policies, decisions, procedures, operations or any other activities of the Supreme Court, district court, justice court or municipal court.*

Sec. 2. ~~{NRS 378.005 is hereby amended to read as follows:
378.005 As used in this chapter:~~

~~1. “Court record” has the meaning ascribed to it in NRS 239.110.~~

~~2. “Department” means the Department of Cultural Affairs.~~

~~{2.} 3. “Director” means the Director of the Department.~~

~~{3.} 4. “Division” means the Division of State Library and Archives of the Department. (Deleted by amendment.)~~

Sec. 3. ~~{NRS 378.250 is hereby amended to read as follows:
378.250 1. The State Library and Archives Administrator may:~~

~~{1.} (a) Receive into the archives material from a state agency if the State Library and Archives Administrator finds that it is of historical value.~~

~~{2.} (b) With the approval of the Committee to Approve Schedules for the Retention and Disposition of Official State Records created pursuant to NRS 239.073, return to the state agency from which it was received, material in the archives which the State Library and Archives Administrator finds is not of historical value.~~

~~{3.} (c) Receive into the archives material which has been directed to be deposited in the archives by an order or resolution of the governing body of a local governmental entity, if the State Library and Archives Administrator finds that it is of historical value.~~

~~[4.] (d) Except as otherwise provided in subsection 2, receive into the archives any court record from the Supreme Court or a district court, if:~~

~~(1) The State Library and Archives Administrator finds that it is of historical value;~~

~~(2) The court record is provided to the archives by order of the Supreme Court; or~~

~~(3) The State Library and Archives Administrator enters into an agreement with the Supreme Court or a district court to receive any other records from the Supreme Court or district court.~~

~~(e) With the approval of the Committee to Approve Schedules for the Retention and Disposition of Official State Records, turn over to:~~

~~[(a)] (1) Any agency in the Department; or~~

~~[(b)] (2) The Nevada System of Higher Education;~~

~~material in the archives which the State Library and Archives Administrator finds to be surplus, not properly in the archives or appropriate to be kept elsewhere.~~

~~[5.] (f) Expend a gift of money the State Library and Archives Administrator is authorized to accept for the purpose specified by the donor or, if no purpose is specified, in a manner which will further the purposes of the Division.~~

~~**2.—The State Library and Archives Administrator shall not receive into the archives any court record that a court has ordered sealed.** (Deleted by amendment.)~~

~~Sec. 4. [NRS 378.255 is hereby amended to read as follows:~~

~~378.255 The State Library and Archives Administrator may:~~

~~1. Adopt regulations and establish standards, procedures and techniques for the effective management of records;~~

~~2. Make continuing surveys of current practices for the management of records and recommend improvements in those practices, including the use of space, equipment and supplies to create, maintain and store records;~~

~~3. Establish standards for the preparation of schedules providing for the retention of state records of continuing value and for the prompt and orderly disposition of state records which no longer possess sufficient administrative, fiscal, legal or research value to warrant their further retention.~~

~~4. Establish, maintain and operate a center for storing and retrieving records for state agencies *or court records for the Supreme Court or a district court of this State* pending the acceptance of the records by the Division or the disposition of the records in any other manner prescribed by law.~~

~~5. Establish a program for the control and management of forms, files, reports, directives and correspondence.~~

~~6. Establish a program of planning and preparation to assist state agencies and local governments in providing protection for records essential for the continuation or reestablishment of government in the event of a disaster.~~

~~7. Provide advice and technical assistance to state agencies, local governmental entities and, if requested, the Legislative and Judicial Branches of State Government concerning any aspect of managing records.~~

~~8. Through the Division, inspect the physical nature of governmental records in the custody of a state or local governmental agency which are not confidential or privileged.~~

~~9. With the approval of the Committee to Approve Schedules for the Retention and Disposition of Official State Records created pursuant to NRS 239.073, bring an action to obtain possession of the records of a state or local governmental agency which are:~~

~~(a) Of historical value and are not being properly cared for; or~~

~~(b) Privately held.~~

~~➤ In an action to recover a record which is privately held, it is rebuttably presumed that a governmental record which appears to be the original of a document received or the file copy of a document made by a governmental agency is governmental property. **(Deleted by amendment.)**~~

Sec. 5. 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. 401.

Bill read third time.

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

Amendment No. 928.

AN ACT relating to constructional defects; revising the definition of “constructional defect”; revising provisions governing attorney’s fees in claims concerning constructional defects; revising the statutes of limitation and repose relating to certain actions concerning constructional defects; ~~[making an appropriation;]~~ and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law provides that a defect in the design, construction, manufacture, repair or landscaping of a new residence, of an alteration of or addition to an existing residence, or of an appurtenance, which is done in violation of law, including in violation of local codes or ordinances, is a constructional defect. (NRS 40.615) **Section 1** of this bill provides that there

is a rebuttable presumption that workmanship which exceeds the standards set forth in the applicable law, including any applicable local codes or ordinances, is not a constructional defect.

Existing law provides that in a claim for damages as the result of a constructional defect, reasonable attorney's fees may be recovered as damages. (NRS 40.655) **Section 2** of this bill provides that: (1) the court shall award to the prevailing party reasonable attorney's fees, which must be an element of costs and awarded as costs; and (2) the amount of any attorney's fees awarded must be determined by and approved by the court. Additionally, **section 2** authorizes any party to petition the court to determine the reasonableness of attorney's fees to be reimbursed to the claimant if: (1) the contractor has made ~~[satisfactory]~~ repairs in response to a notice of constructional defect; and (2) the only issue remaining is the amount of the reasonable attorney's fees to be reimbursed to the claimant.

Existing law sets forth the statute of limitations for various actions. (NRS 11.190) **Section 4** of this bill provides for a statute of limitations of 3 years for an action for damages for certain deficiencies, injury or wrongful death caused by a defect in construction if the defect is a result of willful misconduct or was fraudulently concealed.

Existing law contains certain periods of limitation, known as statutes of repose, in which certain actions for damages for certain deficiencies, injury or wrongful death caused by a defect in construction must be commenced. These statutes of repose apply to both commercial and residential construction. (NRS 11.202-11.206) **Sections 3 and 5-8** of this bill exclude residential construction from the existing statutes of repose and provide a new statute of repose relating specifically to residential construction.

Section 9 of this bill provides that the amendatory provisions of the bill relating to claims for constructional defects governed by NRS 40.600 to 40.695, inclusive, apply to ~~[claims that arise]~~ **actions commenced or notice of such claims given** on or after October 1, 2011, and the amendatory provisions of the remaining sections of the bill apply to ~~[actions based upon construction that occurs]~~ **any residence or appurtenance or any improvement to a residence or appurtenance substantially completed** on or after October 1, 2011.

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

Section 1. NRS 40.615 is hereby amended to read as follows:

40.615 *I.* "Constructional defect" means a defect in the design, construction, manufacture, repair or landscaping of a new residence, of an alteration of or addition to an existing residence, or of an appurtenance .
~~[and]~~

2. *The term* includes, without limitation, the design, construction, manufacture, repair or landscaping of a new residence, of an alteration of or addition to an existing residence, or of an appurtenance:

~~{1-}~~ (a) Which is done in violation of law, including, without limitation, in violation of local codes or ordinances ~~};~~

~~2-}~~, *except as otherwise provided in subsection 3;*

(b) Which proximately causes physical damage to the residence, an appurtenance or the real property to which the residence or appurtenance is affixed;

~~{3-}~~ (c) Which is not completed in a good and workmanlike manner in accordance with the generally accepted standard of care in the industry for that type of design, construction, manufacture, repair or landscaping; or

~~{4-}~~ (d) Which presents an unreasonable risk of injury to a person or property.

3. *There exists a rebuttable presumption that the term does not include the design, construction, manufacture, repair or landscaping of a new residence, of an alteration of or addition to an existing residence, or of an appurtenance which is done in violation of law, including, without limitation, in violation of local codes or ordinances, if the workmanship of the design, construction, manufacture, repair or landscaping exceeds the standards set forth in the applicable law, including, without limitation, the applicable local codes or ordinances.*

Sec. 2. NRS 40.655 is hereby amended to read as follows:

40.655 1. Except as otherwise provided in NRS 40.650, in a claim governed by NRS 40.600 to 40.695, inclusive, the claimant may recover only the following *costs and* damages to the extent proximately caused by a constructional defect:

(a) Any reasonable attorney's fees;

(b) The reasonable cost of any repairs already made that were necessary and of any repairs yet to be made that are necessary to cure any constructional defect that the contractor failed to cure and the reasonable expenses of temporary housing reasonably necessary during the repair;

(c) The reduction in market value of the residence or accessory structure, if any, to the extent the reduction is because of structural failure;

(d) The loss of the use of all or any part of the residence;

(e) The reasonable value of any other property damaged by the constructional defect;

(f) Any additional costs reasonably incurred by the claimant, including, but not limited to, any costs and fees incurred for the retention of experts to:

(1) Ascertain the nature and extent of the constructional defects;

(2) Evaluate appropriate corrective measures to estimate the value of loss of use; and

(3) Estimate the value of loss of use, the cost of temporary housing and the reduction of market value of the residence; and

(g) Any interest provided by statute.

2. ***The court shall award to the prevailing party reasonable attorney's fees, which must be an element of costs and awarded as costs.*** The amount of any attorney's fees awarded pursuant to this section must be ***determined by and*** approved by the court.

3. If a contractor complies with the provisions of NRS 40.600 to 40.695, inclusive, the claimant may not recover from the contractor, as a result of the constructional defect, anything other than that which is provided pursuant to NRS 40.600 to 40.695, inclusive. ***If a contractor makes ~~satisfactory~~ repairs in response to a notice of a constructional defect pursuant to NRS 40.600 to 40.695, inclusive, and the only issue remaining is the amount of reasonable attorney's fees to be reimbursed to the claimant, any party may petition the court to determine the reasonableness of the fees.***

4. This section must not be construed as impairing any contractual rights between a contractor and a subcontractor, supplier or design professional.

5. As used in this section, "structural failure" means physical damage to the load-bearing portion of a residence or appurtenance caused by a failure of the load-bearing portion of the residence or appurtenance.

Sec. 3. Chapter 11 of NRS is hereby amended by adding thereto a new section to read as follows:

1. ***Except as otherwise provided in ~~subsection~~ subsections 2 ~~and~~ 3, no action may be commenced against the owner, occupier or any person performing or furnishing the design, planning, supervision or observation of construction ~~of~~ of a residence or appurtenance, or the construction of or improvement to a residence or appurtenance more than 6 years after the substantial completion of or improvement to the residence ~~or~~ or appurtenance, for the recovery of damages for:***

(a) ***Any deficiency in the design, planning, supervision or observation of construction ~~of~~ of the residence or appurtenance, or the construction of or improvement to the residence ~~or~~ or appurtenance;***

(b) ***Injury to real or personal property caused by any such deficiency; or***

(c) ***Injury to or the wrongful death of a person caused by any such deficiency.***

2. ***An action may be commenced against the owner, occupier or any person performing or furnishing the design, planning, supervision or observation of construction of a residence or appurtenance, or the construction of or improvement to a residence or appurtenance at any time after the substantial completion of or improvement to the residence or appurtenance, for the recovery of damages for:***

(a) Any deficiency in the design, planning, supervision or observation of construction of the residence or appurtenance, or construction of or improvement to the residence or appurtenance which is the result of his or her willful misconduct or which he or she fraudulently concealed;

(b) Injury to real or personal property caused by any such deficiency; or

(c) Injury to or the wrongful death of a person caused by any such deficiency.

3. If a deficiency in the design, planning, supervision or observation of construction ~~of~~ of a residence or appurtenance, or the construction of or improvement to a residence or appurtenance is discovered during the sixth year after the substantial completion of or improvement to the residence ~~of~~ or appurtenance, the period set forth in subsection 1 is extended 2 years after the discovery of the deficiency.

~~3.~~ 4. Except as otherwise provided in subsection ~~4.~~ 5, for the purposes of this section, the date of substantial completion of or improvement to a residence or appurtenance shall be deemed to be the date on which:

(a) The final building inspection of the residence or appurtenance is conducted;

(b) A notice of completion is issued for the residence ~~of~~ or appurtenance; or

(c) A certificate of occupancy is issued for the residence ~~of~~ or appurtenance,

↳ whichever occurs later.

~~4.~~ 5. If none of the events described in subsection ~~3.~~ 4 occurs, the date of substantial completion of or improvement to a residence or appurtenance must be determined by the rules of the common law.

~~5.~~ 6. The provisions of this section do not apply to:

(a) A claim for indemnity or contribution.

(b) An action brought against any person on account of a defect in a product.

~~6.~~ 7. As used in this section ~~of~~ "residence":

(a) "Appurtenance" has the meaning ascribed to it in NRS 40.605.

(b) "Residence" has the meaning ascribed to it in NRS 40.630.

Sec. 4. NRS 11.190 is hereby amended to read as follows:

11.190 I. Except as otherwise provided in NRS 125B.050 and 217.007, actions other than those for the recovery of real property, unless further limited by specific statute, may only be commenced as follows:

~~I.~~ (a) Within 6 years:

~~(a)~~ (I) An action upon a judgment or decree of any court of the United States, or of any state or territory within the United States, or the renewal thereof.

~~[(b)]~~ (2) An action upon a contract, obligation or liability founded upon an instrument in writing, except those mentioned in the preceding sections of this chapter.

~~[2.]~~ (b) Within 4 years:

~~[(a)]~~ (1) An action on an open account for goods, wares and merchandise sold and delivered.

~~[(b)]~~ (2) An action for any article charged on an account in a store.

~~[(c)]~~ (3) An action upon a contract, obligation or liability not founded upon an instrument in writing.

~~[(d)]~~ (4) An action against a person alleged to have committed a deceptive trade practice in violation of NRS 598.0903 to 598.0999, inclusive, but the cause of action shall be deemed to accrue when the aggrieved party discovers, or by the exercise of due diligence should have discovered, the facts constituting the deceptive trade practice.

~~[3.]~~ (c) Within 3 years:

~~[(a)]~~ (1) An action upon a liability created by statute, other than a penalty or forfeiture.

~~[(b)]~~ (2) An action for waste or trespass of real property, but when the waste or trespass is committed by means of underground works upon any mining claim, the cause of action shall be deemed to accrue upon the discovery by the aggrieved party of the facts constituting the waste or trespass.

~~[(c)]~~ (3) An action for taking, detaining or injuring personal property, including actions for specific recovery thereof, but in all cases where the subject of the action is a domestic animal usually included in the term "livestock," which has a recorded mark or brand upon it at the time of its loss, and which strays or is stolen from the true owner without the owner's fault, the statute does not begin to run against an action for the recovery of the animal until the owner has actual knowledge of such facts as would put a reasonable person upon inquiry as to the possession thereof by the defendant.

~~[(d)]~~ (4) Except as otherwise provided in NRS 112.230 and 166.170, an action for relief on the ground of fraud or mistake, but the cause of action in such a case shall be deemed to accrue upon the discovery by the aggrieved party of the facts constituting the fraud or mistake.

~~[(e)]~~ (5) An action pursuant to NRS 40.750 for damages sustained by a financial institution or other lender because of its reliance on certain fraudulent conduct of a borrower, but the cause of action in such a case shall be deemed to accrue upon the discovery by the financial institution or other lender of the facts constituting the concealment or false statement.

~~[(f)]~~ (6) *An action against the owner, occupier or any person performing or furnishing the design, planning, supervision or observation of construction ~~of~~ of a residence or appurtenance, or the construction of*

or improvement to a residence ~~+~~ or appurtenance, for the recovery of damages for:

~~+(1)~~ *(I) Any deficiency in the design, planning, supervision or observation of construction ~~+~~ of the residence or appurtenance, or the construction of or improvement to the residence ~~which is the result of his or her willful misconduct or which he or she fraudulently concealed;~~*

~~(2)~~ *or appurtenance;*

(II) Injury to real or personal property caused by any such deficiency; or

~~+(3)~~ *(III) Injury to or the wrongful death of a person caused by any such deficiency.*

↳ The cause of action in such a case shall be deemed to accrue upon the discovery by the aggrieved party of the deficiency. ~~As used in this paragraph, "residence" has the meaning ascribed to it in NRS 40.630.~~

~~4~~ *(d) Within 2 years:*

~~+(a)~~ *(1) An action against a sheriff, coroner or constable upon liability incurred by acting in his or her official capacity and in virtue of his or her office, or by the omission of an official duty, including the nonpayment of money collected upon an execution.*

~~+(b)~~ *(2) An action upon a statute for a penalty or forfeiture, where the action is given to a person or the State, or both, except when the statute imposing it prescribes a different limitation.*

~~+(c)~~ *(3) An action for libel, slander, assault, battery, false imprisonment or seduction.*

~~+(d)~~ *(4) An action against a sheriff or other officer for the escape of a prisoner arrested or imprisoned on civil process.*

~~+(e)~~ *(5) Except as otherwise provided in **this section and** NRS 11.215, an action to recover damages for injuries to a person or for the death of a person caused by the wrongful act or neglect of another. The provisions of this ~~paragraph~~ **subparagraph** relating to an action to recover damages for injuries to a person apply only to causes of action which accrue after March 20, 1951.*

~~+(f)~~ *(6) An action to recover damages under NRS 41.740.*

~~5~~ *(e) Within 1 year:*

~~+(a)~~ *(1) An action against an officer, or officer de facto to recover goods, wares, merchandise or other property seized by the officer in his or her official capacity, as tax collector, or to recover the price or value of goods, wares, merchandise or other personal property so seized, or for damages for the seizure, detention or sale of, or injury to, goods, wares, merchandise or other personal property seized, or for damages done to any person or property in making the seizure.*

~~(b)~~ (2) An action against an officer, or officer de facto for money paid to the officer under protest, or seized by the officer in his or her official capacity, as a collector of taxes, and which, it is claimed, ought to be refunded.

2. As used in this section:

(a) "Appurtenance" has the meaning ascribed to it in NRS 40.605.

(b) "Residence" has the meaning ascribed to it in NRS 40.630.

Sec. 5. NRS 11.202 is hereby amended to read as follows:

11.202 1. ~~An~~ ***Except as otherwise provided in section 3 of this act,*** an action may be commenced against the owner, occupier or any person performing or furnishing the design, planning, supervision or observation of construction, or the construction of an improvement to real property at any time after the substantial completion of such an improvement, for the recovery of damages for:

(a) Any deficiency in the design, planning, supervision or observation of construction or the construction of such an improvement which is the result of his or her willful misconduct or which he or she fraudulently concealed;

(b) Injury to real or personal property caused by any such deficiency; or

(c) Injury to or the wrongful death of a person caused by any such deficiency.

2. The provisions of this section do not apply in an action brought against:

(a) The owner or keeper of any hotel, inn, motel, motor court, boardinghouse or lodging house in this State on account of his or her liability as an innkeeper.

(b) Any person on account of a defect in a product.

Sec. 6. NRS 11.203 is hereby amended to read as follows:

11.203 1. Except as otherwise provided in NRS 11.202 and 11.206, ***and section 3 of this act,*** no action may be commenced against the owner, occupier or any person performing or furnishing the design, planning, supervision or observation of construction, or the construction of an improvement to real property more than 10 years after the substantial completion of such an improvement, for the recovery of damages for:

(a) Any deficiency in the design, planning, supervision or observation of construction or the construction of such an improvement which is known or through the use of reasonable diligence should have been known to him or her;

(b) Injury to real or personal property caused by any such deficiency; or

(c) Injury to or the wrongful death of a person caused by any such deficiency.

2. Notwithstanding the provisions of NRS 11.190 and subsection 1 of this section, if an injury occurs in the 10th year after the substantial

completion of such an improvement, an action for damages for injury to property or person, damages for wrongful death resulting from such injury or damages for breach of contract may be commenced within 2 years after the date of such injury, irrespective of the date of death, but in no event may an action be commenced more than 12 years after the substantial completion of the improvement.

3. The provisions of this section do not apply to a claim for indemnity or contribution.

Sec. 7. NRS 11.204 is hereby amended to read as follows:

11.204 1. Except as otherwise provided in NRS 11.202, 11.203 and 11.206, **and section 3 of this act**, no action may be commenced against the owner, occupier or any person performing or furnishing the design, planning, supervision or observation of construction, or the construction, of an improvement to real property more than 8 years after the substantial completion of such an improvement, for the recovery of damages for:

- (a) Any latent deficiency in the design, planning, supervision or observation of construction or the construction of such an improvement;
- (b) Injury to real or personal property caused by any such deficiency; or
- (c) Injury to or the wrongful death of a person caused by any such deficiency.

2. Notwithstanding the provisions of NRS 11.190 and subsection 1 of this section, if an injury occurs in the eighth year after the substantial completion of such an improvement, an action for damages for injury to property or person, damages for wrongful death resulting from such injury or damages for breach of contract may be commenced within 2 years after the date of such injury, irrespective of the date of death, but in no event may an action be commenced more than 10 years after the substantial completion of the improvement.

3. The provisions of this section do not apply to a claim for indemnity or contribution.

4. For the purposes of this section, “latent deficiency” means a deficiency which is not apparent by reasonable inspection.

Sec. 8. NRS 11.205 is hereby amended to read as follows:

11.205 1. Except as otherwise provided in NRS 11.202, 11.203 and 11.206, **and section 3 of this act**, no action may be commenced against the owner, occupier or any person performing or furnishing the design, planning, supervision or observation of construction, or the construction of an improvement to real property more than 6 years after the substantial completion of such an improvement, for the recovery of damages for:

- (a) Any patent deficiency in the design, planning, supervision or observation of construction or the construction of such an improvement;
- (b) Injury to real or personal property caused by any such deficiency; or

(c) Injury to or the wrongful death of a person caused by any such deficiency.

2. Notwithstanding the provisions of NRS 11.190 and subsection 1 of this section, if an injury occurs in the sixth year after the substantial completion of such an improvement, an action for damages for injury to property or person, damages for wrongful death resulting from such injury or damages for breach of contract may be commenced within 2 years after the date of such injury, irrespective of the date of death, but in no event may an action be commenced more than 8 years after the substantial completion of the improvement.

3. The provisions of this section do not apply to a claim for indemnity or contribution.

4. For the purposes of this section, "patent deficiency" means a deficiency which is apparent by reasonable inspection.

Sec. 8.5. (Deleted by amendment.)

Sec. 9. The amendatory provisions of:

1. Sections 1 and 2 of this act apply to any:

(a) Action commenced in accordance with NRS 40.600 to 40.695, inclusive; or

(b) Notice of a claim ~~that arises~~ given to a contractor, subcontractor, supplier or design professional pursuant to NRS 40.600 to 40.695, inclusive,

on or after October 1, 2011.

2. Sections 3 to 8, inclusive, of this act apply to ~~actions based upon the design, planning, supervision or observation of construction, or the construction of a residence that occurs~~ **any residence or appurtenance or improvement to any residence or appurtenance substantially completed** on or after October 1, 2011.

Assemblyman Hickey moved the adoption of the amendment.

Amendment adopted.

Bill ordered to third reading.

Assembly Bill No. 416.

Bill read third time.

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

Amendment No. 899.

Joint Sponsors: Senator Leslie, **Horsford and Schneider**

AN ACT relating to energy; revising provisions governing the Solar Energy Systems Incentive Program; revising provisions governing the Wind Energy Systems Demonstration Program; **revising provisions governing the Waterpower Energy Systems Demonstration Program;** revising

provisions governing the payment of incentives to participants in the Solar Program and the Wind Program; ~~removing~~ revising the prospective expiration of the Wind Program ~~and the Waterpower Program;~~ providing for the prospective expiration of the Solar Program; requiring the Public Utilities Commission of Nevada to adopt certain regulations; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law establishes the Solar Energy Systems Incentive Program, the Wind Energy Systems Demonstration Program and the Waterpower Energy Systems Demonstration Program. (NRS 701B.010-701B.290, 701B.400-701B.650, 701B.700-701B.880) Section 2.1 of this bill establishes the statewide capacity goals for all energy systems which receive incentives pursuant to these programs and authorizes a utility to file the annual plan required for each of these programs as a single plan.

Section 4 of this bill revises provisions governing the incentives for participation in the Solar Energy Systems Incentive Program, requires the Public Utilities Commission of Nevada to review the incentives and authorizes the Commission to adjust the incentives not less frequently than annually. Section 4 provides that the total amount of the incentive paid to a participant in the Solar Program ~~in the category of private residential property~~ with a solar energy system with a nameplate capacity of not more than 30 kilowatts must be paid upon proof that the participant has installed and energized the solar energy system, while the amount of the incentive paid to a participant ~~in a category other than the category of private residential property~~ with a solar energy system with a nameplate capacity of more than 30 kilowatts and not more than 500 kilowatts must be paid over time and be based on the performance of the solar energy system and the amount of electricity generated by the solar energy system. Section 8.7 of this bill requires a participant in the Solar Program to participate in net metering.

Section 10 of this bill ~~revises the capacity goals for the Wind Energy Systems Demonstration Program, which must be designed so that the total cost of the Wind Program does not exceed \$30,000,000 per year through June 30, 2017.~~ requires the Commission to adopt regulations relating to the Wind Program and to establish a system of incentives for participation in the Wind Program. Section 10 further provides that the total amount of the incentive paid to a participant in the Wind Program ~~in the category of private residential property must be paid upon proof that the participant has installed and energized the wind energy system, while the amount of the incentive paid to a participant in a category other than the category of private residential property~~ with a nameplate capacity of not more than 500 kilowatts must be paid over time and based on the

performance of and amount of electricity generated by the wind energy system. **Section 10.5 of this bill requires a participant in the Wind Program to participate in net metering.** ~~[Sections 20-22 of this bill remove the prospective expiration of the Wind Program.]~~

Section 10.7 of this bill requires the Commission to provide a system of incentives for waterpower energy systems with a nameplate capacity of not more than 500 kilowatts. Section 18.5 of this bill requires a participant in the Waterpower Program to participate in net metering.

Existing law deems a provider of electric service to have generated or acquired 2.4 kilowatt-hours of electricity from a renewable energy system for each 1.0 kilowatt-hour of actual electricity generated or acquired from a solar photovoltaic system on certain retail customers. (NRS 704.4822) Section 18.9 of this bill provides the same calculation for solar photovoltaic systems installed on the premises of the provider if certain conditions are met.

Existing law provides that the Wind Program and the Waterpower Program will expire on June 30, 2011. (Chapter 509, Statutes of Nevada 2007, p. 2999) This bill revises the prospective expiration date of these programs and provides that the Wind Program, the Waterpower Program and the Solar Program will expire on December 31, 2021.

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

Section 1. (Deleted by amendment.)

Sec. 1.5. NRS 701.180 is hereby amended to read as follows:

701.180 The Director shall:

1. Acquire and analyze information relating to energy and to the supply, demand and conservation of its sources, including, without limitation ~~the~~

~~(a) Information relating to the Solar Energy Systems Incentive Program created pursuant to NRS 701B.240 including, without limitation, information relating to:~~

~~(1) The development of distributed generation systems in this State pursuant to participation in the Solar Energy Systems Incentive Program;~~

~~(2) The use of carbon-based energy in residential and commercial applications due to participation in the Program; and~~

~~(3) The average cost of generation on a kilowatt hour basis for residential and commercial applications due to participation in the Program; and~~

~~(b) Information], **information** relating to any money distributed pursuant to NRS 702.270.~~

2. Review and evaluate information which identifies trends and permits forecasting of the energy available to the State. Such forecasts must include estimates on:

- (a) The level of demand for energy in the State for 5-, 10- and 20-year periods;
- (b) The amount of energy available to meet each level of demand;
- (c) The probable implications of the forecast on the demand and supply of energy; and
- (d) The sources of renewable energy and other alternative sources of energy which are available and their possible effects.

3. Study means of reducing wasteful, inefficient, unnecessary or uneconomical uses of energy and encourage the maximum utilization of existing sources of energy in the State.

4. Solicit and serve as the point of contact for grants and other money from the Federal Government, including, without limitation, any grants and other money available pursuant to any program administered by the United States Department of Energy, and other sources to cooperate with the Commissioner and the Authority:

- (a) To promote energy projects that enhance the economic development of the State;
- (b) To promote the use of renewable energy in this State;
- (c) To promote the use of measures which conserve or reduce the demand for energy or which result in more efficient use of energy;
- (d) To develop a comprehensive program for retrofitting public buildings in this State with energy efficiency measures; and
- (e) If the Commissioner determines that it is feasible and cost-effective, to enter into contracts with researchers from the Nevada System of Higher Education for the design of energy efficiency and retrofit projects to carry out the comprehensive program for retrofitting public buildings in this State developed pursuant to paragraph (d).

5. Coordinate the activities and programs of the Office of Energy with the activities and programs of the Authority, the Consumer's Advocate and the Public Utilities Commission of Nevada, and with other federal, state and local officers and agencies that promote, fund, administer or operate activities and programs related to the use of renewable energy and the use of measures which conserve or reduce the demand for energy or which result in more efficient use of energy.

6. If requested to make a determination pursuant to NRS 111.239 or 278.0208, make the determination within 30 days after receiving the request. If the Director needs additional information to make the determination, the Director may request the information from the person making the request for

a determination. Within 15 days after receiving the additional information, the Director shall make a determination on the request.

7. Carry out all other directives concerning energy that are prescribed by the Governor.

Sec. 2. (Deleted by amendment.)

Sec. 2.1. Chapter 701B of NRS is hereby amended by adding thereto a new section to read as follows:

1. For purposes of carrying out the Solar Energy Systems Incentive Program created by NRS 701B.240, the Wind Energy Systems Demonstration Program created by NRS 701B.580 and the Waterpower Energy Systems Demonstration Program created by NRS 701B.820, the Public Utilities Commission of Nevada may approve solar energy systems, wind energy systems and waterpower energy systems totaling not more than 150 megawatts of capacity for all systems in this State for the period beginning on July 1, 2009, and ending on December 31, 2021. The Commission shall by regulation prescribe the capacity goals for each program.

2. The Public Utilities Commission of Nevada shall not authorize the payment of an incentive pursuant to:

(a) The Solar Energy Systems Incentive Program if the payment of the incentive would cause the total amount of incentives paid by all utilities in this State for the installation of solar energy systems and distributed generation systems to exceed \$255,000,000 for the period beginning on July 1, 2009, and ending on December 31, 2021.

(b) The Wind Energy Systems Demonstration Program and the Waterpower Energy Systems Demonstration Program if the payment of the incentive would cause the total amount of incentives paid by all utilities in this State for the installation of wind energy systems and waterpower energy systems to exceed \$60,000,000 for the period beginning on July 1, 2009, and ending on December 31, 2021. The Commission shall by regulation determine the total amount of incentives for each program.

3. A utility may file one combined annual plan which meets the requirements set forth in NRS 701B.230, 701B.610 and 701B.850. The Public Utilities Commission of Nevada shall review and approve any plans submitted pursuant to this subsection in accordance with the requirements of NRS 701B.230, 701B.610 and 701B.850.

4. As used in this section:

(a) "Distributed generation system" has the meaning ascribed to it in NRS 701B.055.

(b) "Utility" means a public utility that supplies electricity in this State.

Sec. 2.3. NRS 701B.040 is hereby amended to read as follows:

701B.040 "Category" means one of the categories of participation in the Solar Program as set forth in ~~[NRS 701B.240]~~ regulations adopted by the Commission.

Sec. 2.5. NRS 701B.200 is hereby amended to read as follows:

701B.200 The Commission shall adopt regulations necessary to carry out the provisions of NRS 701B.010 to 701B.290, inclusive, including, without limitation, regulations that:

1. Establish the type of incentives available to participants in the Solar Program and the level or amount of those incentives, ~~[except that the level or amount of an incentive available in a particular program year must not be based upon whether the incentive is for unused capacity reallocated from a past program year pursuant to paragraph (b) of subsection 2 of NRS 701B.260. The regulations must provide that the level or amount of the incentives must decline over time as the cost of solar energy systems and distributed generation systems decline.]~~ and prescribe the period, which may be the same period covered for a utility's annual plan for carrying out and administering the Solar Program, for a utility to account for those incentives.

2. Establish the requirements for a utility's annual plan for carrying out and administering the Solar Program. A utility's annual plan must include, without limitation:

- (a) A detailed plan for advertising the Solar Program;
- (b) A detailed budget and schedule for carrying out and administering the Solar Program;
- (c) A detailed account of administrative processes and forms that will be used to carry out and administer the Solar Program, including, without limitation, a description of the application process and copies of all applications and any other forms that are necessary to apply for and participate in the Solar Program;
- (d) A detailed account of the procedures that will be used for inspection and verification of a participant's solar energy system and compliance with the Solar Program;
- (e) A detailed account of training and educational activities that will be used to carry out and administer the Solar Program; and
- (f) Any other information required by the Commission.

3. Authorize a utility to recover the reasonable costs incurred in carrying out and administering the installation of distributed generation systems . ~~[pursuant to paragraph (b) of subsection 1 of NRS 701B.260.]~~

Sec. 3. NRS 701B.210 is hereby amended to read as follows:

701B.210 The Commission shall adopt regulations that establish:

1. The qualifications and requirements an applicant must meet to be eligible to participate in ~~each applicable category of:~~

- ~~(a) School property;~~
~~(b) Public and other property;]~~ [and]
~~[(c) Private residential property, and] [small]~~
~~[(d) Small business property; and] the Solar Program.~~

2. The form and content of the master application.

3. The timeframe for accepting applications, including a period in which a utility must accept additional applications if a previously approved applicant fails to install and energize a solar energy system within the time allowed by NRS 701B.255.

Sec. 4. NRS 701B.220 is hereby amended to read as follows:

701B.220 *I.* In adopting regulations for the Solar Program, the Commission shall adopt regulations establishing an incentive for participation in the Solar Program. *The regulations must:*

(a) Provide that the total amount of the incentive paid to a participant ~~in the category of private residential property]~~ for a solar energy system with a nameplate capacity of not more than 30 kilowatts must be paid upon proof that the participant has installed and energized the solar energy system;

(b) Provide that the amount of the incentive paid to a participant ~~in a category other than the category of private residential property]~~ for a solar energy system with a nameplate capacity of more than 30 kilowatts but not more than 500 kilowatts must be paid over time and be based on the performance of the solar energy system and the amount of electricity generated by the solar energy system;

(c) Provide for a contract to be entered into between a participant and a utility, which must include, without limitation, provisions specifying:

(1) The amount of the incentive the participant will receive from the utility;

(2) For a participant ~~in a category other than the category of private residential property,]~~ with a solar energy system with a nameplate capacity of more than 30 kilowatts but not more than 500 kilowatts, the period in which the participant will receive an incentive from the utility, which must not exceed 5 years ~~for]~~ and must not require a utility to make an incentive payment after December 31, 2021; and

(3) For a participant ~~in a category other than the category of private residential property, the frequency of]~~ with a solar energy system with a nameplate capacity of more than 30 kilowatts but not more than 500 kilowatts, that the payments of an incentive to the participant ~~], which]~~ must be ~~[not more frequently than monthly and not less frequently than]~~ quarterly; ~~and~~

(4) That any portfolio energy credits issued to the participant and attributable to the solar energy system during the period in which the

~~participant will receive an incentive from the utility must be assigned to and become the property of the utility in the manner prescribed by NRS 701B.200;]~~

(d) Establish reporting requirements for each utility that participates in the Solar Program, which must include, without limitation, periodic reports of the average cost of the systems, ~~[in each category,]~~ the cost to the utility of carrying out the Solar Program and the effect of the Solar Program on the rates paid by the customers of the utility; and

(e) Provide for a decline over time in the amount of the incentives for participation in the Solar Program as the cost of installing solar energy systems decreases.

2. The Commission shall review the incentives for participation in the Solar Program and may adjust the amount of the incentives not less frequently than annually.

Sec. 5. NRS 701B.240 is hereby amended to read as follows:

701B.240 1. The Solar Energy Systems Incentive Program is hereby created.

2. The ~~[Solar Program must have]~~ ~~[three]~~ ~~four~~ Commission shall establish categories ~~[as follows:~~

~~(a) School property;~~

~~(b) Public and other property;]~~ ~~[and]~~

~~(c) Private residential property ; and]~~ ~~[small]~~

~~[(d) Small business property.]~~ for participation in the Solar Program, which must, at a minimum, distinguish between participants with a solar energy system with:

(a) A nameplate capacity of not more than 30 kilowatts; and

(b) A nameplate capacity of more than 30 kilowatts but not more than 500 kilowatts.

3. To be eligible to participate in the Solar Program, a person must:

(a) Meet the qualifications established by the Commission pursuant to NRS 701B.210;

(b) Submit an application to a utility and be selected by the ~~[Commission]~~ utility for inclusion in the Solar Program pursuant to NRS 701B.250 and 701B.255; and

(c) When installing the solar energy system, use an installer who has been issued a classification C-2 license with the appropriate subclassification by the State Contractors' Board pursuant to the regulations adopted by the Board. ~~]; and~~

~~(d) If the person will be participating in the Solar Program in the category of school property or public and other property, provide for the public display of the solar energy system, including, without limitation, providing~~

~~for public demonstrations of the solar energy system and for hands on experience of the solar energy system by the public.]~~

Sec. 6. (Deleted by amendment.)

Sec. 7. (Deleted by amendment.)

Sec. 8. (Deleted by amendment.)

Sec. 8.3. NRS 701B.255 is hereby amended to read as follows:

701B.255 1. After reviewing an application submitted pursuant to NRS 701B.250 and ensuring that the applicant meets the qualifications and requirements to be eligible to participate in the Solar Program, a utility may select the applicant for participation in the Solar Program.

2. Not later than 30 days after the date on which the utility selects an applicant, the utility shall provide written notice of the selection to the applicant.

3. After the utility selects an applicant to participate in the Solar Program, the utility may approve the solar energy system proposed by the applicant. Upon the utility's approval of the solar energy system:

(a) The utility shall provide to the applicant notice of the approval and the amount of incentive for which the solar energy system is eligible; and

(b) The applicant may install and energize the solar energy system.

4. Upon the completion of the installation and energizing of the solar energy system, the participant must submit to the utility an incentive claim form and any supporting information, including, without limitation, a verification of the cost of the project and a calculation of the expected system output.

5. Upon receipt of the incentive claim form and verification that the solar energy system is properly connected, the utility shall issue an incentive payment to the participant.

6. The amount of the incentive for which an applicant is eligible must be determined on the date on which the applicant is selected for participation in the Solar Program, except that an applicant forfeits eligibility for that amount of incentive if the applicant withdraws from participation in the Solar Program or does not complete the installation of the solar energy system within 12 months after the date on which the applicant is selected for participation in the Solar Program. ~~[An applicant who forfeits eligibility for the incentive for which the applicant was originally determined to be eligible may become eligible for an incentive only on the date on which the applicant completes the installation of the solar energy system, and the amount of the incentive for which such an applicant is eligible must be determined on the date on which the applicant completes the installation of the solar energy system.]~~

Sec. 8.7. NRS 701B.280 is hereby amended to read as follows:

701B.280 ~~[(4)]~~ To be eligible for an incentive through the Solar Program, a solar energy system ~~used by a participant in the Solar Program meets]~~ must meet the requirements ~~[of NRS 704.766 to 704.775, inclusive, the participant is entitled to participate]~~ for participation in net metering pursuant to the provisions of NRS 704.766 to 704.775, inclusive.

Sec. 8.9. NRS 701B.440 is hereby amended to read as follows:

701B.440 "Category" means one of the categories of participation in the Wind Demonstration Program as ~~set forth in NRS 701B.580]~~ established in regulation by the Commission.

Sec. 9. NRS 701B.580 is hereby amended to read as follows:

701B.580 1. The Wind Energy Systems Demonstration Program is hereby created.

2. The ~~[Program must have]~~ ~~[four]~~ [five] Commission shall establish categories ~~[as follows:~~

~~(a) School property;~~

~~(b) Other public property;~~

~~(c) Private residential property] [and small]]~~

~~(d) Small business property; and]~~

~~[(d)] [(c) Agricultural property.]~~ for participation in the program.

3. To be eligible to participate in the Program, a person must:

(a) Meet the qualifications established by the Commission pursuant to NRS 701B.590;

(b) When installing the wind energy system, use an installer who has been issued a classification C-2 license with the appropriate subclassification by the State Contractors' Board pursuant to the regulations adopted by the Board; and

(c) If the person will be participating in the Program in the category of school property or other public property, provide for the public display of the wind energy system, including, without limitation, providing for public demonstrations of the wind energy system and for hands-on experience of the wind energy system by the public.

Sec. 10. NRS 701B.590 is hereby amended to read as follows:

701B.590 The Commission shall adopt regulations necessary to carry out the provisions of the Wind Energy Systems Demonstration Program Act, including, without limitation, 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 5 megawatts of wind energy systems in this State by 2012] [so that the total cost of the Program does not exceed \$30,000,000 per year through June 30, 2017, and the capacity goals for each category of the Program.] as prescribed in section 2.1 of this act.

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.~~

~~3.] cost of installing wind energy systems declines. The system must provide:~~

~~(a) [That the total amount of the incentive for a participant in the category of private residential property must be paid upon proof that the participant has installed and energized the wind energy system;] Incentives for wind energy systems with a nameplate capacity of not more than 500 kilowatts;~~

~~(b) That the amount of the incentive for a participant ~~in a category other than the category of private residential property~~ must be paid over time and be based on the performance of the wind energy system and the amount of electricity generated by the wind energy system; and~~

~~(c) For a contract to be entered into between a participant and a utility, which must include, without limitation, provisions specifying:~~

~~(1) The amount of the incentive the participant will receive from the utility;~~

~~(2) ~~For a participant in a category other than the category of private residential property, the~~ The period in which the participant will receive an incentive from the utility, which must not exceed 5 years ~~;~~ and that the utility is not required to make an incentive payment after December 31, 2021; and~~

~~(3) ~~For a participant in a category other than the category of private residential property, the frequency of~~ That the payments of an incentive to the participant ~~, which~~ must be ~~not more frequently than monthly and not less frequently than~~ made quarterly . ~~;~~ and~~

~~(4) That any portfolio energy credits issued to the participant and attributable to the wind energy system during the period in which the participant will receive an incentive from the utility must be assigned to and become the property of the utility in the manner prescribed by NRS 701B.640.~~

3. Reporting requirements for each utility that participates in the Program, which must include, without limitation, periodic reports of the average cost of the systems ~~, [in each category,]~~ the cost to the utility of carrying out the Program and the effect of the Program on the rates paid by the customers of the utility.

4. The procedure for claiming incentives, including, without limitation, the form and content of the incentive claim form.

5. The timeframe for accepting applications, including a period in which a utility must accept additional applications if a previously approved

applicant fails to install and energize a wind energy system within the time allowed by NRS 701B.615.

Sec. 10.1. NRS 701B.615 is hereby amended to read as follows:

701B.615 1. An applicant who wishes to participate in the Wind Demonstration Program must submit an application to a utility.

2. After reviewing an application submitted pursuant to subsection 1 and ensuring that the applicant meets the qualifications and requirements to be eligible to participate in the Program, a utility may select the applicant for participation in the Program.

3. Not later than 30 days after the date on which the utility selects an applicant, the utility shall provide written notice of the selection to the applicant.

4. After the utility selects an applicant to participate in the Program, the utility may approve the wind energy system proposed by the applicant. Upon the utility's approval of the wind energy system:

(a) The utility shall provide to the applicant notice of the approval and the amount of incentive for which the wind energy system is eligible; and

(b) The applicant may install and energize the wind energy system.

5. Upon the completion of the installation and energizing of the wind energy system, the participant must submit to the utility an incentive claim form and any supporting information, including, without limitation, a verification of the cost of the project and a calculation of the expected system output.

6. Upon receipt of the incentive claim form and verification that the wind energy system is properly connected, the utility shall issue an incentive payment to the participant.

7. The amount of the incentive for which an applicant is eligible must be determined on the date on which the applicant is selected for participation in the Wind Demonstration Program, except that an applicant forfeits eligibility for that amount of incentive if the applicant withdraws from participation in the Program or does not complete the installation of the wind energy system within 12 months after the date on which the applicant is selected for participation in the Program. ~~[An applicant who forfeits eligibility for the incentive for which the applicant was originally determined to be eligible may become eligible for an incentive only on the date on which the applicant completes the installation of the wind energy system, and the amount of the incentive for which such an applicant is eligible must be determined on the date on which the applicant completes the installation of the wind energy system.]~~

Sec. 10.5. NRS 701B.650 is hereby amended to read as follows:

701B.650 ~~##~~ **To be eligible for an incentive through the Wind Program,** a wind energy system ~~used by a participant in the Wind~~

~~Demonstration Program meets~~ **must meet** the requirements ~~[of NRS 704.766 to 704.775, inclusive, the participant is entitled to participate]~~ **for participation** in net metering pursuant to the provisions of NRS 704.766 to 704.775, inclusive.

Sec. 10.7. 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]~~:
(a) Meet the goal of the Legislature ~~[of the installation of not less than 500 kilowatts of waterpower energy systems in this State by 2012 and the goals for each category of the Program.]~~ **as prescribed in section 2.1 of this act;**
and

(b) Provide a system of incentives for waterpower energy systems with a nameplate capacity of not more than 500 kilowatts.

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.

3. The procedure for claiming incentives, including, without limitation, the form and content of the incentive claim form.

4. The timeframe for accepting applications, including a period in which a utility must accept additional applications if a previously approved applicant fails to install and energize a waterpower energy system within the time allowed by NRS 701B.865.

Sec. 10.9. NRS 701B.850 is hereby amended to read as follows:

701B.850 1. ~~[On or before February 21, 2008, and on or before February 1 of each subsequent year,]~~ **Each year on or before a date established by the Commission,** each utility shall file with the Commission ~~[for approval an]~~ **its** annual plan for ~~[the administration and delivery of]~~ **carrying out and administering** the Waterpower Demonstration Program **in its service area** for the ~~[program year beginning July 1, 2008, and each subsequent year thereafter,]~~ **immediately following 12-month period prescribed by the Commission.**

2. ~~[On or before July 1, 2008, and on or before each July 1 of each subsequent year, the]~~ **The** Commission shall ~~[review]~~ :

(a) Review the annual plan for compliance with the requirements ~~[set forth]~~ **established** by regulation of the Commission ~~[;]~~ **; and**

(b) Approve the annual plan with such modifications and upon such terms and conditions as the Commission finds necessary or appropriate to facilitate the Program.

Sec. 11. (Deleted by amendment.)

Sec. 12. (Deleted by amendment.)

Sec. 13. (Deleted by amendment.)

Sec. 14. (Deleted by amendment.)

Sec. 15. (Deleted by amendment.)

Sec. 16. (Deleted by amendment.)

Sec. 17. (Deleted by amendment.)

Sec. 18. (Deleted by amendment.)

Sec. 18.1. **NRS 701B.865 is hereby amended to read as follows:**

701B.865 1. An applicant who wishes to participate in the Waterpower Demonstration Program must submit an application to a utility.

2. After reviewing an application submitted pursuant to subsection 1 and ensuring that the applicant meets the qualifications and requirements to be eligible to participate in the Program, a utility may select the applicant for participation in the Program.

3. Not later than 30 days after the date on which the utility selects an applicant, the utility shall provide written notice of the selection to the applicant.

4. After the utility selects an applicant to participate in the Program, the utility may approve the waterpower energy system proposed by the applicant. Upon the utility's approval of the waterpower energy system:

(a) The utility shall provide to the applicant notice of the approval and the amount of incentive for which the waterpower energy system is eligible; and

(b) The applicant may construct the waterpower energy system.

5. Upon the completion of the construction of a waterpower energy system, the participant must submit to the utility an incentive claim form and any supporting information, including, without limitation, a verification of the cost of the project and a calculation of the expected system output.

6. Upon receipt of the incentive claim form and verification that the waterpower energy system is properly connected, the utility shall issue an incentive payment to the participant.

7. The amount of the incentive for which an applicant is eligible must be determined on the date on which the applicant is selected for participation in the Waterpower Demonstration Program, except that an applicant forfeits eligibility for that amount of incentive if the applicant withdraws from participation in the Program or does not complete the construction of the waterpower energy system within 12 months after the date on which the applicant is selected for participation in the Program. ~~[An applicant who forfeits eligibility for the incentive for which the applicant was originally determined to be eligible may become eligible for an incentive only on the date on which the applicant completes the construction of the waterpower energy system, and the amount of the incentive for which such an applicant is eligible must be determined on the date on which the applicant completes the construction of the waterpower energy system.]~~

Sec. 18.5. **NRS 701B.880 is hereby amended to read as follows:**

701B.880 ~~[(4)]~~ To be eligible for an incentive through the Waterpower Demonstration Program, the waterpower energy system ~~used by a participant in the Waterpower Demonstration Program meets]~~ must meet the requirements ~~[of NRS 704.766 to 704.775, inclusive, the participant is entitled to participate]~~ for participation in net metering pursuant to the provisions of NRS 704.766 to 704.775, inclusive.

Sec. 18.7. NRS 701B.924 is hereby amended to read as follows:

701B.924 1. The State Public Works Board shall, within 90 days after June 9, 2009, determine the specific projects to weatherize and retrofit public buildings, facilities and structures, including, without limitation, traffic-control systems, and to otherwise use sources of renewable energy to serve those buildings, facilities and structures pursuant to the provisions of this section and NRS 701B.921. The projects must be prioritized and selected on the basis of the following criteria:

- (a) The length of time necessary to commence the project.
- (b) The number of workers estimated to be employed on the project.
- (c) The effectiveness of the project in reducing energy consumption.
- (d) The estimated cost of the project.
- (e) Whether the project is able to be powered by or to otherwise use sources of renewable energy.
- (f) Whether the project has qualified for participation in ~~one or more of the following programs:~~

~~(1) The Solar Energy Systems Incentive Program created by NRS 701B.240;~~

~~(2) :~~

(1) The Renewable Energy School Pilot Program created by NRS 701B.350; or

~~(3)]~~ (2) An energy efficiency or energy conservation program offered by a public utility, as defined in NRS 704.020, pursuant to a plan approved by the Public Utilities Commission of Nevada pursuant to NRS 704.741.

2. The board of trustees of each school district shall, within 90 days after June 9, 2009, determine the specific projects to weatherize and retrofit public buildings, facilities and structures, including, without limitation, traffic-control systems, and to otherwise use sources of renewable energy to serve those buildings, facilities and structures pursuant to the provisions of this section and NRS 701B.921. The projects must be prioritized and selected on the basis of the following criteria:

- (a) The length of time necessary to commence the project.
- (b) The number of workers estimated to be employed on the project.
- (c) The effectiveness of the project in reducing energy consumption.
- (d) The estimated cost of the project.

(e) Whether the project is able to be powered by or to otherwise use sources of renewable energy.

(f) Whether the project has qualified for participation in ~~one or more of the following programs:~~

~~(1) The Solar Energy Systems Incentive Program created by NRS 701B.240;~~

~~(2) :~~

(1) The Renewable Energy School Pilot Program created by NRS 701B.350; or

~~(3)~~ (2) An energy efficiency or energy conservation program offered by a public utility, as defined in NRS 704.020, pursuant to a plan approved by the Public Utilities Commission of Nevada pursuant to NRS 704.741.

3. The Board of Regents of the University of Nevada shall, within 90 days after June 9, 2009, determine the specific projects to weatherize and retrofit public buildings, facilities and structures, including, without limitation, traffic-control systems, and to otherwise use sources of renewable energy to serve those buildings, facilities and structures pursuant to the provisions of this section and NRS 701B.921. The projects must be prioritized and selected on the basis of the following criteria:

- (a) The length of time necessary to commence the project.
- (b) The number of workers estimated to be employed on the project.
- (c) The effectiveness of the project in reducing energy consumption.
- (d) The estimated cost of the project.

(e) Whether the project is able to be powered by or to otherwise use sources of renewable energy.

(f) Whether the project has qualified for participation in ~~one or more of the following programs:~~

~~(1) The Solar Energy Systems Incentive Program created by NRS 701B.240;~~

~~(2) :~~

(1) The Renewable Energy School Pilot Program created by NRS 701B.350; or

~~(3)~~ (2) An energy efficiency or energy conservation program offered by a public utility, as defined in NRS 704.020, pursuant to a plan approved by the Public Utilities Commission of Nevada pursuant to NRS 704.741.

4. As soon as practicable after an entity described in subsections 1, 2 and 3 selects a project, the entity shall proceed to enter into a contract with one or more contractors to perform the work on the project. The request for proposals and all contracts for each project must include, without limitation:

(a) Provisions stipulating that all employees of the contractors and subcontractors who work on the project must be paid prevailing wages pursuant to the requirements of chapter 338 of NRS;

(b) Provisions requiring that each contractor and subcontractor employed on each such project:

(1) Employ a number of persons trained as described in paragraph (b) of subsection 3 of NRS 701B.921 that is equal to or greater than 50 percent of the total workforce the contractor or subcontractor employs on the project; or

(2) If the Director of the Department determines in writing, pursuant to a request submitted by the contractor or subcontractor, that the contractor or subcontractor cannot reasonably comply with the provisions of subparagraph (1) because there are not available a sufficient number of such trained persons, employ a number of persons trained as described in paragraph (b) of subsection 3 of NRS 701B.921 or trained through any apprenticeship program that is registered and approved by the State Apprenticeship Council pursuant to chapter 610 of NRS that is equal to or greater than 50 percent of the total workforce the contractor or subcontractor employs on the project;

(c) A component pursuant to which persons trained as described in paragraph (b) of subsection 3 of NRS 701B.921 must be classified and paid prevailing wages depending upon the classification of the skill in which they are trained; and

(d) A component that requires each contractor or subcontractor to offer to employees working on the project, and to their dependents, health care in the same manner as a policy of insurance pursuant to chapters 689A and 689B of NRS or the Employee Retirement Income Security Act of 1974.

5. The State Public Works Board, each of the school districts and the Board of Regents of the University of Nevada shall each provide a report to the Interim Finance Committee which describes the projects selected pursuant to this section and a report of the dates on which those projects are scheduled to be completed.

Sec. 18.9. NRS 704.7822 is hereby amended to read as follows:

704.7822 For the purpose of complying with a portfolio standard established pursuant to NRS 704.7821 or 704.78213, a provider shall be deemed to have generated or acquired 2.4 kilowatt-hours of electricity from a renewable energy system for each 1.0 kilowatt-hour of actual electricity generated or acquired from a solar photovoltaic system, if:

1. The system is installed on the premises of a retail customer ~~+~~ **or provider**; and

2. On an annual basis, at least 50 percent of the electricity generated by the system is utilized by the retail customer **or provider** on that premises.

Sec. 19. NRS 338.1908 is hereby amended to read as follows:

338.1908 1. The governing body of each local government shall, by July 28, 2009, develop a plan to retrofit public buildings, facilities and structures, including, without limitation, traffic-control systems, and to

otherwise use sources of renewable energy to serve those buildings, facilities and structures. Such a plan must:

(a) Be developed with input from one or more energy retrofit coordinators designated pursuant to NRS 338.1907, if any.

(b) Include a list of specific projects. The projects must be prioritized and selected on the basis of the following criteria:

- (1) The length of time necessary to commence the project.
- (2) The number of workers estimated to be employed on the project.
- (3) The effectiveness of the project in reducing energy consumption.
- (4) The estimated cost of the project.

(5) Whether the project is able to be powered by or otherwise use sources of renewable energy.

(6) Whether the project has qualified for participation in ~~one or more of the following programs:~~

~~(I) The Solar Energy Systems Incentive Program created by NRS 701B.240;~~

~~(II) The~~ *the* Renewable Energy School Pilot Program created by NRS 701B.350. ~~For~~

~~(III) The Wind Energy Systems Demonstration Program created by NRS 701B.580.]~~ ~~or~~

~~(IV) The Waterpower Energy Systems Demonstration Program created by NRS 701B.820.]~~

(c) Include a list of potential funding sources for use in implementing the projects, including, without limitation, money available through the Energy Efficiency and Conservation Block Grant Program as set forth in 42 U.S.C. § 17152 and grants, gifts, donations or other sources of money from public and private sources.

2. The governing body of each local government shall transmit the plan developed pursuant to subsection 1 to the Nevada Energy Commissioner and to any other entity designated for that purpose by the Legislature.

3. As used in this section:

(a) "Local government" means each city or county that meets the definition of "eligible unit of local government" as set forth in 42 U.S.C. § 17151 and each unit of local government, as defined in subsection 11 of NRS 338.010, that does not meet the definition of "eligible entity" as set forth in 42 U.S.C. § 17151.

(b) "Renewable energy" means a source of energy that occurs naturally or is regenerated naturally, including, without limitation:

- (1) Biomass;
- (2) Fuel cells;
- (3) Geothermal energy;
- (4) Solar energy;

(5) Waterpower; and

(6) Wind.

↪ The term does not include coal, natural gas, oil, propane or any other fossil fuel, or nuclear energy.

(c) "Retrofit" means to alter, improve, modify, remodel or renovate a building, facility or structure to make that building, facility or structure more energy-efficient.

Sec. 20. 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 69, 72 to 75, inclusive, and section 94 of this act expire by limitation on December 31, 2012.

3. Sections ~~62, 67 to 106,~~ 68, inclusive, 70, 71, 77 to 82, inclusive, 85 to 94, inclusive, and 95 to 105, inclusive, of this act expire by limitation on ~~June 30, 2011.~~ December 31, 2021.

Sec. 21. 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 ~~Section~~ 3 of this act ~~expire~~ ~~expires~~ by limitation on ~~June 30, 2011.~~ December 31, 2021.

Sec. 22. 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, 4.3 ~~1.95 and 7.1~~ to 9, inclusive, and 19.4 of this act expire by limitation on ~~June 30, 2011.~~

~~3. Sections 1.53 and 19.8 of this act become effective on July 1, 2011.~~
December 31, 2021.

Sec. 23. (Deleted by amendment.)

Sec. 23.3. 1. NRS 701B.010, 701B.020, 701B.030, 701B.040, 701B.050, 701B.055, 701B.070, 701B.080, 701B.090, 701B.150, 701B.160, 701B.170, 701B.180, 701B.200, 701B.210, 701B.220, 701B.230, 701B.240, 701B.250, 701B.255, 701B.265, 701B.280 and 701B.290 are hereby repealed.

2. NRS 701B.060, 701B.100, 701B.110, 701B.120, 701B.130, 701B.140, 701B.260 and sections 1.53 and 19.8 of chapter 321, Statutes of Nevada 2009, at pages 1372 and 1408, respectively, are hereby repealed.

Sec. 23.5. The Public Utilities Commission of Nevada shall adopt regulations to carry out the amendatory provisions of this act on or before July 1, 2012. The regulations must ~~provide~~ :

1. Provide for the transition to the performance-based incentive required by NRS 701B.220, as amended by section 4 of this act, ~~and~~ NRS 701B.590, as amended by section 10 of this act **and NRS 701B.840, as amended by section 10.7 of this act, for the applicable participants ~~in categories other than the category of private residential property~~ in the Solar Energy Systems Incentive Program, ~~and~~ the Wind Energy Systems Demonstration Program, ~~and~~ and the Waterpower Energy Systems Demonstration Program.**

2. Require that the capacity allocated for a participant in the Solar Energy Systems Incentive Program, the Wind Energy Systems Demonstration Program or the Waterpower Energy Systems Demonstration Program who fails to install and energize the energy system within 12 months after the date on which the applicant is selected for participation in the respective program must be made available to applicants who apply for participation in the Solar Energy Systems Incentive Program, the Wind Energy Systems Demonstration Program or the Waterpower Energy Systems Demonstration Program on or after January 1, 2013.

Sec. 24. (Deleted by amendment.)

Sec. 25. 1. This section and sections **8.3, 10.1, 18.1, 20 to 23, inclusive, and 23.5 ~~to 23.9, inclusive,~~** of this act become effective upon passage and approval.

2. Sections 1, 2 to ~~18,~~ **8, inclusive, 8.7 to 10, inclusive, 10.5 to 18, inclusive, 18.5, 18.9** and 24 of this act become effective upon passage and approval for the purpose of adopting regulations, and on January 1, 2013, for all other purposes.

3. ~~Section 19 of this act becomes effective on July 1, 2011.~~ **Subsection 2 of section 23.3 of this act becomes effective on January 1, 2013.**

4. **Section 1.5, 18.7, 19 and subsection 1 of section 23.3 of this act become effective on January 1, 2022.**

**LEADLINES OF REPEALED SECTIONS OF NRS AND TEXT OF
REPEALED SECTIONS OF STATUTES OF NEVADA**

701B.010 Applicability.

701B.020 Definitions.

701B.030 "Applicant" defined.

701B.040 "Category" defined.

701B.050 "Commission" defined.

701B.055 "Distributed generation system" defined.

701B.060 "Institution of higher education" defined.

701B.070 "Owned, leased or occupied" defined.

701B.080 "Participant" defined.

701B.090 "Person" defined.

**701B.100 "Program year" means the period of July 1 to June 30 of
the following year.**

701B.110 "Public and other property" defined.

701B.120 "Public entity" defined.

701B.130 "School property" defined.

701B.140 "Small business" defined.

701B.150 "Solar energy system" defined.

701B.160 "Solar Program" defined.

701B.170 "Task Force" defined.

701B.180 "Utility" defined.

**701B.200 Regulations: Establishment of incentives and requirements
for utility's annual plan; exceptions; recovery of costs by utility.**

**701B.210 Regulations: Establishment of qualifications and
requirements for participation; form and content of utility's master
application.**

701B.220 Regulations: Establishment of incentives for participation.

**701B.230 Duty of utility to file annual plan; review and approval of
annual plan by Commission; recovery of costs by utility.**

**701B.240 Creation of Solar Program; categories of participation;
eligibility requirements.**

701B.250 Application to participate; review of application by utility.

**701B.255 Procedure for selection and notification of participants;
authorization to install and energize solar energy system; submission of
incentive claim form; determination of amount of incentive; withdrawal
of participant; forfeiture of incentive.**

**701B.260 Capacity allocated to each category; reallocation of
capacity; limitations on incentives.**

**701B.265 Installation of solar energy system deemed public work
under certain circumstances.**

701B.280 Participation in net metering.**701B.290 Issuance of portfolio energy credits.****Section 1.53 of chapter 321, Statutes of Nevada 2009, at page 1372:**

Sec. 1.53. NRS 701.180 is hereby amended to read as follows:

701.180 The Director shall:

1. Acquire and analyze information relating to energy and to the supply, demand and conservation of its sources, including, without limitation:

(a) Information relating to the Solar Energy Systems Incentive Program created pursuant to NRS 701B.240 ~~and the Wind Energy Systems Demonstration Program created pursuant to 701B.580,~~ including, without limitation, information relating to:

(1) The development of distributed generation systems in this State pursuant to participation in the Solar Energy Systems Incentive Program;

(2) The use of carbon-based energy in residential and commercial applications due to participation in the ~~Programs;~~ **Program;** and

(3) The average cost of generation on a kilowatt-hour basis for residential and commercial applications due to participation in the ~~Programs;~~ **Program;** and

(b) Information relating to any money distributed pursuant to NRS 702.270.

2. Review and evaluate information which identifies trends and permits forecasting of the energy available to the State. Such forecasts must include estimates on:

(a) The level of demand for energy in the State for 5-, 10- and 20-year periods;

(b) The amount of energy available to meet each level of demand;

(c) The probable implications of the forecast on the demand and supply of energy; and

(d) The sources of renewable energy and other alternative sources of energy which are available and their possible effects.

3. Study means of reducing wasteful, inefficient, unnecessary or uneconomical uses of energy and encourage the maximum utilization of existing sources of energy in the State.

4. Solicit and serve as the point of contact for grants and other money from the Federal Government, including, without limitation, any grants and other money available pursuant to any program administered by the United States Department of Energy, and other sources to cooperate with the Commissioner and the Authority:

(a) To promote energy projects that enhance the economic development of the State;

(b) To promote the use of renewable energy in this State;

(c) To promote the use of measures which conserve or reduce the demand for energy or which result in more efficient use of energy;

(d) To develop a comprehensive program for retrofitting public buildings in this State with energy efficiency measures; and

(e) If the Commissioner determines that it is feasible and cost-effective, to enter into contracts with researchers from the Nevada System of Higher Education for the design of energy efficiency and retrofit projects to carry out the comprehensive program for retrofitting public buildings in this State developed pursuant to paragraph (d).

5. Coordinate the activities and programs of the Office of Energy with the activities and programs of the Authority, the Consumer's Advocate and the Public Utilities Commission of Nevada, and with other federal, state and local officers and agencies that promote, fund, administer or operate activities and programs related to the use of renewable energy and the use of measures which conserve or reduce the demand for energy or which result in more efficient use of energy.

6. Carry out all other directives concerning energy that are prescribed by the Governor.

Section 19.8 of chapter 321, Statutes of Nevada 2009, at page 1408:

Sec. 19.8. Section 19.4 of this act is hereby amended to read as follows:

Sec. 19.4. Chapter 338 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The governing body of each local government shall, within 60 days after the effective date of this section, develop a plan to retrofit public buildings, facilities and structures, including, without limitation, traffic-control systems, and to otherwise use sources of renewable energy to serve those buildings, facilities and structures. Such a plan must:

(a) Be developed with input from one or more energy retrofit coordinators designated pursuant to NRS 338.1907, if any.

(b) Include a list of specific projects. The projects must be prioritized and selected on the basis of the following criteria:

(1) The length of time necessary to commence the project.

(2) The number of workers estimated to be employed on the project.

(3) The effectiveness of the project in reducing energy consumption.

(4) The estimated cost of the project.

(5) Whether the project is able to be powered by or otherwise use sources of renewable energy.

(6) Whether the project has qualified for participation in one or more of the following programs:

(I) The Solar Energy Systems Incentive Program created by NRS 701B.240; *or*

(II) The Renewable Energy School Pilot Program created by NRS 701B.350. ~~;~~

~~(III) The Wind Energy Systems Demonstration Program created by NRS 701B.580; or~~

~~(IV) The Waterpower Energy Systems Demonstration Program created by NRS 701B.820.]~~

(c) Include a list of potential funding sources for use in implementing the projects, including, without limitation, money available through the Energy Efficiency and Conservation Block Grant Program as set forth in 42 U.S.C. § 17152 and grants, gifts, donations or other sources of money from public and private sources.

2. The governing body of each local government shall transmit the plan developed pursuant to subsection 1 to the Nevada Energy Commissioner and to any other entity designated for that purpose by the Legislature.

3. As used in this section:

(a) "Local government" means each city or county that meets the definition of "eligible unit of local government" as set forth in 42 U.S.C. § 17151 and each unit of local government, as defined in subsection 11 of NRS 338.010, that does not meet the definition of "eligible entity" as set forth in 42 U.S.C. § 17151.

(b) "Renewable energy" means a source of energy that occurs naturally or is regenerated naturally, including, without limitation:

- (1) Biomass;
- (2) Fuel cells;
- (3) Geothermal energy;
- (4) Solar energy;
- (5) Waterpower; and
- (6) Wind.

↪ The term does not include coal, natural gas, oil, propane or any other fossil fuel, or nuclear energy.

(c) "Retrofit" means to alter, improve, modify, remodel or renovate a building, facility or structure to make that building, facility or structure more energy-efficient.

Assemblyman Hickey moved the adoption of the amendment.

Amendment adopted.

Bill ordered to third reading.

Assembly Bill No. 427.

Bill read third time.

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

Amendment No. 917.

SUMMARY—~~[Enacts provisions]~~ **Directs the Legislative Commission to conduct an interim study concerning the establishment of a program requiring the payment of deposits and refunds on ~~[certain beverage containers]~~ recyclable products sold in this State. (BDR ~~[40-1079]~~ S-1079)**

AN ACT relating to programs for recycling; ~~[enacting provisions requiring]~~ **directing the Legislative Commission to conduct an interim study concerning the establishment of a program requiring the payment and refund of deposits ~~[and refunds]~~ on ~~[certain beverage containers]~~ recyclable products** sold in this State; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

This bill ~~[establishes]~~ **directs the Legislative Commission to conduct an interim study concerning the establishment of** a program for requiring deposits to be paid and then refunded on ~~[certain]~~ recyclable ~~[beverage containers]~~ **products** sold in this State. ~~[Under section 10 of this bill, every beverage container, with certain exceptions, has a refund value of 5 cents. Section 11 of this bill requires every beverage container sold in this State to be clearly labeled with that refund value and with the word "Nevada" or the abbreviation "NV." Section 12 of this bill requires a consumer to deposit the refund value of each beverage container when purchasing a filled container and requires a dealer who receives that deposit to submit the amount of the deposit to the Director of the State Department of Conservation and Natural Resources for deposit in the Beverage Container Recycling Fund. Section 12 also authorizes a consumer to return the beverage container to a redemption center and requires the Division of Environmental Protection of the Department to adopt regulations for the certification of those redemption centers. Section 13 of this bill provides for the refunding of the value of the empty beverage container to the consumer by a redemption center. Section 14 of this bill prohibits a person from attempting to return for a refund more than a certain number of empty beverage containers that the person knows or has reason to know were not originally sold in this State. Section 15 of this bill creates the Beverage Container Recycling Fund and requires the money in the Fund to be used for recycling and recycling promotion and education programs. Section 16 of this bill requires certain reports to be made to the Director of the Department, and section 17 of this bill requires the Division to adopt regulations necessary to carry out the provisions of this bill.]~~

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

Delete existing sections 1 through 18 of this bill and replace with the following new sections 1 and 2.

Section 1. 1. The Legislative Commission shall appoint a committee to conduct an interim study concerning the establishment of a program for requiring the payment and refund of deposits on recyclable products sold in this State.

2. The committee appointed by the Legislative Commission pursuant to subsection 1 must be composed of six Legislators as follows:

(a) Three members appointed by the Majority Leader of the Senate, at least one of whom must be appointed from the membership of the Senate Standing Committee on Natural Resources during the 76th Session of the Nevada Legislature; and

(b) Three members appointed by the Speaker of the Assembly, at least one of whom must be appointed from the membership of the Assembly Standing Committee on Natural Resources, Agriculture, and Mining during the 76th Session of the Nevada Legislature.

3. The study:

(a) Must include, without limitation:

(1) Consideration of the recyclable products to be included in the program, including, without limitation, plastic, glass, aluminum or tin containers and paper or plastic grocery and shopping bags.

(2) An analysis of the process for the payment and refund of the deposits on the recyclable products, including, without limitation, the creation of redemption centers.

(b) May include consideration of other methods of encouraging recycling.

4. The Legislative Commission shall submit a report of the results of the study and any recommendations for legislation to the 77th Session of the Nevada Legislature.

Sec. 2. 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. 476.

Bill read third time.

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

Amendment No. 929.

AN ACT relating to education; authorizing the Board of Regents of the University of Nevada to request an allocation from the Contingency Fund to cover a projected shortfall in the Trust Fund for the Education of Dependent Children; providing that money in the Trust Fund does not revert to the State

General Fund; making an appropriation; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, the Board of Regents of the University of Nevada is required, to the extent of legislative appropriation, to pay certain fees and expenses associated with undergraduate classes taken at a school within the Nevada System of Higher Education by dependent children of a police officer, firefighter or officer of the Nevada Highway Patrol killed in the line of duty or of a volunteer ambulance driver or attendant while engaged as such. These fees and expenses are paid from the Trust Fund for the Education of Dependent Children, which also receives money from gifts and grants. (NRS 396.545) **Section 1** of this bill requires the Board of Regents to estimate each fiscal year the amount of money in the Trust Fund that is available in that fiscal year for payment of such fees and expenses and the anticipated amount of such payments for that fiscal year. If, as a result of this estimation, there is a projected shortfall in the Trust Fund for the fiscal year, the Board of Regents is authorized to request an allocation from the Contingency Fund to cover the shortfall. The Interim Finance Committee is authorized under existing law to make allocations from the Contingency Fund: (1) for emergency use to supplement regular legislative appropriations which fail to cover unforeseen expenses; (2) to meet expenses pursuant to the requirements of a law; or (3) as provided by specific statute. (NRS 353.266)

Section 1 also provides that money in the Trust Fund does not revert to the State General Fund at the end of a fiscal year, but instead remains in the Trust Fund. **Section 2** of this bill makes an appropriation from the State General Fund to the Trust Fund of ~~+\$50,000-~~ **+\$25,000.**

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

Section 1. NRS 396.545 is hereby amended to read as follows:

396.545 1. To the extent of ~~legislative appropriation,~~ ***money available for this purpose,*** the Board of Regents shall pay all registration fees, laboratory fees and expenses for required textbooks and course materials assessed against or incurred by a dependent child of:

(a) A police officer, firefighter or officer of the Nevada Highway Patrol who was killed in the line of duty; or

(b) A volunteer ambulance driver or attendant who was killed while engaged as a volunteer ambulance driver or attendant,

↪ for classes taken towards satisfying the requirements of an undergraduate degree at a school within the System. No such payment may be made for any fee assessed after the child reaches the age of 23 years.

2. There is hereby created in the State Treasury a Trust Fund for the Education of Dependent Children. The Board of Regents shall administer the Trust Fund. The Board of Regents may accept gifts and grants for deposit in the Trust Fund. All money held by the State Treasurer or received by the Board of Regents for that purpose must be deposited in the Trust Fund. The money in the Trust Fund must be invested as the money in other state funds is invested. After deducting all applicable charges, all interest and income earned on the money in the Trust Fund must be credited to the Trust Fund. ***Any money remaining in the Trust Fund at the end of a fiscal year does not revert to the State General Fund, and the balance in the Trust Fund must be carried forward to the next fiscal year.***

3. ***For each fiscal year, the Board of Regents shall estimate:***

(a) ***The amount of money in the Trust Fund that is available to make payments pursuant to subsection 1 for that fiscal year; and***

(b) ***The anticipated amount of such payments for that fiscal year.***

↳ ***If the anticipated amount of payments estimated for the fiscal year exceeds the estimated amount of money available in the Trust Fund in the fiscal year for such payments, the Board of Regents may request an allocation from the Contingency Fund created pursuant to NRS 353.266 to cover the projected shortfall.***

4. As used in this section:

(a) "Firefighter" means a person who is a salaried employee or volunteer member of a fire prevention or suppression unit organized by a local government and whose principal duty is to control and extinguish fires.

(b) "Local government" means a county, city, unincorporated town or metropolitan police department.

(c) "Police officer" means a person who is a salaried employee of a police department or other law enforcement agency organized or operated by a local government and whose principal duty is to enforce the law.

(d) "Volunteer ambulance driver or attendant" means a person who is a driver of or attendant on an ambulance owned or operated by:

(1) A nonprofit organization that provides volunteer ambulance service in any county, city or town in this State; or

(2) A political subdivision of this State.

Sec. 2. There is hereby appropriated from the State General Fund to the Trust Fund for the Education of Dependent Children created by NRS 396.545 the sum of ~~[\$50,000]~~ **\$25,000** to pay for expenses pursuant to that section.

Sec. 3. 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. 560.

Bill read third time.

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

Amendment No. 920.

AN ACT relating to state employees; ~~reducing the rate of accrual of annual leave and sick leave for state employees;~~ eliminating the required payment of a state employee at the rate of time and one-half for working on a holiday; ~~eliminating the requirement that the state purchase credit for service for retirement for certain employees if an agency is required to reduce the number of its employees;~~ continuing the temporary suspension of the semiannual payment of longevity pay and merit pay increases for state employees; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

~~[Existing law provides for the establishment of a personnel system for state employees. (Chapter 284 of NRS) This includes prescribing the rates at which annual leave and sick leave accrue for those employees. (NRS 284.350, 284.355; NAC 284.538) Sections 2 and 3 of this bill reduce the rate at which state employees accrue annual leave and sick leave, effective July 1, 2012.]~~

Existing law provides, in addition to paying state employees on state holidays, for payment at the rate of time and one-half for employees who work on a holiday. (NAC 284.256) **Section 1** of this bill eliminates this premium for working on a holiday.

~~[Existing law provides for the purchase of credit for service for the purposes of the Public Employees' Retirement System for certain employees who agree to retire when a state agency is required to reduce the number of its employees. (NRS 286.3007) Section 4 of this bill limits that benefit to employees hired before July 1, 2011.]~~

Existing law provides for a plan to encourage continuity of service in State Government, under which semiannual payments are made to state employees rated standard or better with 8 years or more of continuous service, commonly known as "longevity pay." (NRS 284.177) Existing law also provides for state employees who are rated standard or better and have not attained the top step of their grade to receive a merit pay increase annually. (NRS 284.175, 284.335; NAC 284.194) Those semiannual payments and merit pay increases were temporarily suspended by the Legislature in 2009 for the 2009-2011 biennium. (Chapter 276, Statutes of Nevada 2009, p. 1164-65, as amended by chapter 465, Statutes of Nevada 2009, p. 2642-43) **Section 5** of this bill continues the suspension of those payments and increases for the next 2 fiscal years.

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

Section 1. NRS 284.180 is hereby amended to read as follows:

284.180 1. The Legislature declares that since uniform salary and wage rates and classifications are necessary for an effective and efficient personnel system, the pay plan must set the official rates applicable to all positions in the classified service, but the establishment of the pay plan in no way limits the authority of the Legislature relative to budgeted appropriations for salary and wage expenditures.

2. Credit for overtime work directed or approved by the head of an agency or the representative of the head of the agency must be earned at the rate of time and one-half, except for those employees described in NRS 284.148.

3. Except as otherwise provided in subsections 4, 6, 7 and 9, overtime is considered time worked in excess of:

- (a) Eight hours in 1 calendar day;
- (b) Eight hours in any 16-hour period; or
- (c) A 40-hour week.

4. Firefighters who choose and are approved for a 24-hour shift shall be deemed to work an average of 56 hours per week and 2,912 hours per year, regardless of the actual number of hours worked or on paid leave during any biweekly pay period. A firefighter so assigned is entitled to receive 1/26 of the firefighter's annual salary for each biweekly pay period. In addition, overtime must be considered time worked in excess of:

- (a) Twenty-four hours in one scheduled shift; or
- (b) Fifty-three hours average per week during one work period for those hours worked or on paid leave.

↪ The appointing authority shall designate annually the length of the work period to be used in determining the work schedules for such firefighters. In addition to the regular amount paid such a firefighter for the deemed average of 56 hours per week, the firefighter is entitled to payment for the hours which comprise the difference between the 56-hour average and the overtime threshold of 53 hours average at a rate which will result in the equivalent of overtime payment for those hours.

5. The Commission shall adopt regulations to carry out the provisions of subsection 4.

6. For employees who choose and are approved for a variable workday, overtime will be considered only after working 40 hours in 1 week.

7. Employees who are eligible under the Fair Labor Standards Act of 1938, 29 U.S.C. §§ 201 et seq., to work a variable 80-hour work schedule within a biweekly pay period and who choose and are approved for such a

work schedule will be considered eligible for overtime only after working 80 hours biweekly, except those eligible employees who are approved for overtime in excess of one scheduled shift of 8 or more hours per day.

8. An agency may experiment with innovative workweeks upon the approval of the head of the agency and after majority consent of the affected employees. The affected employees are eligible for overtime only after working 40 hours in a workweek.

9. This section does not supersede or conflict with existing contracts of employment for employees hired to work 24 hours a day in a home setting. Any future classification in which an employee will be required to work 24 hours a day in a home setting must be approved in advance by the Commission.

10. All overtime must be approved in advance by the appointing authority or the designee of the appointing authority. No officer or employee, other than a director of a department or the chair of a board, commission or similar body, may authorize overtime for himself or herself. The chair of a board, commission or similar body must approve in advance all overtime worked by members of the board, commission or similar body.

11. The Budget Division of the Department of Administration shall review all overtime worked by employees of the Executive Department to ensure that overtime is held to a minimum. The Budget Division shall report quarterly to the State Board of Examiners the amount of overtime worked in the quarter within the various agencies of the State.

12. A state employee is ~~not~~ entitled to ~~payment at the~~ his or her normal rate of ~~time and one half~~ pay for working on a legal holiday unless the employee is entitled to payment for overtime pursuant to this section and the regulations adopted pursuant thereto. This payment is in addition to any payment provided for by regulation for working on a legal holiday.

Sec. 2. ~~NRS 284.350 is hereby amended to read as follows:~~

~~284.350 1. Except as otherwise provided in subsections 2, 3 and 4, an employee in the public service, whether in the classified or unclassified service, is entitled to annual leave with pay of [1 1/4 working days for each]:~~

~~(a) One day per month for an employee who has completed less than 5 years of continuous public service [.] ;~~

~~(b) One and one quarter days per month for an employee who has completed 5 years or more but less than 15 years of continuous public service;~~

~~(c) One and one half days per month for an employee who has completed 15 years or more but less than 20 years of continuous public service; and~~

~~(d) One and three-quarters days per month for an employee who has completed 20 years or more of continuous public service.~~

~~→ The annual leave may be cumulative from year to year not to exceed 30 working days. The Commission may by regulation provide for [additional annual leave for long-term employees and for] prorated annual leave for part-time employees.~~

~~2. Except as otherwise provided in this subsection, any annual leave in excess of 30 working days must be used before January 1 of the year following the year in which the annual leave in excess of 30 working days is accumulated or the amount of annual leave in excess of 30 working days is forfeited on that date. If an employee:~~

~~(a) On or before October 15, requests permission to take annual leave; and~~

~~(b) The employee's request for leave is denied in writing for any reason,~~

~~→ the employee is entitled to payment for any annual leave in excess of 30 working days which the employee requested to take and which the employee would otherwise forfeit as the result of the denial of the employee's request, unless the employee has final authority to approve use of the employee's own accrued leave and the employee received payment pursuant to this subsection for any unused annual leave in excess of 30 working days accumulated during the immediately preceding calendar year. The payment for the employee's unused annual leave must be made to the employee not later than January 31.~~

~~3. Officers and members of the faculty of the Nevada System of Higher Education are entitled to annual leave as provided by the regulations adopted pursuant to subsection 2 of NRS 284.345.~~

~~4. The Commission shall establish by regulation a schedule for the accrual of annual leave for employees who regularly work more than 40 hours per week or 80 hours biweekly. The schedule must provide for the accrual of annual leave at the same rate proportionately as employees who work a 40-hour week accrue annual leave.~~

~~5. No elected state officer may be paid for accumulated annual leave upon termination of the officer's service.~~

~~6. During the first 6 months of employment of any employee in the public service, annual leave accrues as provided in subsection 1, but no annual leave may be taken during that period.~~

~~7. No employee in the public service may be paid for accumulated annual leave upon termination of employment unless the employee has been employed for 6 months or more.~~

~~8. Upon the request of an employee, the appointing authority of the employee may approve the reduction or satisfaction of an overpayment of the salary of the employee that was not obtained by the fraud or willful~~

~~misrepresentation of the employee with a corresponding amount of the accrued annual leave of the employee.] (Deleted by amendment.)~~

~~Sec. 3. [NRS 284.355 is hereby amended to read as follows:~~

~~284.355 1. Except as otherwise provided in this section, all employees in the public service, whether in the classified or unclassified service, are entitled to sick and disability leave with pay of 1 [1/4] working [days] day for each month of service, which may be cumulative from year to year. After an employee has accumulated 90 working days of sick leave, the amount of additional unused sick leave which the employee is entitled to carry forward from 1 year to the next is limited to one half of the unused sick leave accrued during that year, but the Commission may by regulation provide for subsequent use of unused sick leave accrued but not carried forward because of this limitation in cases where the employee is suffering from a long term or chronic illness and has used all sick leave otherwise available to the employee.~~

~~2. Upon the retirement of an employee, the employee's termination through no fault of the employee or the employee's death while in public employment, the employee or the employee's beneficiaries are entitled to payment:~~

~~(a) For the employee's unused sick leave in excess of 30 days, exclusive of any unused sick leave accrued but not carried forward, according to the employee's number of years of public service, except service with a political subdivision of the State, as follows:~~

~~(1) For 10 years of service or more but less than 15 years, not more than \$2,500.~~

~~(2) For 15 years of service or more but less than 20 years, not more than \$4,000.~~

~~(3) For 20 years of service or more but less than 25 years, not more than \$6,000.~~

~~(4) For 25 years of service, not more than \$8,000.~~

~~(b) For the employee's unused sick leave accrued but not carried forward, an amount equal to one half of the sum of:~~

~~(1) The employee's hours of unused sick leave accrued but not carried forward; and~~

~~(2) An additional 120 hours.~~

~~3. The Commission may by regulation provide for additional sick and disability leave for long term employees and for prorated sick and disability leave for part-time employees.~~

~~4. An employee entitled to payment for unused sick leave pursuant to subsection 2 may elect to receive the payment in any one or more of the following forms:~~

~~(a) A lump sum payment.~~

~~(b) An advanced payment of the premiums or contributions for insurance coverage for which the employee is otherwise eligible pursuant to chapter 287 of NRS. If the insurance coverage is terminated and the money advanced for premiums or contributions pursuant to this subsection exceeds the amount which is payable for premiums or contributions for the period for which the former employee was actually covered, the unused portion of the advanced payment must be paid promptly to the former employee or, if the employee is deceased, to the employee's beneficiary.~~

~~(c) The purchase of additional retirement credit, if the employee is otherwise eligible pursuant to chapter 286 of NRS.~~

~~5. Officers and members of the faculty of the Nevada System of Higher Education are entitled to sick and disability leave as provided by the regulations adopted pursuant to subsection 2 of NRS 284.345.~~

~~6. The Commission may by regulation provide policies concerning employees with mental or emotional disorders which:~~

~~(a) Use a liberal approach to the granting of sick leave or leave without pay to such an employee if it is necessary for the employee to be absent for treatment or temporary hospitalization.~~

~~(b) Provide for the retention of the job of such an employee for a reasonable period of absence, and if an extended absence necessitates separation or retirement, provide for the reemployment of such an employee if at all possible after recovery.~~

~~(c) Protect employee benefits, including, without limitation, retirement, life insurance and health benefits.~~

~~7. The Commission shall establish by regulation a schedule for the accrual of sick leave for employees who regularly work more than 40 hours per week or 80 hours biweekly. The schedule must provide for the accrual of sick leave at the same rate proportionately as employees who work a 40-hour week accrue sick leave.~~

~~8. The Department may investigate any instance in which it believes that an employee has taken sick or disability leave to which the employee was not entitled. If, after notice to the employee and a hearing, the Commission determines that the employee has taken sick or disability leave to which the employee was not entitled, the Commission may order the forfeiture of all or part of the employee's accrued sick leave.] **(Deleted by amendment.)**~~

~~Sec. 4. [NRS 286.3007 is hereby amended to read as follows:~~

~~286.3007 Except as otherwise required as a result of NRS 286.537:~~

~~1. A state agency may enter into an agreement to pay the cost of purchasing credit for service pursuant to NRS 286.300 on behalf of a member if:~~

~~(a) The agency enters into the agreement before the member is employed;~~

~~(b) The member is employed upon the condition that the employer pay the cost of purchasing the credit, and~~

~~(c) The agreement to pay the cost of purchasing the credit is in writing, becomes part of the personnel records of the employee and is approved in advance by the State Board of Examiners.~~

~~2. If a state agency is authorized to purchase credit pursuant to subsection 1, it shall not do so until the member has completed 1 year of service in its employ.~~

~~3. If a state agency is required to reduce the number of its employees, it shall purchase credit for service pursuant to NRS 286.300 for any member who:~~

~~(a) Is eligible to purchase credit;~~

~~(b) Is eligible to retire or will be made eligible by the purchase of the credit;~~

~~(c) Agrees to retire upon completion of the purchase; [and]~~

~~(d) Has been employed by the agency for 5 or more years [.] ; and~~

~~(e) Was hired before July 1, 2011, and has been continuously employed by the State since that date.~~

~~4. If a state agency is required to purchase credit pursuant to subsection 3, it shall pay 5 percent of the cost of purchasing the credit and an additional 5 percent of the cost for each year that the person has been employed by the agency in excess of the minimum requirement of 5 years. **(Deleted by amendment.)**~~

Sec. 5. 1. The four semiannual payments to which a state employee would otherwise be entitled pursuant to NRS 284.177 must not be made during the period beginning on July 1, 2011, and ending on June 30, 2013. For the purposes of payments made pursuant to NRS 284.177 on or after July 1, 2013, any service during that 2-year period must be considered in determining the length of continuous service of an employee, but an employee is not entitled to semiannual payments that would otherwise have been made during the period during which the semiannual payments are suspended.

2. No merit pay increases to which a state employee would otherwise be entitled pursuant to chapter 284 of NRS and the regulations adopted pursuant thereto may be granted during the period beginning on July 1, 2011, and ending on June 30, 2013. For the purposes of merit pay increases granted on or after July 1, 2013, an employee is not entitled to any increases that would otherwise have been granted during that period.

Sec. 6. ~~[1.]~~ This ~~[section and sections 1, 4 and 5 of this]~~ act ~~[become]~~ **becomes** effective on July 1, 2011.

~~[2. Sections 2 and 3 of this act become effective on July 1, 2012.]~~

Assemblyman Hickey moved the adoption of the amendment.

Amendment adopted.

Bill ordered to third reading.

Assembly Bill No. 576.

Bill read third time.

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

Amendment No. 888.

Section 94 of Assembly Bill No. 576 is hereby amended as follows:

Sec. 41. NRS 218A.400 is hereby amended to read as follows:

218A.400 1. Before ~~[the meeting of]~~ the Assembly ~~[of]~~ *meets for* each *regular* session, ~~[of the Legislature,]~~ the Secretary of State shall make out a roll from the returns on file in the Secretary of State's office of the persons who received the highest number of votes ~~[for the offices of Assemblyman, Assemblywoman and State Senator]~~ *to be elected to office as members of the Assembly* in each district in the *general* election. The members whose names appear upon the roll must be allowed to participate in the organization of the Assembly.

2. On the first day of each *regular* session ~~[of the Legislature]~~ ~~[at 12]~~ ~~[m.]~~ ~~[p.m.]~~ at a time that is appropriate for that regular session, the Secretary of State shall call the Assembly to order ~~[,]~~ and shall preside over the Assembly until a presiding officer ~~[shall be]~~ is elected.

3. *If a special session is convened between the date of the general election and the date of the next regular session, the Assembly must be organized for the special session according to the procedure set forth in this section, except that on the first day of the special session, the Secretary of State shall call the Assembly to order at a time that is appropriate for that special session.*

Section 94 of Assembly Bill No. 576 is hereby amended as follows:

Sec. 94. NRS 218D.160 is hereby amended to read as follows:

218D.160 1. The Chair of the Legislative Commission may request the drafting of not more than 15 legislative measures before ~~[the commencement of]~~ *the first day of* a regular ~~[legislative]~~ session, with the approval of the *Legislative* Commission, which relate to the affairs of the Legislature or its employees, including *legislative* measures requested by the legislative staff.

2. The Chair of the Interim Finance Committee may request the drafting of not more than 10 legislative measures before ~~[the commencement of a regular legislative]~~ *the first day of a regular* session, with the approval of the Committee, which relate to matters within the scope of the Committee.

3. Except as otherwise provided by *a* specific statute, *joint rule* or concurrent resolution: ~~[of the Legislature,]~~

(a) Any ~~other~~ legislative committee created by a statute, *other than an interim legislative committee*, may request the drafting of not more than 10 legislative measures which relate to matters within the scope of the committee. ~~[The requests must be submitted to the Legislative Counsel on or before September 1 preceding a regular session unless the Legislative Commission authorizes submitting a request after that date.]~~

(b) ~~[An interim committee which conducts a study or investigation]~~ *Any committee or subcommittee established by an order of the Legislative Commission* pursuant to NRS 218E.200 may request the drafting of not more than 5 legislative measures which relate to matters within the scope of the study or investigation, except that such a committee *or subcommittee* may request the drafting of additional legislative measures if the Legislative Commission approves each additional request by a majority vote. ~~[The requests must be submitted to the Legislative Counsel on or before September 1 preceding a regular session unless the Legislative Commission authorizes submitting a request after that date.]~~

(c) Any other committee established by the Legislature which conducts an interim legislative study *or investigation* may request the drafting of not more than 5 legislative measures which relate to matters within the scope of the study ~~[]~~ *or investigation*.

~~↳ [Except as otherwise provided in NRS 218E.205, measures]~~ The requests authorized [to be requested] pursuant to this subsection ~~for investigation. The requests~~ must be submitted to the Legislative Counsel on or before September ~~[July]~~ 1 preceding ~~[the commencement of]~~ a regular session ~~[of the Legislature]~~ unless the Legislative Commission authorizes submitting a request after that date.

4. Each request made pursuant to this section must be on a form prescribed by the Legislative Counsel.

Section 117 of Assembly Bill No. 576 is hereby amended as follows:

Sec. 117. NRS 218D.615 is hereby amended to read as follows:

218D.615 1. ~~[Whenever]~~ *When* a bill or resolution which ~~[shall have been]~~ *has* passed in one House ~~[shall be]~~ *is* amended in the other, it ~~[shall]~~ *must* immediately be reprinted as amended by the House making ~~[such]~~ *the* amendment. ~~[for amendments.]~~

2. ~~[Such amendment or amendments shall]~~ *The amendment:*

(a) *Must* be attached to the bill or resolution so amended and endorsed “adopted”; and ~~[such amendment or amendments, if]~~

(b) *If* concurred in by the House in which ~~[such]~~ *the* bill or resolution originated, ~~[shall]~~ *must* be endorsed “concurrent ~~[in]~~ and ~~[such]~~ *in.*”

3. *Each* endorsement ~~[shall]~~ **must** be signed by the Secretary of the Senate or ~~[by the]~~ Chief Clerk of the Assembly, ~~[as the case may be.]~~ **or an authorized assistant.**

Section 126 of Assembly Bill No. 576 is hereby amended as follows:

Sec. 126. NRS 218D.705 is hereby amended to read as follows:

218D.705 1. The Secretary of State shall, after the final adjournment of each ***regular and special*** session, ~~[of the Legislature,]~~ cause all ~~[legislative]~~ bills deposited with the Secretary of State ~~[after approval by the Governor,]~~ ***which have become laws*** and all joint resolutions, concurrent resolutions and memorials to be bound in a substantial and suitable book or books, together with an index ~~[thereof.]~~ ***of all such legislative measures.***

2. The expenses incurred in such work must be paid by the State in the manner directed by the State Board of Examiners.

Assemblyman Segerblom moved the adoption of the amendment.

Amendment adopted.

Bill ordered to third reading.

Assembly Bill No. 577.

Bill read third time.

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

Amendment No. 889.

AN ACT relating to the Legislature; establishing deadlines by which sufficient detail must be submitted concerning bill draft requests submitted by Legislators and legislative committees; providing that bill draft requests submitted by Legislators who will not be returning to the Legislature count against limitations on requests for Legislators or standing committees that become primary sponsors of the requests; **restricting bill draft requests of nonreturning Legislators;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law establishes various deadlines for Legislators and legislative committees to submit bill draft requests. (NRS 218D.150, 218D.155, 218D.160, 218E.205) **Sections 4-7** of this bill establish deadlines by which Legislators must submit sufficient detail to allow complete drafting of the requests. **Section 2** of this bill requires the Legislative Counsel to give priority to bill draft requests for which sufficient detail was submitted in a timely manner.

Existing law provides that a Legislator or standing committee may become the primary sponsor of measures requested by a Legislator who will not be returning to the Legislature, but does not specify whether such measures count against limitations on bill draft requests. (NRS 218D.130) **Section 3** of

this bill provides that such measures count against limitations on requests for the Legislator or standing committee that becomes the primary sponsor of the measure.

Section 4 of this bill restricts a Legislator in the final year of his or her term from submitting individual bill draft requests on or after the date on which he or she becomes a nonreturning Legislator.

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

Section 1. NRS 218D.100 is hereby amended to read as follows:

218D.100 1. Except as otherwise provided by specific statute, joint rule or concurrent resolution of the Legislature, the Legislative Counsel shall honor:

(a) The number of requests for the drafting of a bill or resolution for a regular session of the Legislature only as provided in NRS 218D.050 to 218D.215, inclusive.

(b) A request for the drafting of a bill or resolution for any session of the Legislature which is submitted by a state agency, board or department, a local government, the judiciary or another authorized nonlegislative requester only if the request is in a subject related to the function of the requester.

2. The Legislative Counsel shall not:

(a) ~~Assign~~ ***Except as otherwise provided in NRS 218D.150, 218D.155 and 218D.160, and 218E.205,*** assign a number to a request for the drafting of a bill or resolution for any session of the Legislature to establish the priority of the request until sufficient detail has been received to allow complete drafting of the legislative measure.

(b) Honor a request to change the subject matter of a request for the drafting of a bill or resolution for any session of the Legislature after it has been submitted for drafting.

(c) Honor a request for the drafting of a bill or resolution for any session of the Legislature which has been combined in violation of Section 17 of Article 4 of the Nevada Constitution.

Sec. 2. NRS 218D.110 is hereby amended to read as follows:

218D.110 1. Upon request, within the limits established pursuant to NRS 218D.050 to 218D.215, inclusive, or by the Legislature by concurrent resolution, the Legislative Counsel shall assist any Legislator in the preparation of bills and resolutions, drafting them in proper form, and furnishing the Legislator the fullest information upon all matters within the scope of the Legislative Counsel's duties.

2. ~~The~~ ***Except as otherwise provided in this section, the*** Legislative Counsel shall, insofar as is possible, act upon all Legislators' requests for legislative measures in the order in which they are received.

3. To assure the greatest possible equity in the handling of requests, drafting must proceed as follows:

(a) If a legislator so desires, the Legislator may designate a different priority for his or her bills and resolutions which the Legislative Counsel shall observe, insofar as is possible.

(b) The drafting of requests for legislative measures from chairs or members of standing committees or special committees, on behalf of those committees, must not, except where urgency is recognized, take precedence over the priority established or designated for individual Legislators' bills and resolutions.

(c) *The Legislative Counsel shall give priority to the drafting of bills and resolutions for which sufficient detail to allow complete drafting of the legislative measure was submitted within the period required by statute.*

Sec. 3. NRS 218D.130 is hereby amended to read as follows:

218D.130 1. On July 1 preceding each regular session of the Legislature, and each week thereafter until the adjournment of the Legislature sine die, the Legislative Counsel shall prepare a list of all requests received by the Legislative Counsel, for the preparation of measures to be submitted to the Legislature. The requests must be listed numerically by a unique serial number which must be assigned to the measures by the Legislative Counsel for the purposes of identification in the order that the Legislative Counsel received the requests. Except as otherwise provided in subsections 3 and 4, the list must only contain the name of each requester, the date and a brief summary of the request.

2. The Legislative Counsel Bureau shall make copies of the list available to the public for a reasonable sum fixed by the Director of the Legislative Counsel Bureau.

3. In preparing the list, the Legislative Counsel shall, if a standing or special committee of the Legislature requests a measure on behalf of a Legislator or organization, include the name of the standing or special committee and the name of the Legislator or organization on whose behalf the measure was originally requested.

4. Upon the request of a Legislator who has requested the preparation of a measure, the Legislative Counsel shall add the name of one or more Legislators from either or both Houses of the Legislature as joint requesters. The Legislative Counsel shall not add the name of a joint requester to the list until the Legislative Counsel has received confirmation of the joint request from the primary requester of the measure and from the Legislator to be added as a joint requester. The Legislative Counsel shall remove the name of a joint requester upon receipt of a request to do so made by the primary requester or the joint requester. The names must appear on the list in the order in which the names were received by the Legislative Counsel

beginning with the primary requester. The Legislative Counsel shall not act upon the direction of a joint requester to withdraw the requested measure or modify its substance until the Legislative Counsel has received confirmation of the withdrawal or modification from the primary requester.

5. If the primary requester of a measure will not be returning to the Legislature for the ~~Legislative~~ session *of the Legislature* in which the measure is to be considered, the primary requester may authorize a Legislator who will be serving during that session to become the primary sponsor of the measure, either individually or as the chair on behalf of a standing committee. If the Legislator who will be serving during that session agrees to become or have the committee become the primary sponsor of the measure, that Legislator shall notify the Legislative Counsel of that fact. Upon receipt of such notification, the Legislative Counsel shall list the name of that Legislator or the name of the committee as the primary requester of the measure on the list.

6. For the purposes of all limitations on the number of legislative measures that may be requested by a Legislator ~~[, a]~~:

(a) A legislative measure with joint requesters must only be counted as a request of the primary requester.

(b) *A legislative measure for which a Legislator or standing committee becomes the primary sponsor pursuant to subsection 5 must be counted as a request of that Legislator or committee.*

Sec. 4. NRS 218D.150 is hereby amended to read as follows:

218D.150 1. ~~Each~~ **Except as otherwise provided in subsection 2, each:**

(a) Incumbent member of the Assembly may request the drafting of not more than 6 legislative measures submitted to the Legislative Counsel on or before September 1 preceding the commencement of a regular session of the Legislature and not more than 5 legislative measures submitted to the Legislative Counsel after September 1 but on or before December 15 preceding the commencement of a regular session of the Legislature.

(b) Incumbent member of the Senate may request the drafting of not more than 12 legislative measures submitted to the Legislative Counsel on or before September 1 preceding the commencement of a regular session of the Legislature and not more than 10 legislative measures submitted to the Legislative Counsel after September 1 but on or before December 15 preceding the commencement of a regular session of the Legislature.

(c) Newly elected member of the Assembly may request the drafting of not more than 5 legislative measures submitted to the Legislative Counsel on or before December 15 preceding the commencement of a regular session of the Legislature.

(d) Newly elected member of the Senate may request the drafting of not more than 10 legislative measures submitted to the Legislative Counsel on or before December 15 preceding the commencement of a regular session of the Legislature.

2. *A Legislator may not request the drafting of a legislative measure pursuant to subsection 1 on or after the date on which the Legislator becomes a nonreturning Legislator. For the purposes of this subsection, “nonreturning Legislator” means a Legislator who, in the year that the Legislator’s term of office expires:*

(a) Has not filed a declaration or an acceptance of candidacy within the time allowed for filing for election as a member of the Senate or the Assembly;

(b) Has failed to win nomination as a candidate for the Senate or the Assembly at the primary election; or

(c) Has withdrawn as a candidate for the Senate or the Assembly.

3. *If a request made pursuant to subsection 1 is submitted:*

(a) On or before September 1 preceding the commencement of a regular session of the Legislature, sufficient detail to allow complete drafting of the legislative measure must be submitted on or before December 1 preceding the commencement of the regular session of the Legislature.

(b) After September 1 but on or before December 15 preceding the commencement of a regular session of the Legislature, sufficient detail to allow complete drafting of the legislative measure must be submitted on or before January 15 preceding the commencement of the regular session of the Legislature.

4. In addition to the number *of requests* authorized pursuant to subsection 1:

(a) The chair of each standing committee of the immediately preceding regular ~~legislative session,~~ *session of the Legislature*, or a person designated in the place of the chair by the Speaker of the Assembly or the Majority Leader of the Senate, as the case may be, may request before the date of the general election preceding the commencement of ~~the next regular legislative~~ *a regular session of the Legislature* the drafting of not more than 1 legislative measure for introduction by the committee in a subject within the jurisdiction of the committee for every 15 legislative measures that were referred to the respective standing committee during the immediately preceding regular ~~legislative session,~~ *session of the Legislature*.

(b) A person designated after a general election as a chair of a standing committee for the next regular ~~legislative session,~~ *session of the Legislature*, or a person designated in the place of a chair by the person designated as the Speaker of the Assembly or the Majority Leader of the Senate for the next regular ~~legislative session,~~ *session of the Legislature*,

may request on or before December 15 preceding the commencement of the ~~next regular legislative~~ **regular session of the Legislature** the drafting of the remaining number of the legislative measures allowed for the respective standing committee that were not requested by the previous chair or designee.

~~§ 5.~~ **5.** ~~If a request is required~~ **made pursuant to this section to be** ~~subsection 4 is submitted:~~

(a) ~~On or before September 1 preceding the commencement of a regular session of the Legislature, sufficient detail to allow complete drafting of the legislative measure must be submitted on or before December 1 preceding the commencement of the regular session of the Legislature.~~

~~(b)~~ **Before the date of the general election preceding the commencement of a regular session of the Legislature, sufficient detail to allow complete drafting of the legislative measure must be submitted on or before December 10 preceding the commencement of the regular session of the Legislature.**

~~(c) On~~

(b) After the date of the general election but on or before December 15 preceding the commencement of a regular session of the Legislature, sufficient detail to allow complete drafting of the legislative measure must be submitted on or before January 15 preceding the commencement of the regular session of the Legislature.

~~§ 6.~~ **6.** Each request made pursuant to this section must be on a form prescribed by the Legislative Counsel.

Sec. 5. NRS 218D.155 is hereby amended to read as follows:

218D.155 1. In addition to the number **of requests** authorized pursuant to NRS 218D.150:

(a) The Speaker of the Assembly and the Majority Leader of the Senate may each request before the date of the general election preceding the commencement of ~~the next regular legislative session,~~ **a regular session of the Legislature**, without limitation, the drafting of not more than 15 legislative measures for that session.

(b) The Minority Leader of the Assembly and the Minority Leader of the Senate may each request before the date of the general election preceding the commencement of ~~the next regular legislative session,~~ **a regular session of the Legislature**, without limitation, the drafting of not more than 10 legislative measures for that session.

(c) A person designated after a general election as the Speaker of the Assembly, the Majority Leader of the Senate, the Minority Leader of the Assembly or the Minority Leader of the Senate for the next regular ~~legislative~~ **session of the Legislature** may request before the commencement of the ~~next regular legislative~~ **regular session of the**

Legislature the drafting of the remaining number of the legislative measures allowed for the respective officer that were not requested by the previous officer.

2. ~~If a request is required~~ made pursuant to subsection 1 ~~to be~~ is submitted:

(a) *Before the date of the general election preceding the commencement of a regular session of the Legislature, sufficient detail to allow complete drafting of the legislative measure must be submitted on or before December 10 preceding the commencement of the regular session of the Legislature.*

(b) ~~Before~~ After the date of the general election but before the commencement of a regular session of the Legislature, sufficient detail to allow complete drafting of the legislative measure must be submitted on or before March 1 following the commencement of the regular session of the Legislature.

3. The Legislative Counsel, the Secretary of the Senate and the Chief Clerk of the Assembly may request before or during a regular ~~Legislative session,~~ session of the Legislature, without limitation, the drafting of as many legislative measures as are necessary or convenient for the proper exercise of their duties.

Sec. 6. NRS 218D.160 is hereby amended to read as follows:

218D.160 1. The Chair of the Legislative Commission may request the drafting of not more than 15 legislative measures before the commencement of a regular ~~Legislative session,~~ session of the Legislature, with the approval of the Commission, which relate to the affairs of the Legislature or its employees, including measures requested by the legislative staff.

2. The Chair of the Interim Finance Committee may request the drafting of not more than 10 legislative measures before the commencement of a regular ~~Legislative session,~~ session of the Legislature, with the approval of the Committee, which relate to matters within the scope of the Committee.

3. If a request made pursuant to subsection 1 or 2 is submitted before the commencement of a regular session of the Legislature, sufficient detail to allow complete drafting of the legislative measure must be submitted on or before March 1 following the commencement of the regular session of the Legislature.

4. Except as otherwise provided by a specific statute, joint rule or concurrent resolution of the Legislature:

(a) Any ~~other~~ legislative committee created by a statute, other than an interim legislative committee, may request the drafting of not more than 10 legislative measures which relate to matters within the scope of the committee.

(b) ~~[An interim committee which conducts a study or investigation]~~ **Any committee or subcommittee established by an order of the Legislative Commission** pursuant to NRS 218E.200 may request the drafting of not more than 5 legislative measures which relate to matters within the scope of the study or investigation, except that such a committee **or subcommittee** may request the drafting of additional legislative measures if the Legislative Commission approves each additional request by a majority vote.

(c) Any other committee established by the Legislature which conducts an interim legislative study **or investigation** may request the drafting of not more than 5 legislative measures which relate to matters within the scope of the study ~~[or investigation]~~.

~~↳ [Except as otherwise provided in NRS 218E.205, measures]~~ **The requests** authorized ~~[to be requested]~~ pursuant to this subsection must be submitted to the Legislative Counsel on or before September 1 preceding the commencement of a regular session of the Legislature unless the Legislative Commission authorizes submitting a request after that date.

~~[4.]~~ **5. If a request is required made pursuant to [this section to be] subsection 4 is submitted,**

~~(a) On~~ **on or before September 1 preceding the commencement of a regular session of the Legislature, sufficient detail to allow complete drafting of the legislative measure must be submitted on or before December 1 preceding the commencement of the regular session of the Legislature.**

~~[(b) Before the commencement of a regular session of the Legislature, sufficient detail to allow complete drafting of the legislative measure must be submitted on or before March 1 following the commencement of the regular session of the Legislature.]~~

~~5.]~~ **6.** Each request made pursuant to this section must be on a form prescribed by the Legislative Counsel.

Sec. 7. NRS 218E.205 is hereby amended to read as follows:

218E.205 1. The Legislative Commission shall, between sessions of the Legislature, fix the work priority of all studies and investigations assigned to it by concurrent resolutions of the Legislature, or directed by an order of the Legislative Commission, within the limits of available time, money and staff. The Legislative Commission shall not make studies or investigations directed by resolutions of only one House of the Legislature or studies or investigations proposed but not approved during the preceding ~~[legislative session.]~~ **session of the Legislature.**

2. All requests for the drafting of ~~[legislation]~~ **legislative measures** to be recommended as the result of a study or investigation ~~[, except a study or investigation directed by an order of the Legislative Commission,]~~ must be made ~~[before July 1] [of the year preceding a legislative session.]~~ ~~[preceding~~

~~the commencement of a regular session of the Legislature. Sufficient detail to allow complete drafting of each legislative measure must be submitted on or before December 1 preceding the commencement of the regular session of the Legislature.]~~ **in accordance with NRS 218D.160.**

3. Except as otherwise provided by NRS 218E.210, between sessions of the Legislature no study or investigation may be initiated or continued by the Fiscal Analysts, the Legislative Auditor, the Legislative Counsel or the Research Director and their staffs except studies and investigations which have been specifically authorized by concurrent resolutions of the Legislature or by an order of the Legislative Commission.

4. No study or investigation may be carried over from one session of the Legislature to the next without additional authorization by a concurrent resolution of the Legislature, except audits in progress, whose carryover has been approved by the Legislative Commission.

5. Except as otherwise provided by specific statute, the staff of the Legislative Counsel Bureau shall not serve as primary administrative or professional staff for a committee unless the chair of the committee is required by statute or resolution to be a Legislator.

6. The Legislative Commission shall review and approve the budget and work program and any changes to the budget or work program for each study or investigation conducted by the Legislative Commission or a committee or subcommittee established by the Legislative Commission.

7. A committee or subcommittee established to conduct a study or investigation assigned to the Legislative Commission by concurrent resolution of the Legislature or directed by order of the Legislative Commission must, unless otherwise ordered by the Legislative Commission, meet not earlier than January 1 of the even-numbered year and not later than June 30 of that year.

Sec. 8. This act becomes effective on July 1, 2011.

Assemblyman Segerblom moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed, and to third reading.

Assembly Bill No. 578.

Bill read third time.

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

Amendment No. 887.

Section 2 of Assembly Bill No. 578 is hereby amended as follows:

Sec. 2. NRS 218D.160 is hereby amended to read as follows:

218D.160 1. The Chair of the Legislative Commission may request the drafting of not more than 15 legislative measures before the commencement

of a regular legislative session, with the approval of the Commission, which relate to the affairs of the Legislature or its employees, including measures requested by the legislative staff.

2. The Chair of the Interim Finance Committee may request the drafting of not more than 10 legislative measures before the commencement of a regular legislative session, with the approval of the Committee, which relate to matters within the scope of the Committee.

3. Except as otherwise provided by a specific statute , joint rule or concurrent resolution of the Legislature:

(a) *A Joint Interim Standing Committee may request the drafting of not more than 10 legislative measures which relate to matters within the scope of the Committee.*

(b) Any ~~other~~ legislative committee created by a statute , other than an interim legislative committee, may request the drafting of not more than 10 legislative measures which relate to matters within the scope of the committee.

~~{(b)}~~ (c) ~~[An interim committee which conducts a study or investigation]~~ Any committee or subcommittee established by an order of the Legislative Commission pursuant to NRS 218E.200 may request the drafting of not more than 5 legislative measures which relate to matters within the scope of the study or investigation, except that such a committee or subcommittee may request the drafting of additional legislative measures if the Legislative Commission approves each additional request by a majority vote.

~~{(e)}~~ (d) Any other committee established by the Legislature which conducts an interim legislative study or investigation may request the drafting of not more than 5 legislative measures which relate to matters within the scope of the study ~~or investigation.~~

↪ ~~[Except as otherwise provided in NRS 218E.205, measures]~~ ~~[Measures]~~ The requests authorized ~~[to be requested]~~ pursuant to this subsection must be submitted to the Legislative Counsel on or before September 1 preceding the commencement of a regular session of the Legislature unless the Legislative Commission authorizes submitting a request after that date.

4. Each request made pursuant to this section must be on a form prescribed by the Legislative Counsel.

Section 5 of Assembly Bill No. 578 is hereby amended as follows:

Sec. 5. *1. There are hereby created the following Joint Interim Standing Committees of the Legislature:*

- (a) *Commerce, Labor and Energy;*
- (b) *Education;*
- (c) *Government Affairs;*
- (d) *Health and Human Services;*

- (e) *Judiciary;*
- (f) *Legislative Operations and Elections;*
- (g) *Natural Resources, Agriculture and Mining;*
- (h) *Revenue and Taxation; and*
- (i) *Transportation.*

2. *Each Committee consists of eight regular members and five alternate members. As soon as is practicable following the adjournment of each regular session of the Legislature:*

(a) *The Speaker of the Assembly shall appoint five members of the Assembly as regular members of each Committee and three members of the Assembly as alternate members of each Committee.*

(b) *The Majority Leader of the Senate shall appoint three Senators as regular members of each Committee and two Senators as alternate members of each Committee.*

3. ~~For~~ Before making their respective appointments, the Speaker of the Assembly and the Majority Leader of the Senate shall consult so that, to the extent practicable:

(a) ~~A majority of the~~ At least five regular members appointed to ~~each~~ each Committee ~~must have~~ served on the corresponding standing committee or committees during the preceding regular session of the Legislature.

(b) ~~At~~ Not more than five regular members appointed to each Committee are members of the same political party and at least one regular member and one alternate member appointed from each House of the Legislature to each Committee ~~must be a member of the minority~~ are members of a different political party ~~in the House.~~ than the appointing authority.

4. *The Legislative Commission shall select the Chair and Vice Chair of each Committee from among the members of the Committee. The Chair must be appointed from one House of the Legislature and the Vice Chair from the other House. The position of Chair must alternate each biennium between the Houses of the Legislature. Each of those officers holds the position until a successor is appointed following the next regular session of the Legislature. If a vacancy occurs in the position of Chair or Vice Chair, the vacancy must be filled in the same manner as the original selection for the remainder of the unexpired term.*

5. *The membership of any member of a Committee who does not become a candidate for reelection or who is defeated for reelection terminates on the day next after the general election. The Speaker designate of the Assembly or the Majority Leader designate of the Senate, as the case may be, may appoint a member to fill the vacancy for the remainder of the unexpired term.*

6. *Vacancies on a Committee must be filled in the same manner as original appointments.*

Section 11 of Assembly Bill No. 578 is hereby amended as follows:

Sec. 11. NRS 218E.205 is hereby amended to read as follows:

218E.205 1. The Legislative Commission shall, between sessions of the Legislature, fix the work priority of all studies and investigations assigned to it by ~~concurrent resolutions of~~ the Legislature, ~~for~~ directed by an order of the Legislative Commission ~~;~~ **or conducted by a Joint Interim Standing Committee**, within the limits of available time, money and staff. The Legislative Commission shall not make studies or investigations directed by resolutions of only one House of the Legislature or studies or investigations proposed but not approved during the preceding legislative session.

2. All requests for the drafting of ~~legislation~~ **legislative measures** to be recommended as the result of a study or investigation ~~except a study or investigation directed by an order of the Legislative Commission,~~ must be made ~~before~~ ~~July~~ ~~September 1~~ of the year preceding a legislative session ~~unless the Legislative Commission authorizes submitting a request after that date.~~ **in accordance with NRS 218D.160.**

3. Except as otherwise provided by NRS 218E.210, between sessions of the Legislature no study or investigation may be initiated or continued by the Fiscal Analysts, the Legislative Auditor, the Legislative Counsel or the Research Director and their staffs except studies and investigations which have been specifically authorized by ~~concurrent resolutions of~~ the Legislature or by ~~an order of~~ the Legislative Commission.

4. No study or investigation may be carried over from one session of the Legislature to the next without additional authorization ~~by a concurrent resolution~~ of the Legislature, except audits in progress, whose carryover has been approved by the Legislative Commission.

5. Except as otherwise provided by specific statute, the staff of the Legislative Counsel Bureau shall not serve as primary administrative or professional staff for a committee unless the chair of the committee is required by statute or resolution to be a Legislator.

6. The Legislative Commission shall review and approve the budget and work program and any changes to the budget or work program for each study or investigation conducted by the Legislative Commission or a committee or subcommittee established by the Legislative Commission.

~~7. A committee or subcommittee established to conduct a study or investigation assigned to the Legislative Commission by concurrent resolution of the Legislature or directed by order of the Legislative Commission must, unless otherwise ordered by the Legislative Commission,~~

~~meet not earlier than January 1 of the even numbered year and not later than June 30 of that year.]~~

Section 63 of Assembly Bill No. 578 is hereby amended as follows:

Sec. 63. NRS 528.150 is hereby amended to read as follows:

528.150 1. On or before January 1 of each year, the State Forester Firewarden shall, in coordination and cooperation with the Tahoe Regional Planning Agency and the fire chiefs within the Lake Tahoe Basin, submit a report concerning fire prevention and forest health in the Nevada portion of the Lake Tahoe Basin to:

(a) The ~~Legislative Committee for the Review and Oversight of the Tahoe Regional Planning Agency and Marlette Lake Water System created by NRS 218E.555~~ *Joint Interim Standing Committee on ~~Natural Resources, Agriculture and Mining~~ Government Affairs* and to the Director of the Legislative Counsel Bureau for transmittal to the Legislature;

(b) The Governor;

(c) The Tahoe Regional Planning Agency; and

(d) Each United States Senator and Representative in Congress who is elected to represent the State of Nevada.

2. The report submitted by the State Forester Firewarden pursuant to subsection 1 must address, without limitation:

(a) The status of:

(1) The implementation of plans for the prevention of fires in the Nevada portion of the Lake Tahoe Basin, including, without limitation, plans relating to the reduction of fuel for fires;

(2) Efforts concerning forest restoration in the Nevada portion of the Lake Tahoe Basin; and

(3) Efforts concerning rehabilitation of vegetation, if any, as a result of fire in the Nevada portion of the Lake Tahoe Basin.

(b) Compliance with:

(1) The goals and policies for fire prevention and forest health in the Nevada portion of the Lake Tahoe Basin; and

(2) Any recommendations concerning fire prevention or public safety made by any fire department or fire protection district in the Nevada portion of the Lake Tahoe Basin.

(c) Any efforts to:

(1) Increase public awareness in the Nevada portion of the Lake Tahoe Basin regarding fire prevention and public safety; and

(2) Coordinate with other federal, state, local and private entities with regard to projects to reduce fire hazards in the Nevada portion of the Lake Tahoe Basin.

Section 64.5 of Assembly Bill No. 578 is hereby amended as follows:

Sec. 64.5. 1. If the provisions of any other act or resolution passed by the 76th Session of the Nevada Legislature provide for a legislative study or investigation:

(a) The provisions of the other act or resolution that provide for the legislative study or investigation are superseded and abrogated by the provisions of this act; and

(b) The legislative study or investigation provided for in the other act or resolution must be conducted by the Joint Interim Standing Committee established pursuant to section 5 of this act which has jurisdiction over the subject matter of the study or investigation, except that the Committee may conduct the study or investigation only within limits of the Committee's budget and work program approved by the Legislative Commission pursuant to section 7 of this act.

2. If the subject matter of such a legislative study or investigation falls within the jurisdiction of more than one Joint Interim Standing Committee established pursuant to section 5 of this act, the Legislative Commission shall assign the study or investigation to the most appropriate Committee based on the budgets and work programs approved by the Legislative Commission for the Committees.

3. As used in this section:

(a) "Legislative study or investigation" includes, without limitation, any:

(1) Interim legislative study or investigation; or

(2) Legislative study or investigation assigned to a statutory legislative committee, including, without limitation, a statutory legislative committee abolished by the provisions of this act.

(b) "Legislative study or investigation" does not include the advisory committee to develop recommendations for increasing the funding of highways in this State created by Assembly Bill No. 152 of the 76th Session of the Nevada Legislature.

Assemblyman Segerblom moved the adoption of the amendment.

Amendment adopted.

Bill ordered to third reading.

Senate Bill No. 276.

Bill read third time.

The following amendment was proposed by the Committee on Education:

Amendment No. 933.

AN ACT relating to education; revising provisions governing safe and respectful learning environments in public schools; requiring the Department of Education to establish and recommend training programs for members of the State Board of Education, boards of trustees of school districts and school

district personnel on the prevention of bullying, cyber-bullying, harassment and intimidation in public schools; creating the Bullying Prevention Fund in the State General Fund; requiring the principal of each public school to establish a school safety team; authorizing a parent or legal guardian of a pupil involved in an incident of bullying, cyber-bullying, harassment or intimidation to appeal a disciplinary decision of the principal made against the pupil concerning the incident; revising provisions governing the grounds for disciplinary action against teachers and administrators; requiring the Governor to annually proclaim the first week in October to be “Week of Respect”; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law provides for a safe and respectful learning environment in public schools, which includes, without limitation, a prohibition on bullying, cyber-bullying, harassment and intimidation in public schools, the provision of training to school personnel and the reporting of incidents of bullying, cyber-bullying, harassment and intimidation in public schools. (NRS 388.121-388.139)

Sections 1-3 of this bill revise the components of the annual reports of accountability prepared by the State Board of Education and the boards of trustees of school districts to include reports on incidents resulting in suspension or expulsion for bullying, cyber-bullying, harassment and intimidation.

Section 7 of this bill requires the Department of Education, to the extent money is available, to develop an informational pamphlet to assist pupils and the parents or legal guardians of pupils in resolving incidents of bullying, cyber-bullying, harassment and intimidation.

Section 8 of this bill requires the Department to establish a program of training on the prevention of bullying, cyber-bullying, harassment and intimidation for members of the State Board and to recommend a program of training for members of the boards of trustees of school districts and school district personnel. **Section 8** also: (1) requires each member of the State Board and authorizes each member of a board of trustees to complete the training program; and (2) authorizes the board of trustees of the school district to allow school district personnel to attend the program during regular school hours.

Section 9 of this bill creates the Bullying Prevention Fund in the State General Fund to be administered by the Superintendent of Public Instruction. **Section 9** also authorizes school districts to apply to the State Board for a grant of money from the Fund, which must be used to establish programs, provide training and implement procedures that create a school environment which is free from bullying, cyber-bullying, harassment and intimidation.

Section 11 of this bill requires the principal of each public school or his or her designee to: (1) establish a school safety team; (2) conduct investigations of reported incidents of bullying, cyber-bullying, harassment and intimidation; and (3) collaborate with the board of trustees of the school district and the school safety team to prevent, identify and address reported incidents of bullying, cyber-bullying, harassment and intimidation. **Section 12** of this bill prescribes the qualifications and duties of the school safety team.

Section 13 of this bill requires the principal of each public school to submit to the board of trustees of the school district a report on the number of incidents of bullying, cyber-bullying, harassment and intimidation occurring at the school or involving a pupil enrolled at the school during the previous school semester. **Section 13** also requires the board of trustees to submit to the Department a compilation of the reports.

Section 14 of this bill requires a teacher or other staff member of a school who witnesses a violation of the prohibition on bullying, cyber-bullying, harassment and intimidation occurring at the school or who receives information of such a violation to verbally report the violation to the principal or the principal's designee. **Section 14** also requires the principal or the principal's designee to initiate an investigation of the reported violation and provides that a parent or legal guardian of a pupil involved in the reported violation may appeal a disciplinary decision of the principal or the principal's designee, made against the pupil as a result of the violation, in accordance with the policy governing disciplinary action adopted by the board of trustees of the school district.

Section 17 of this bill requires the board of trustees of each school district, in conjunction with the school police officers of the school district, if any, and the local law enforcement agencies that have jurisdiction over the school district, to establish a policy for the procedures which must be followed by an employee of the school district when reporting a violation of the prohibition of bullying, cyber-bullying, harassment and intimidation to a school police officer or local law enforcement agency.

Section 28 of this bill revises the grounds for which a teacher or administrator may be demoted, suspended, dismissed or not reemployed to include an intentional failure to report a violation of the prohibition of bullying, cyber-bullying, harassment and intimidation.

Existing law sets forth certain days of observance in this State to commemorate certain persons or occasions or to publicize information regarding certain important topics. (Chapter 236 of NRS) **Section 32** of this bill requires the Governor to annually proclaim the first week in October to be "Week of Respect."

WHEREAS, Bullying is an aggressive behavior that is associated with violent behaviors such as carrying weapons, fighting, vandalism, theft and suicide; and

WHEREAS, Recent studies showed that 32 percent of children reported being bullied at school and 4 percent of children reported being cyber-bullied during the school year; and

WHEREAS, Children who are bullied are more likely than children who are not bullied to be depressed, lonely and anxious, to have low self-esteem and to contemplate suicide; and

WHEREAS, Research has shown that bullying can be a sign of other antisocial or violent behavior and children who bully other children are more likely to be truant from school or to drop out of school; and

WHEREAS, Acts of bullying create a school environment that negatively impacts the ability of children to learn not only for the children who are the victims of such acts but also for the children who witness those acts; and

WHEREAS, Improving the methods and procedures by which acts of bullying, cyber-bullying, harassment and intimidation are prevented, reported, investigated and responded to by the State Board of Education, the school districts in this State and the individual schools will help identify such acts and allow children who are the victims of such acts to receive help in dealing with the emotional and physical impacts of bullying, cyber-bullying, harassment and intimidation; now therefore,

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

Section 1. NRS 385.3469 is hereby amended to read as follows:

385.3469 1. The State Board shall prepare an annual report of accountability that includes, without limitation:

(a) Information on the achievement of all pupils based upon the results of the examinations administered pursuant to NRS 389.015 and 389.550, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole.

(b) Except as otherwise provided in subsection 2, pupil achievement, reported separately by gender and reported separately for the following groups of pupils:

(1) Pupils who are economically disadvantaged, as defined by the State Board;

(2) Pupils from major racial and ethnic groups, as defined by the State Board;

(3) Pupils with disabilities;

(4) Pupils who are limited English proficient; and

(5) Pupils who are migratory children, as defined by the State Board.

(c) A comparison of the achievement of pupils in each group identified in paragraph (b) of subsection 1 of NRS 385.361 with the annual measurable objectives of the State Board.

(d) The percentage of all pupils who were not tested, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole.

(e) Except as otherwise provided in subsection 2, the percentage of pupils who were not tested, reported separately by gender and reported separately for the groups identified in paragraph (b).

(f) The most recent 3-year trend in the achievement of pupils in each subject area tested and each grade level tested pursuant to NRS 389.015 and 389.550, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole, which may include information regarding the trend in the achievement of pupils for more than 3 years, if such information is available.

(g) Information on whether each school district has made adequate yearly progress, including, without limitation, the name of each school district, if any, designated as demonstrating need for improvement pursuant to NRS 385.377 and the number of consecutive years that the school district has carried that designation.

(h) Information on whether each public school, including, without limitation, each charter school, has made:

(1) Adequate yearly progress, including, without limitation, the name of each public school, if any, designated as demonstrating need for improvement pursuant to NRS 385.3623 and the number of consecutive years that the school has carried that designation.

(2) Progress based upon the model adopted by the Department pursuant to NRS 385.3595, if applicable for the grade level of pupils enrolled at the school.

(i) Information on the results of pupils who participated in the examinations of the National Assessment of Educational Progress required pursuant to NRS 389.012.

(j) The ratio of pupils to teachers in kindergarten and at each grade level for all elementary schools, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole, and the average class size for each core academic subject, as set forth in NRS 389.018, for each secondary school, reported for each school district and for this State as a whole.

(k) For each school district, including, without limitation, each charter school in the district, and for this State as a whole, information on the professional qualifications of teachers employed by the school districts and charter schools, including, without limitation:

- (1) The percentage of teachers who are:
 - (I) Providing instruction pursuant to NRS 391.125;
 - (II) Providing instruction pursuant to a waiver of the requirements for licensure for the grade level or subject area in which the teachers are employed; or
 - (III) Otherwise providing instruction without an endorsement for the subject area in which the teachers are employed;
 - (2) The percentage of classes in the core academic subjects, as set forth in NRS 389.018, in this State that are not taught by highly qualified teachers;
 - (3) The percentage of classes in the core academic subjects, as set forth in NRS 389.018, in this State that are not taught by highly qualified teachers, in the aggregate and disaggregated by high-poverty compared to low-poverty schools, which for the purposes of this subparagraph means schools in the top quartile of poverty and the bottom quartile of poverty in this State;
 - (4) For each middle school, junior high school and high school:
 - (I) ~~On and after July 1, 2005, the~~ **The** number of persons employed as substitute teachers for 20 consecutive days or more in the same classroom or assignment, designated as long-term substitute teachers, including the total number of days long-term substitute teachers were employed at each school, identified by grade level and subject area; and
 - (II) ~~On and after July 1, 2006, the~~ **The** number of persons employed as substitute teachers for less than 20 consecutive days, designated as short-term substitute teachers, including the total number of days short-term substitute teachers were employed at each school, identified by grade level and subject area; and
 - (5) For each elementary school:
 - (I) ~~On and after July 1, 2005, the~~ **The** number of persons employed as substitute teachers for 20 consecutive days or more in the same classroom or assignment, designated as long-term substitute teachers, including the total number of days long-term substitute teachers were employed at each school, identified by grade level; and
 - (II) ~~On and after July 1, 2006, the~~ **The** number of persons employed as substitute teachers for less than 20 consecutive days, designated as short-term substitute teachers, including the total number of days short-term substitute teachers were employed at each school, identified by grade level.
- (1) The total expenditure per pupil for each school district in this State, including, without limitation, each charter school in the district. If this State has a financial analysis program that is designed to track educational expenditures and revenues to individual schools, the State Board shall use that statewide program in complying with this paragraph. If a statewide program is not available, the State Board shall use the Department's own financial analysis program in complying with this paragraph.

(m) The total statewide expenditure per pupil. If this State has a financial analysis program that is designed to track educational expenditures and revenues to individual schools, the State Board shall use that statewide program in complying with this paragraph. If a statewide program is not available, the State Board shall use the Department's own financial analysis program in complying with this paragraph.

(n) For all elementary schools, junior high schools and middle schools, the rate of attendance, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole.

(o) The annual rate of pupils who drop out of school in grade 8 and a separate reporting of the annual rate of pupils who drop out of school in grades 9 to 12, inclusive, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole. The reporting for pupils in grades 9 to 12, inclusive, excludes pupils who:

(1) Provide proof to the school district of successful completion of the examinations of general educational development.

(2) Are enrolled in courses that are approved by the Department as meeting the requirements for an adult standard diploma.

(3) Withdraw from school to attend another school.

(p) The attendance of teachers who provide instruction, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole.

(q) Incidents involving weapons or violence, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole.

(r) Incidents involving the use or possession of alcoholic beverages or controlled substances, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole.

(s) The suspension and expulsion of pupils required or authorized pursuant to NRS 392.466 and 392.467, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole.

(t) The number of pupils who are deemed habitual disciplinary problems pursuant to NRS 392.4655, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole.

(u) The number of pupils in each grade who are retained in the same grade pursuant to NRS 392.033 or 392.125, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole.

(v) The transiency rate of pupils, reported for each school district, including, without limitation, each charter school in the district, and for this

State as a whole. For the purposes of this paragraph, a pupil is not a transient if the pupil is transferred to a different school within the school district as a result of a change in the zone of attendance by the board of trustees of the school district pursuant to NRS 388.040.

(w) Each source of funding for this State to be used for the system of public education.

(x) A compilation of the programs of remedial study purchased in whole or in part with money received from this State that are used in each school district, including, without limitation, each charter school in the district. The compilation must include:

(1) The amount and sources of money received for programs of remedial study.

(2) An identification of each program of remedial study, listed by subject area.

(y) The percentage of pupils who graduated from a high school or charter school in the immediately preceding year and enrolled in remedial courses in reading, writing or mathematics at a university, state college or community college within the Nevada System of Higher Education, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole.

(z) The technological facilities and equipment available for educational purposes, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole.

(aa) For each school district, including, without limitation, each charter school in the district, and for this State as a whole, the number and percentage of pupils who received:

(1) A standard high school diploma, reported separately for pupils who received the diploma pursuant to:

(I) Paragraph (a) of subsection 1 of NRS 389.805; and

(II) Paragraph (b) of subsection 1 of NRS 389.805.

(2) An adjusted diploma.

(3) A certificate of attendance.

(bb) For each school district, including, without limitation, each charter school in the district, and for this State as a whole, the number and percentage of pupils who failed to pass the high school proficiency examination.

(cc) The number of habitual truants who are reported to a school police officer or local law enforcement agency pursuant to paragraph (a) of subsection 2 of NRS 392.144 and the number of habitual truants who are referred to an advisory board to review school attendance pursuant to paragraph (b) of subsection 2 of NRS 392.144, reported for each school

district, including, without limitation, each charter school in the district, and for this State as a whole.

(dd) Information on the paraprofessionals employed at public schools in this State, including, without limitation, the charter schools in this State. The information must include:

(1) The number of paraprofessionals employed, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole; and

(2) For each school district, including, without limitation, each charter school in the district, and for this State as a whole, the number and percentage of all paraprofessionals who do not satisfy the qualifications set forth in 20 U.S.C. § 6319(c). The reporting requirements of this subparagraph apply to paraprofessionals who are employed in programs supported with Title I money and to paraprofessionals who are not employed in programs supported with Title I money.

(ee) An identification of appropriations made by the Legislature to improve the academic achievement of pupils and programs approved by the Legislature to improve the academic achievement of pupils.

(ff) A compilation of the special programs available for pupils at individual schools, listed by school and by school district, including, without limitation, each charter school in the district.

(gg) For each school district, including, without limitation, each charter school in the district and for this State as a whole, information on pupils enrolled in career and technical education, including, without limitation:

(1) The number of pupils enrolled in a course of career and technical education;

(2) The number of pupils who completed a course of career and technical education;

(3) The average daily attendance of pupils who are enrolled in a program of career and technical education;

(4) The annual rate of pupils who dropped out of school and were enrolled in a program of career and technical education before dropping out;

(5) The number and percentage of pupils who completed a program of career and technical education and who received a standard high school diploma, an adjusted diploma or a certificate of attendance; and

(6) The number and percentage of pupils who completed a program of career and technical education and who did not receive a high school diploma because the pupils failed to pass the high school proficiency examination.

(hh) The number of incidents resulting in suspension or expulsion for bullying, cyber-bullying, harassment or intimidation, reported for each school district, including, without limitation, each charter school in the district, and for the State as a whole.

2. A separate reporting for a group of pupils must not be made pursuant to this section if the number of pupils in that group is insufficient to yield statistically reliable information or the results would reveal personally identifiable information about an individual pupil. The State Board shall prescribe a mechanism for determining the minimum number of pupils that must be in a group for that group to yield statistically reliable information.

3. The annual report of accountability must:

(a) Comply with 20 U.S.C. § 6311(h)(1) and the regulations adopted pursuant thereto;

(b) Be prepared in a concise manner; and

(c) Be presented in an understandable and uniform format and, to the extent practicable, provided in a language that parents can understand.

4. On or before September 1 of each year, the State Board shall:

(a) Provide for public dissemination of the annual report of accountability by posting a copy of the report on the Internet website maintained by the Department; and

(b) Provide written notice that the report is available on the Internet website maintained by the Department. The written notice must be provided to the:

(1) Governor;

(2) Committee;

(3) Bureau;

(4) Board of Regents of the University of Nevada;

(5) Board of trustees of each school district; and

(6) Governing body of each charter school.

5. Upon the request of the Governor, an entity described in paragraph (b) of subsection 4 or a member of the general public, the State Board shall provide a portion or portions of the annual report of accountability.

6. As used in this section:

(a) ***"Bullying" has the meaning ascribed to it in NRS 388.122.***

(b) ***"Cyber-bullying" has the meaning ascribed to it in NRS 388.123.***

(c) ***"Harassment" has the meaning ascribed to it in NRS 388.125.***

(d) "Highly qualified" has the meaning ascribed to it in 20 U.S.C. § 7801(23).

~~{(b)}~~ (e) ***"Intimidation" has the meaning ascribed to it in NRS 388.129.***

(f) "Paraprofessional" has the meaning ascribed to it in NRS 391.008.

Sec. 2. NRS 385.34692 is hereby amended to read as follows:

385.34692 1. The State Board shall prepare a summary of the annual report of accountability prepared pursuant to NRS 385.3469 that includes, without limitation, a summary of the following information for each school district, each charter school and the State as a whole:

- (a) Demographic information of pupils, including, without limitation, the number and percentage of pupils:
- (1) Who are economically disadvantaged, as defined by the State Board;
 - (2) Who are from major racial or ethnic groups, as defined by the State Board;
 - (3) With disabilities;
 - (4) Who are limited English proficient; and
 - (5) Who are migratory children, as defined by the State Board;
- (b) The average daily attendance of pupils, reported separately for the groups identified in paragraph (a);
- (c) The transiency rate of pupils;
- (d) The percentage of pupils who are habitual truants;
- (e) The percentage of pupils who are deemed habitual disciplinary problems pursuant to NRS 392.4655;
- (f) The number of incidents resulting in suspension or expulsion for:
- (1) Violence to other pupils or to school personnel;
 - (2) Possession of a weapon;
 - (3) Distribution of a controlled substance;
 - (4) Possession or use of a controlled substance; ~~and~~
 - (5) Possession or use of alcohol; *and*
 - (6) ***Bullying, cyber-bullying, harassment or intimidation;***
- (g) For kindergarten through grade 8, the number and percentage of pupils who are retained in the same grade;
- (h) For grades 9 to 12, inclusive, the number and percentage of pupils who are deficient in the number of credits required for promotion to the next grade or graduation from high school;
- (i) The pupil-teacher ratio for kindergarten and grades 1 to 8, inclusive;
- (j) The average class size for the subject area of mathematics, English, science and social studies in schools where pupils rotate to different teachers for different subjects;
- (k) The number and percentage of pupils who graduated from high school;
- (l) The number and percentage of pupils who received a:
- (1) Standard diploma;
 - (2) Adult diploma;
 - (3) Adjusted diploma; and
 - (4) Certificate of attendance;
- (m) The number and percentage of pupils who graduated from high school and enrolled in remedial courses at the Nevada System of Higher Education;
- (n) Per pupil expenditures;
- (o) Information on the professional qualifications of teachers;
- (p) The average daily attendance of teachers and licensure information;

(q) Information on the adequate yearly progress of the schools and school districts;

(r) Pupil achievement based upon the:

(1) Examinations administered pursuant to NRS 389.550, including, without limitation, whether public schools have made progress based upon the model adopted by the Department pursuant to NRS 385.3595; and

(2) High school proficiency examination;

(s) To the extent practicable, pupil achievement based upon the examinations administered pursuant to NRS 389.015 for grades 4, 7 and 10; and

(t) Other information required by the Superintendent of Public Instruction in consultation with the Bureau.

2. The summary prepared pursuant to subsection 1 must:

(a) Comply with 20 U.S.C. § 6311(h)(1) and the regulations adopted pursuant thereto;

(b) Be prepared in a concise manner; and

(c) Be presented in an understandable and uniform format and, to the extent practicable, provided in a language that parents will likely understand.

3. On or before September 7 of each year, the State Board shall:

(a) Provide for public dissemination of the summary prepared pursuant to subsection 1 by posting the summary on the Internet website maintained by the Department; and

(b) Submit a copy of the summary in an electronic format to the:

(1) Governor;

(2) Committee;

(3) Bureau;

(4) Board of Regents of the University of Nevada;

(5) Board of trustees of each school district; and

(6) Governing body of each charter school.

4. The board of trustees of each school district and the governing body of each charter school shall ensure that the parents and guardians of pupils enrolled in the school district or charter school, as applicable, have sufficient information concerning the availability of the summary prepared by the State Board pursuant to subsection 1, including, without limitation, information that describes how to access the summary on the Internet website maintained by the Department. Upon the request of a parent or guardian of a pupil, the Department shall provide the parent or guardian with a written copy of the summary.

5. The Department shall, in consultation with the Bureau and the school districts, prescribe a form for the summary required by this section.

6. As used in this section:

(a) ***“Bullying” has the meaning ascribed to it in NRS 388.122.***

(b) *“Cyber-bullying” has the meaning ascribed to it in NRS 388.123.*

(c) *“Harassment” has the meaning ascribed to it in NRS 388.125.*

(d) *“Intimidation” has the meaning ascribed to it in NRS 388.129.*

Sec. 3. NRS 385.347 is hereby amended to read as follows:

385.347 1. The board of trustees of each school district in this State, in cooperation with associations recognized by the State Board as representing licensed educational personnel in the district, shall adopt a program providing for the accountability of the school district to the residents of the district and to the State Board for the quality of the schools and the educational achievement of the pupils in the district, including, without limitation, pupils enrolled in charter schools in the school district. The board of trustees of each school district shall report the information required by subsection 2 for each charter school that is located within the school district, regardless of the sponsor of the charter school. The information for charter schools must be reported separately and must denote the charter schools sponsored by the school district, the charter schools sponsored by the State Board and the charter schools sponsored by a college or university within the Nevada System of Higher Education.

2. The board of trustees of each school district shall, on or before August 15 of each year, prepare an annual report of accountability concerning:

(a) The educational goals and objectives of the school district.

(b) Pupil achievement for each school in the district and the district as a whole, including, without limitation, each charter school in the district. The board of trustees of the district shall base its report on the results of the examinations administered pursuant to NRS 389.015 and 389.550 and shall compare the results of those examinations for the current school year with those of previous school years. The report must include, for each school in the district, including, without limitation, each charter school in the district, and each grade in which the examinations were administered:

(1) The number of pupils who took the examinations.

(2) A record of attendance for the period in which the examinations were administered, including an explanation of any difference in the number of pupils who took the examinations and the number of pupils who are enrolled in the school.

(3) Except as otherwise provided in this paragraph, pupil achievement, reported separately by gender and reported separately for the following groups of pupils:

(I) Pupils who are economically disadvantaged, as defined by the State Board;

(II) Pupils from major racial and ethnic groups, as defined by the State Board;

(III) Pupils with disabilities;

(IV) Pupils who are limited English proficient; and

(V) Pupils who are migratory children, as defined by the State Board.

(4) A comparison of the achievement of pupils in each group identified in paragraph (b) of subsection 1 of NRS 385.361 with the annual measurable objectives of the State Board.

(5) The percentage of pupils who were not tested.

(6) Except as otherwise provided in this paragraph, the percentage of pupils who were not tested, reported separately by gender and reported separately for the groups identified in subparagraph (3).

(7) The most recent 3-year trend in pupil achievement in each subject area tested and each grade level tested pursuant to NRS 389.015 and 389.550, which may include information regarding the trend in the achievement of pupils for more than 3 years, if such information is available.

(8) Information that compares the results of pupils in the school district, including, without limitation, pupils enrolled in charter schools in the district, with the results of pupils throughout this State. The information required by this subparagraph must be provided in consultation with the Department to ensure the accuracy of the comparison.

(9) For each school in the district, including, without limitation, each charter school in the district, information that compares the results of pupils in the school with the results of pupils throughout the school district and throughout this State. The information required by this subparagraph must be provided in consultation with the Department to ensure the accuracy of the comparison.

(10) Information on whether each school in the district, including, without limitation, each charter school in the district, has made progress based upon the model adopted by the Department pursuant to NRS 385.3595.

➔ A separate reporting for a group of pupils must not be made pursuant to this paragraph if the number of pupils in that group is insufficient to yield statistically reliable information or the results would reveal personally identifiable information about an individual pupil. The State Board shall prescribe the mechanism for determining the minimum number of pupils that must be in a group for that group to yield statistically reliable information.

(c) The ratio of pupils to teachers in kindergarten and at each grade level for each elementary school in the district and the district as a whole, including, without limitation, each charter school in the district, and the average class size for each core academic subject, as set forth in NRS 389.018, for each secondary school in the district and the district as a whole, including, without limitation, each charter school in the district.

(d) Information on the professional qualifications of teachers employed by each school in the district and the district as a whole, including, without

limitation, each charter school in the district. The information must include, without limitation:

(1) The percentage of teachers who are:

(I) Providing instruction pursuant to NRS 391.125;

(II) Providing instruction pursuant to a waiver of the requirements for licensure for the grade level or subject area in which the teachers are employed; or

(III) Otherwise providing instruction without an endorsement for the subject area in which the teachers are employed;

(2) The percentage of classes in the core academic subjects, as set forth in NRS 389.018, that are not taught by highly qualified teachers;

(3) The percentage of classes in the core academic subjects, as set forth in NRS 389.018, that are not taught by highly qualified teachers, in the aggregate and disaggregated by high-poverty compared to low-poverty schools, which for the purposes of this subparagraph means schools in the top quartile of poverty and the bottom quartile of poverty in this State;

(4) For each middle school, junior high school and high school:

(I) ~~On and after July 1, 2005, the~~ **The** number of persons employed as substitute teachers for 20 consecutive days or more in the same classroom or assignment, designated as long-term substitute teachers, including the total number of days long-term substitute teachers were employed at each school, identified by grade level and subject area; and

(II) ~~On and after July 1, 2006, the~~ **The** number of persons employed as substitute teachers for less than 20 consecutive days, designated as short-term substitute teachers, including the total number of days short-term substitute teachers were employed at each school, identified by grade level and subject area; and

(5) For each elementary school:

(I) ~~On and after July 1, 2005, the~~ **The** number of persons employed as substitute teachers for 20 consecutive days or more in the same classroom or assignment, designated as long-term substitute teachers, including the total number of days long-term substitute teachers were employed at each school, identified by grade level; and

(II) ~~On and after July 1, 2006, the~~ **The** number of persons employed as substitute teachers for less than 20 consecutive days, designated as short-term substitute teachers, including the total number of days short-term substitute teachers were employed at each school, identified by grade level.

(e) The total expenditure per pupil for each school in the district and the district as a whole, including, without limitation, each charter school in the district. If this State has a financial analysis program that is designed to track educational expenditures and revenues to individual schools, each school district shall use that statewide program in complying with this paragraph. If

a statewide program is not available, each school district shall use its own financial analysis program in complying with this paragraph.

(f) The curriculum used by the school district, including:

- (1) Any special programs for pupils at an individual school; and
- (2) The curriculum used by each charter school in the district.

(g) Records of the attendance and truancy of pupils in all grades, including, without limitation:

(1) The average daily attendance of pupils, for each school in the district and the district as a whole, including, without limitation, each charter school in the district.

(2) For each elementary school, middle school and junior high school in the district, including, without limitation, each charter school in the district that provides instruction to pupils enrolled in a grade level other than high school, information that compares the attendance of the pupils enrolled in the school with the attendance of pupils throughout the district and throughout this State. The information required by this subparagraph must be provided in consultation with the Department to ensure the accuracy of the comparison.

(h) The annual rate of pupils who drop out of school in grade 8 and a separate reporting of the annual rate of pupils who drop out of school in grades 9 to 12, inclusive, for each such grade, for each school in the district and for the district as a whole. The reporting for pupils in grades 9 to 12, inclusive, excludes pupils who:

(1) Provide proof to the school district of successful completion of the examinations of general educational development.

(2) Are enrolled in courses that are approved by the Department as meeting the requirements for an adult standard diploma.

(3) Withdraw from school to attend another school.

(i) Records of attendance of teachers who provide instruction, for each school in the district and the district as a whole, including, without limitation, each charter school in the district.

(j) Efforts made by the school district and by each school in the district, including, without limitation, each charter school in the district, to increase:

(1) Communication with the parents of pupils in the district; and

(2) The participation of parents in the educational process and activities relating to the school district and each school, including, without limitation, the existence of parent organizations and school advisory committees.

(k) Records of incidents involving weapons or violence for each school in the district, including, without limitation, each charter school in the district.

(l) Records of incidents involving the use or possession of alcoholic beverages or controlled substances for each school in the district, including, without limitation, each charter school in the district.

(m) Records of the suspension and expulsion of pupils required or authorized pursuant to NRS 392.466 and 392.467.

(n) The number of pupils who are deemed habitual disciplinary problems pursuant to NRS 392.4655, for each school in the district and the district as a whole, including, without limitation, each charter school in the district.

(o) The number of pupils in each grade who are retained in the same grade pursuant to NRS 392.033 or 392.125, for each school in the district and the district as a whole, including, without limitation, each charter school in the district.

(p) The transiency rate of pupils for each school in the district and the district as a whole, including, without limitation, each charter school in the district. For the purposes of this paragraph, a pupil is not transient if the pupil is transferred to a different school within the school district as a result of a change in the zone of attendance by the board of trustees of the school district pursuant to NRS 388.040.

(q) Each source of funding for the school district.

(r) A compilation of the programs of remedial study that are purchased in whole or in part with money received from this State, for each school in the district and the district as a whole, including, without limitation, each charter school sponsored by the district. The compilation must include:

(1) The amount and sources of money received for programs of remedial study for each school in the district and the district as a whole, including, without limitation, each charter school in the district.

(2) An identification of each program of remedial study, listed by subject area.

(s) For each high school in the district, including, without limitation, each charter school in the district, the percentage of pupils who graduated from that high school or charter school in the immediately preceding year and enrolled in remedial courses in reading, writing or mathematics at a university, state college or community college within the Nevada System of Higher Education.

(t) The technological facilities and equipment available at each school, including, without limitation, each charter school, and the district's plan to incorporate educational technology at each school.

(u) For each school in the district and the district as a whole, including, without limitation, each charter school in the district, the number and percentage of pupils who received:

(1) A standard high school diploma, reported separately for pupils who received the diploma pursuant to:

(I) Paragraph (a) of subsection 1 of NRS 389.805; and

(II) Paragraph (b) of subsection 1 of NRS 389.805.

(2) An adjusted diploma.

(3) A certificate of attendance.

(v) For each school in the district and the district as a whole, including, without limitation, each charter school in the district, the number and percentage of pupils who failed to pass the high school proficiency examination.

(w) The number of habitual truants who are reported to a school police officer or law enforcement agency pursuant to paragraph (a) of subsection 2 of NRS 392.144 and the number of habitual truants who are referred to an advisory board to review school attendance pursuant to paragraph (b) of subsection 2 of NRS 392.144, for each school in the district and for the district as a whole.

(x) The amount and sources of money received for the training and professional development of teachers and other educational personnel for each school in the district and for the district as a whole, including, without limitation, each charter school in the district.

(y) Whether the school district has made adequate yearly progress. If the school district has been designated as demonstrating need for improvement pursuant to NRS 385.377, the report must include a statement indicating the number of consecutive years the school district has carried that designation.

(z) Information on whether each public school in the district, including, without limitation, each charter school in the district, has made adequate yearly progress, including, without limitation:

(1) The number and percentage of schools in the district, if any, that have been designated as needing improvement pursuant to NRS 385.3623; and

(2) The name of each school, if any, in the district that has been designated as needing improvement pursuant to NRS 385.3623 and the number of consecutive years that the school has carried that designation.

(aa) Information on the paraprofessionals employed by each public school in the district, including, without limitation, each charter school in the district. The information must include:

(1) The number of paraprofessionals employed at the school; and

(2) The number and percentage of all paraprofessionals who do not satisfy the qualifications set forth in 20 U.S.C. § 6319(c). The reporting requirements of this subparagraph apply to paraprofessionals who are employed in positions supported with Title I money and to paraprofessionals who are not employed in positions supported with Title I money.

(bb) For each high school in the district, including, without limitation, each charter school that operates as a high school, information that provides a comparison of the rate of graduation of pupils enrolled in the high school with the rate of graduation of pupils throughout the district and throughout

this State. The information required by this paragraph must be provided in consultation with the Department to ensure the accuracy of the comparison.

(cc) An identification of the appropriations made by the Legislature that are available to the school district or the schools within the district and programs approved by the Legislature to improve the academic achievement of pupils.

(dd) For each school in the district and the district as a whole, including, without limitation, each charter school in the district, information on pupils enrolled in career and technical education, including, without limitation:

(1) The number of pupils enrolled in a course of career and technical education;

(2) The number of pupils who completed a course of career and technical education;

(3) The average daily attendance of pupils who are enrolled in a program of career and technical education;

(4) The annual rate of pupils who dropped out of school and were enrolled in a program of career and technical education before dropping out;

(5) The number and percentage of pupils who completed a program of career and technical education and who received a standard high school diploma, an adjusted diploma or a certificate of attendance; and

(6) The number and percentage of pupils who completed a program of career and technical education and who did not receive a high school diploma because the pupils failed to pass the high school proficiency examination.

(ee) ***The number of incidents resulting in suspension or expulsion for bullying, cyber-bullying, harassment or intimidation, for each school in the district and the district as a whole, including, without limitation, each charter school in the district.***

(ff) Such other information as is directed by the Superintendent of Public Instruction.

3. The records of attendance maintained by a school for purposes of paragraph (i) of subsection 2 must include the number of teachers who are in attendance at school and the number of teachers who are absent from school. A teacher shall be deemed in attendance if the teacher is excused from being present in the classroom by the school in which the teacher is employed for one of the following reasons:

(a) Acquisition of knowledge or skills relating to the professional development of the teacher; or

(b) Assignment of the teacher to perform duties for cocurricular or extracurricular activities of pupils.

4. The annual report of accountability prepared pursuant to subsection 2 must:

(a) Comply with 20 U.S.C. § 6311(h)(2) and the regulations adopted pursuant thereto; and

(b) Be presented in an understandable and uniform format and, to the extent practicable, provided in a language that parents can understand.

5. The Superintendent of Public Instruction shall:

(a) Prescribe forms for the reports required pursuant to subsection 2 and provide the forms to the respective school districts.

(b) Provide statistical information and technical assistance to the school districts to ensure that the reports provide comparable information with respect to each school in each district and among the districts throughout this State.

(c) Consult with a representative of the:

- (1) Nevada State Education Association;
- (2) Nevada Association of School Boards;
- (3) Nevada Association of School Administrators;
- (4) Nevada Parent Teacher Association;
- (5) Budget Division of the Department of Administration; and
- (6) Legislative Counsel Bureau,

↪ concerning the program and consider any advice or recommendations submitted by the representatives with respect to the program.

6. The Superintendent of Public Instruction may consult with representatives of parent groups other than the Nevada Parent Teacher Association concerning the program and consider any advice or recommendations submitted by the representatives with respect to the program.

7. On or before August 15 of each year, the board of trustees of each school district shall submit to each advisory board to review school attendance created in the county pursuant to NRS 392.126 the information required in paragraph (g) of subsection 2.

8. On or before August 15 of each year, the board of trustees of each school district shall:

(a) Provide written notice that the report required pursuant to subsection 2 is available on the Internet website maintained by the school district, if any, or otherwise provide written notice of the availability of the report. The written notice must be provided to the:

- (1) Governor;
- (2) State Board;
- (3) Department;
- (4) Committee; and
- (5) Bureau.

(b) Provide for public dissemination of the annual report of accountability prepared pursuant to subsection 2 in the manner set forth in 20 U.S.C.

§ 6311(h)(2)(E) by posting a copy of the report on the Internet website maintained by the school district, if any. If a school district does not maintain a website, the district shall otherwise provide for public dissemination of the annual report by providing a copy of the report to the schools in the school district, including, without limitation, each charter school in the district, the residents of the district, and the parents and guardians of pupils enrolled in schools in the district, including, without limitation, each charter school in the district.

9. Upon the request of the Governor, an entity described in paragraph (a) of subsection 8 or a member of the general public, the board of trustees of a school district shall provide a portion or portions of the report required pursuant to subsection 2.

10. As used in this section:

(a) *“Bullying” has the meaning ascribed to it in NRS 388.122.*

(b) *“Cyber-bullying” has the meaning ascribed to it in NRS 388.123.*

(c) *“Harassment” has the meaning ascribed to it in NRS 388.125.*

(d) “Highly qualified” has the meaning ascribed to it in 20 U.S.C.

§ 7801(23).

~~(b)~~ (e) *“Intimidation” has the meaning ascribed to it in NRS 388.129.*

(f) “Paraprofessional” has the meaning ascribed to it in NRS 391.008.

Sec. 4. Chapter 388 of NRS is hereby amended by adding thereto the provisions set forth as sections 5 to 18, inclusive, of this act.

Sec. 5. (Deleted by amendment.)

Sec. 6. (Deleted by amendment.)

Sec. 7. 1. *The Department, in consultation with persons who possess knowledge and expertise in bullying, cyber-bullying, harassment and intimidation in public schools, shall to the extent money is available, develop an informational pamphlet to assist pupils and the parents or legal guardians of pupils enrolled in the public schools in this State in resolving incidents of bullying, cyber-bullying, harassment or intimidation. ~~The~~ If developed, the pamphlet must include, without limitation:*

(a) *A summary of the policy prescribed by the Department pursuant to NRS 388.133 and the provisions of NRS 388.121 to 388.139, inclusive, and sections 5 to 18, inclusive, of this act;*

(b) *A description of practices which have proven effective in preventing and resolving violations of NRS 388.135 in schools, which must include, without limitation, methods to identify and assist pupils who are at risk for bullying, cyber-bullying, harassment or intimidation; and*

(c) *An explanation that the parent or legal guardian of a pupil who is involved in a reported violation of NRS 388.135 may request an appeal of a disciplinary decision made against the pupil as a result of the violation, in*

accordance with the policy governing disciplinary action adopted by the board of trustees of the school district.

2. ~~The~~ If the Department develops a pamphlet pursuant to subsection 1, the Department shall review the pamphlet on an annual basis and make such revisions to the pamphlet as the Department determines are necessary to ensure the pamphlet contains current information.

3. ~~The~~ If the Department develops a pamphlet pursuant to subsection 1, the Department shall post a copy of the pamphlet on the Internet website maintained by the Department.

4. To extent the money is available, the Department shall develop a tutorial which must be made available on the Internet website maintained by the Department that includes, without limitation, the information contained in the pamphlet developed pursuant to subsection 1 ~~+~~, if such a pamphlet is developed by the Department.

Sec. 8. 1. *The Department, in consultation with persons who possess knowledge and expertise in bullying, cyber-bullying, harassment and intimidation in public schools, shall:*

(a) *Establish a program of training on methods to prevent, identify and report incidences of bullying, cyber-bullying, harassment and intimidation in public schools for members of the State Board.*

(b) *Recommend a program of training on methods to prevent, identify and report incidences of bullying, cyber-bullying, harassment and intimidation in public schools for members of the boards of trustees of school districts.*

(c) *Recommend a program of training for school district personnel to assist those persons with carrying out their powers and duties pursuant to NRS 388.121 to 388.139, inclusive, and sections 5 to 18, inclusive, of this act.*

2. *Each member of the State Board shall, within 1 year after the member is elected or appointed to the State Board, complete the program of training on bullying, cyber-bullying, harassment and intimidation in public schools established pursuant to paragraph (a) of subsection 1 and undergo the training at least one additional time while the person is a member of the State Board.*

3. *Each member of a board of trustees of a school district may complete the program of training on bullying, cyber-bullying, harassment and intimidation in public schools recommended pursuant to paragraph (b) of subsection 1 and may undergo the training at least one additional time while the person is a member of the board of trustees.*

4. *Each program of training established and recommended pursuant to subsection 1 must, to the extent money is available, be made available on*

the Internet website maintained by the Department or through another provider on the Internet.

5. The board of trustees of a school district may allow school district personnel to attend the program recommended pursuant to paragraph (c) of subsection 1 during regular school hours.

6. The Department shall review each program of training established and recommended pursuant to subsection 1 on an annual basis to ensure that the program contains current information concerning the prevention of bullying, cyber-bullying, harassment and intimidation.

Sec. 9. 1. The Bullying Prevention Fund is hereby created in the State General Fund, to be administered by the Superintendent of Public Instruction. The Superintendent of Public Instruction may accept gifts and grants from any source for deposit into the Fund. The interest and income earned on the money in the Fund must be credited to the Fund.

2. In accordance with the regulations adopted by the State Board pursuant to section 18 of this act, a school district that applies for and receives a grant of money from the Bullying Prevention Fund shall use the money for one or more of the following purposes:

(a) The establishment of programs to create a school environment that is free from bullying, cyber-bullying, harassment and intimidation;

(b) The provision of training on the policies adopted by the school district pursuant to NRS 388.134 and the provisions of NRS 388.121 to 388.139, inclusive, and sections 5 to 18, inclusive, of this act; or

(c) The development and implementation of procedures by which the public schools of the school district and the pupils enrolled in those schools can discuss the policies adopted pursuant to NRS 388.134 and the provisions of NRS 388.121 to 388.139, inclusive, and sections 5 to 18, inclusive, of this act.

Sec. 10. (Deleted by amendment.)

Sec. 11. The principal of each public school or his or her designee shall:

1. Establish a school safety team to develop, foster and maintain a school environment which is free from bullying, cyber-bullying, harassment and intimidation;

2. Conduct investigations of violations of NRS 388.135 occurring at the school; and

3. Collaborate with the board of trustees of the school district and the school safety team to prevent, identify and address reported violations of NRS 388.135 at the school.

Sec. 12. 1. Each school safety team established pursuant to section 11 of this act must consist of the principal or his or her designee and the following persons appointed by the principal:

- (a) A school counselor;*
 - (b) At least one teacher who teaches at the school;*
 - (c) At least one parent or legal guardian of a pupil enrolled in the school; and*
 - (d) Any other persons appointed by the principal.*
- 2. The principal or his or her designee shall serve as the chair of the school safety team.*
- 3. The school safety team shall:*
- (a) Meet at least two times each year;*
 - (b) Identify and address patterns of bullying, cyber-bullying, harassment or intimidation at the school;*
 - (c) Review and strengthen school policies to prevent and address bullying, cyber-bullying, harassment or intimidation;*
 - (d) Provide information to school personnel, pupils enrolled in the school and parents and legal guardians of pupils enrolled in the school on methods to address bullying, cyber-bullying, harassment and intimidation; and*
 - (e) To the extent money is available, participate in any training conducted by the school district regarding bullying, cyber-bullying, harassment and intimidation.*

Sec. 13. 1. On or before January 1 and June 30 of each year, the principal of each public school shall submit to the board of trustees of the school district a report on the violations of NRS 388.135 which are reported during the previous school semester. The report must include, without limitation:

- (a) The number of violations of NRS 388.135 occurring at the school or otherwise involving a pupil enrolled at the school which are reported during that period; and*
- (b) Any actions taken at the school to reduce the number of incidences of bullying, cyber-bullying, harassment and intimidation, including, without limitation, training that was offered or other policies, practices and programs that were implemented.*

2. The board of trustees of each school district shall review and compile the reports submitted pursuant to subsection 1 and, on or before August 1, submit a compilation of the reports to the Department.

Sec. 14. 1. A teacher or other staff member who witnesses a violation of NRS 388.135 or receives information that a violation of NRS 388.135 has occurred shall verbally report the violation to the principal or his or her designee on the day on which the teacher or other staff member witnessed the violation or received information regarding the occurrence of a violation.

2. The principal or his or her designee shall initiate an investigation not later than 1 day after receiving notice of the violation pursuant to subsection 1. The investigation must be completed within 10 days after the date on which the investigation is initiated and, if a violation is found to have occurred, include recommendations concerning the imposition of disciplinary action or other measures to be imposed as a result of the violation, in accordance with the policy governing disciplinary action adopted by the board of trustees of the school district.

3. The parent or legal guardian of a pupil involved in the reported violation of NRS 388.135 may appeal a disciplinary decision of the principal or his or her designee, made against the pupil as a result of the violation, in accordance with the policy governing disciplinary action adopted by the board of trustees of the school district.

Sec. 15. (Deleted by amendment.)

Sec. 16. (Deleted by amendment.)

Sec. 17. The board of trustees of each school district, in conjunction with the school police officers of the school district, if any, and the local law enforcement agencies that have jurisdiction over the school district, shall establish a policy for the procedures which must be followed by an employee of the school district when reporting a violation of NRS 388.135 to a school police officer or local law enforcement agency.

Sec. 18. The State Board shall adopt regulations:

1. Establishing the process whereby school districts may apply to the State Board for a grant of money from the Bullying Prevention Fund pursuant to section 9 of this act.

2. As are necessary to carry out the provisions of NRS 388.121 to 388.139, inclusive, and sections 5 to 18, inclusive, of this act.

Sec. 19. NRS 388.121 is hereby amended to read as follows:

388.121 As used in NRS 388.121 to 388.139, inclusive, *and sections 5 to 18, inclusive, of this act*, unless the context otherwise requires, the words and terms defined in NRS 388.122 to 388.129, inclusive, have the meanings ascribed to them in those sections.

Sec. 20. NRS 388.122 is hereby amended to read as follows:

388.122 "Bullying" means a willful act *which is written, verbal or physical*, or a course of conduct on the part of one or more ~~[pupils]~~ *persons* which is not authorized by law and which exposes a ~~[pupil]~~ *person one time or* repeatedly and over time to one or more negative actions which is highly offensive to a reasonable person and ~~[is]~~ :

1. Is intended to cause ~~[and]~~ or actually causes the ~~[pupil]~~ person to suffer harm or serious emotional distress [-];

2. Places the person in reasonable fear of harm or serious emotional distress; or

3. Creates an environment which is hostile to a pupil by interfering with the education of the pupil.

Sec. 21. NRS 388.125 is hereby amended to read as follows:

388.125 “Harassment” means a willful act *which is written, verbal or physical*, or a course of conduct that is not otherwise authorized by law ~~and~~ ~~is:~~

~~1. Highly~~, *is highly* offensive to a reasonable person ~~[-]~~ and ~~{2. Intended}~~ :

1. Is intended to cause ~~and~~ or actually causes another person to suffer serious emotional distress ~~[-]~~ ;

2. Places a person in reasonable fear of harm or serious emotional distress; or

3. Creates an environment which is hostile to a pupil by interfering with the education of the pupil.

Sec. 22. NRS 388.129 is hereby amended to read as follows:

388.129 “Intimidation” means a willful act *which is written, verbal or physical*, or a course of conduct that is not otherwise authorized by law ~~and~~:

~~1. Is~~, *is* highly offensive to a reasonable person ~~[-]~~ and ~~{2. Poses}~~ :

1. Poses a threat of immediate harm or actually inflicts harm to another person or to the property of another person ~~[-]~~ ;

2. Places a person in reasonable fear of harm or serious emotional distress; or

3. Creates an environment which is hostile to a pupil by interfering with the education of the pupil.

Sec. 23. (Deleted by amendment.)

Sec. 24. NRS 388.134 is hereby amended to read as follows:

388.134 The board of trustees of each school district shall:

1. Adopt the policy prescribed pursuant to NRS 388.133 and the policy prescribed pursuant to subsection 2 of NRS 389.520. The board of trustees may adopt an expanded policy for one or both of the policies if each expanded policy complies with the policy prescribed pursuant to NRS 388.133 or pursuant to subsection 2 of NRS 389.520, as applicable.

2. Provide for the appropriate training of all administrators, principals, teachers and all other personnel employed by the board of trustees in accordance with the policies prescribed pursuant to NRS 388.133 and pursuant to subsection 2 of NRS 389.520.

3. ~~[On or before September 1 of each year, submit a report to the Superintendent of Public Instruction that includes a description of each violation of NRS 388.135 occurring in the immediately preceding school year that resulted in personnel action against an employee or suspension or~~

~~expulsion of a pupil, if any.] Post the policies adopted pursuant to subsection 1 on the Internet website maintained by the school district.~~

4. *Ensure that the parents and legal guardians of pupils enrolled in the school district have sufficient information concerning the availability of the policies, including, without limitation, information that describes how to access the policies on the Internet website maintained by the school district. Upon the request of a parent or legal guardian, the school district shall provide the parent or legal guardian with a written copy of the policies.*

5. *Review the policies adopted pursuant to subsection 1 on an annual basis and update the policies if necessary. If the board of trustees of a school district updates the policies, the board of trustees must submit a copy of the updated policies to the Department within 30 days after the update.*

Sec. 25. NRS 388.1345 is hereby amended to read as follows:

388.1345 The Superintendent of Public Instruction shall:

1. Compile the reports submitted pursuant to ~~[NRS 388.134]~~ **section 13 of this act** and prepare a written report of the compilation.

2. On or before October 1 of each year, submit the written compilation to the Attorney General.

Sec. 26. NRS 388.139 is hereby amended to read as follows:

388.139 Each school district shall include the text of the provisions of NRS 388.121 to 388.135, inclusive, **and sections 5 to 18, inclusive, of this act** and the policies adopted by the board of trustees of the school district pursuant to NRS 388.134 under the heading “Bullying, Cyber-Bullying, Harassment and Intimidation Is Prohibited in Public Schools,” within each copy of the rules of behavior for pupils that the school district provides to pupils pursuant to NRS 392.463.

Sec. 27. (Deleted by amendment.)

Sec. 28. NRS 391.312 is hereby amended to read as follows:

391.312 1. A teacher may be suspended, dismissed or not reemployed and an administrator may be demoted, suspended, dismissed or not reemployed for the following reasons:

- (a) Inefficiency;
- (b) Immorality;
- (c) Unprofessional conduct;
- (d) Insubordination;
- (e) Neglect of duty;
- (f) Physical or mental incapacity;
- (g) A justifiable decrease in the number of positions due to decreased enrollment or district reorganization;
- (h) Conviction of a felony or of a crime involving moral turpitude;

- (i) Inadequate performance;
- (j) Evident unfitness for service;
- (k) Failure to comply with such reasonable requirements as a board may prescribe;
- (l) Failure to show normal improvement and evidence of professional training and growth;
- (m) Advocating overthrow of the Government of the United States or of the State of Nevada by force, violence or other unlawful means, or the advocating or teaching of communism with the intent to indoctrinate pupils to subscribe to communistic philosophy;
- (n) Any cause which constitutes grounds for the revocation of a teacher's license;
- (o) Willful neglect or failure to observe and carry out the requirements of this title;
- (p) Dishonesty;
- (q) Breaches in the security or confidentiality of the questions and answers of the achievement and proficiency examinations that are administered pursuant to NRS 389.015;
- (r) Intentional failure to observe and carry out the requirements of a plan to ensure the security of examinations adopted pursuant to NRS 389.616 or 389.620; ~~for~~
- (s) An intentional violation of NRS 388.5265 or 388.527 ~~for~~; *or*
- (t) ***An intentional failure to report a violation of NRS 388.135 if the teacher or administrator witnessed the violation.***

2. In determining whether the professional performance of a licensed employee is inadequate, consideration must be given to the regular and special evaluation reports prepared in accordance with the policy of the employing school district and to any written standards of performance which may have been adopted by the board.

Sec. 29. (Deleted by amendment.)

Sec. 30. (Deleted by amendment.)

Sec. 31. (Deleted by amendment.)

Sec. 32. Chapter 236 of NRS is hereby amended by adding thereto a new section to read as follows:

1. *The Governor shall annually proclaim the first week in October to be "Week of Respect."*

2. *The proclamation may call upon:*

(a) *News media, educators and appropriate government offices to bring to the attention of the residents of Nevada factual information regarding bullying, cyber-bullying, harassment and intimidation in schools, including, without limitation:*

(1) *Statistical information regarding the number of pupils who are bullied, cyber-bullied, harassed or intimidated in schools each year;*

(2) *The methods to identify and assist pupils who are at risk of bullying, cyber-bullying, harassment or intimidation; and*

(3) *The methods to prevent bullying, cyber-bullying, harassment and intimidation in schools; and*

(b) *School districts to provide instruction on the ways in which pupils can prevent bullying, cyber-bullying, harassment and intimidation during the Week of Respect and throughout the school year that is appropriate for the grade level of pupils who receive the instruction.*

3. *As used in this section:*

(a) *“Bullying” has the meaning ascribed to it in NRS 388.122.*

(b) *“Cyber-bullying” has the meaning ascribed to it in NRS 388.123.*

(c) *“Harassment” has the meaning ascribed to it in NRS 388.125.*

(d) *“Intimidation” has the meaning ascribed to it in NRS 388.129.*

Sec. 33. On or before December 31, 2011, the State Board of Education shall adopt the regulations required by section 18 of this act.

Sec. 34. (Deleted by amendment.)

Sec. 35. This act becomes effective on July 1, 2011.

Assemblyman Bobzien moved the adoption of the amendment.

Amendment adopted.

Bill ordered to third reading.

Senate Bill No. 483.

Bill read third time.

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

Amendment No. 923.

SUMMARY—~~Authorizes the Department of Motor Vehicles to enter into certain agreements relating to advertising.~~ **Revises certain provisions relating to the Department of Motor Vehicles.** (BDR 43-1185)

AN ACT relating to the Department of Motor Vehicles; authorizing the Department to enter into certain agreements relating to advertising; **authorizing the Director of the Department to release certain information to certain persons; transferring the authority to adopt specifications for motor vehicle fuel from the State Board of Agriculture to the Department;** and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Under existing law, it is unlawful for any person to erect any bulletin board or other advertising device on the grounds of the State Capitol or on any other state building or property. (NRS 331.200) ~~[This]~~ **Section 1 of this** bill authorizes the Director of the Department of Motor Vehicles to enter into

agreements for the placement of advertising in areas of buildings owned or occupied by the Department. Any money collected by the Department from such advertising must be deposited in the Motor Vehicle Fund and used to offset the costs of communicating with the public. **Section 3.5 of this bill requires the Department to make certain reports to the Interim Finance Committee concerning such agreements.**

Existing law prohibits the Director from disclosing certain information, including personally identifiable information, except to certain persons. Section 1.5 of this bill authorizes the Director to disclose certain information to a person who, pursuant to a contract with the Department, requests such information for the purpose of an advisory notice relating to a motor vehicle or the recall of a motor vehicle or for providing information concerning the history of a vehicle.

Existing law requires the State Board of Agriculture to adopt specifications for motor vehicle fuel and to enforce such specifications. (NRS 590.070, 590.071) Sections 2.3 and 2.5 of this bill transfer this authority to the Department of Motor Vehicles. Section 3.3 of this bill provides that the Department may enforce any regulations adopted by the Board concerning specifications for motor vehicle fuel until the Department adopts new regulations to repeal or replace the regulations adopted by the Board.

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

Section 1. Chapter 481 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The Director may enter into an agreement with a person for the placement of advertisements in areas of buildings owned or occupied by the Department that are frequented by the public.

2. A person who enters into an agreement with the Director pursuant to subsection 1 shall ensure that each advertisement placed pursuant to the agreement does not inhibit or disrupt the functioning of the Department.

3. Any money collected by the Department from an agreement entered into pursuant to subsection 1 must be:

(a) Deposited with the State Treasurer for credit to the Motor Vehicle Fund; and

(b) Used to offset the costs of communicating with the public.

4. The Director may adopt regulations to carry out the provisions of this section.

Sec. 1.5. NRS 481.063 is hereby amended to read as follows:

481.063 1. The Director may charge and collect reasonable fees for official publications of the Department and from persons making use of files

and records of the Department or its various divisions for a private purpose. All money so collected must be deposited in the State Treasury for credit to the Motor Vehicle Fund.

2. Except as otherwise provided in subsection ~~5.~~ 6. the Director may release personal information, except a photograph, from a file or record relating to the driver's license, identification card, or title or registration of a vehicle of a person if the requester submits a written release from the person who holds a lien on the vehicle, or an agent of that person, or the person about whom the information is requested which is dated not more than 90 days before the date of the request. The written release must be in a form required by the Director.

3. Except as otherwise provided in ~~subsection 2.~~ subsections 2 and 4. the Director shall not release to any person who is not a representative of the Division of Welfare and Supportive Services of the Department of Health and Human Services or an officer, employee or agent of a law enforcement agency, an agent of the public defender's office or an agency of a local government which collects fines imposed for parking violations, who is not conducting an investigation pursuant to NRS 253.0415 or 253.220, who is not authorized to transact insurance pursuant to chapter 680A of NRS or who is not licensed as a private investigator pursuant to chapter 648 of NRS and conducting an investigation of an insurance claim:

(a) A list which includes license plate numbers combined with any other information in the records or files of the Department;

(b) The social security number of any person, if it is requested to facilitate the solicitation of that person to purchase a product or service; or

(c) The name, address, telephone number or any other personally identifiable information if the information is requested by the presentation of a license plate number.

↪ When such personally identifiable information is requested of a law enforcement agency by the presentation of a license plate number, the law enforcement agency shall conduct an investigation regarding the person about whom information is being requested or, as soon as practicable, provide the requester with the requested information if the requester officially reports that the motor vehicle bearing that license plate was used in a violation of NRS 205.240, 205.345, 205.380 or 205.445.

4. *If a person is authorized to obtain such information pursuant to a contract entered into with the Department and if such information is requested for the purpose of an advisory notice relating to a motor vehicle or the recall of a motor vehicle or for the purpose of providing information concerning the history of a vehicle, the Director may release:*

(a) A list which includes license plate numbers combined with any other information in the records or files of the Department; or

(b) The name, address, telephone number or any other personally identifiable information if the information is requested by the presentation of a license plate number.

~~5.~~ 5. Except as otherwise provided in subsections 2, 4 and ~~5~~ 6 and NRS 483.294, 483.855 and 483.937, the Director shall not release any personal information from a file or record relating to a driver's license, identification card, or title or registration of a vehicle.

~~5.~~ 6. Except as otherwise provided in paragraph (a) and subsection ~~6.~~ 7., if a person or governmental entity provides a description of the information requested and its proposed use and signs an affidavit to that effect, the Director may release any personal information, except a photograph, from a file or record relating to a driver's license, identification card, or title or registration of a vehicle for use:

(a) By any governmental entity, including, but not limited to, any court or law enforcement agency, in carrying out its functions, or any person acting on behalf of a federal, state or local governmental agency in carrying out its functions. The personal information may include a photograph from a file or record relating to a driver's license, identification card, or title or registration of a vehicle.

(b) In connection with any civil, criminal, administrative or arbitration proceeding before any federal or state court, regulatory body, board, commission or agency, including, but not limited to, use for service of process, investigation in anticipation of litigation, and execution or enforcement of judgments and orders, or pursuant to an order of a federal or state court.

(c) In connection with matters relating to:

- (1) The safety of drivers of motor vehicles;
- (2) Safety and thefts of motor vehicles;
- (3) Emissions from motor vehicles;
- (4) Alterations of products related to motor vehicles;
- (5) An advisory notice relating to a motor vehicle or the recall of a motor vehicle;
- (6) Monitoring the performance of motor vehicles;
- (7) Parts or accessories of motor vehicles;
- (8) Dealers of motor vehicles; or
- (9) Removal of nonowner records from the original records of motor vehicle manufacturers.

(d) By any insurer, self-insurer or organization that provides assistance or support to an insurer or self-insurer or its agents, employees or contractors, in connection with activities relating to the rating, underwriting or investigation of claims or the prevention of fraud.

(e) In providing notice to the owners of vehicles that have been towed, repossessed or impounded.

(f) By an employer or its agent or insurer to obtain or verify information relating to a holder of a commercial driver's license who is employed by or has applied for employment with the employer.

(g) By a private investigator, private patrol officer or security consultant who is licensed pursuant to chapter 648 of NRS, for any use permitted pursuant to this section.

(h) By a reporter or editorial employee who is employed by or affiliated with any newspaper, press association or commercially operated, federally licensed radio or television station for a journalistic purpose. The Department may not make any inquiries regarding the use of or reason for the information requested other than whether the information will be used for a journalistic purpose.

(i) In connection with an investigation conducted pursuant to NRS 253.0415 or 253.220.

(j) In activities relating to research and the production of statistical reports, if the personal information will not be published or otherwise redisclosed, or used to contact any person.

(k) In the bulk distribution of surveys, marketing material or solicitations, if the Director has adopted policies and procedures to ensure that:

(1) The information will be used or sold only for use in the bulk distribution of surveys, marketing material or solicitations;

(2) Each person about whom the information is requested has clearly been provided with an opportunity to authorize such a use; and

(3) If the person about whom the information is requested does not authorize such a use, the bulk distribution will not be directed toward that person.

~~6.7~~ 7. Except as otherwise provided in paragraph (j) of subsection ~~5.6~~ 6, a person who requests and receives personal information may sell or disclose that information only for a use permitted pursuant to subsection ~~5.6~~ 6. Such a person shall keep and maintain for 5 years a record of:

(a) Each person to whom the information is provided; and

(b) The purpose for which that person will use the information.

↪ The record must be made available for examination by the Department at all reasonable times upon request.

~~7.8~~ 8. Except as otherwise provided in subsection 2, the Director may deny any use of the files and records if the Director reasonably believes that the information taken may be used for an unwarranted invasion of a particular person's privacy.

~~8.9~~ 9. Except as otherwise provided in NRS 485.316, the Director shall not allow any person to make use of information retrieved from the system

created pursuant to NRS 485.313 for a private purpose and shall not in any other way release any information retrieved from that system.

~~99~~ **10.** The Director shall adopt such regulations as the Director deems necessary to carry out the purposes of this section. In addition, the Director shall, by regulation, establish a procedure whereby a person who is requesting personal information may establish an account with the Department to facilitate the person's ability to request information electronically or by written request if the person has submitted to the Department proof of employment or licensure, as applicable, and a signed and notarized affidavit acknowledging that the person:

(a) Has read and fully understands the current laws and regulations regarding the manner in which information from the Department's files and records may be obtained and the limited uses which are permitted;

(b) Understands that any sale or disclosure of information so obtained must be in accordance with the provisions of this section;

(c) Understands that a record will be maintained by the Department of any information he or she requests; and

(d) Understands that a violation of the provisions of this section is a criminal offense.

~~100~~ **11.** It is unlawful for any person to:

(a) Make a false representation to obtain any information from the files or records of the Department.

(b) Knowingly obtain or disclose any information from the files or records of the Department for any use not permitted by the provisions of this chapter.

~~111~~ **12.** As used in this section, "personal information" means information that reveals the identity of a person, including, without limitation, his or her photograph, social security number, driver's license number, identification card number, name, address, telephone number or information regarding a medical condition or disability. The term does not include the zip code of a person when separate from his or her full address, information regarding vehicular accidents or driving violations in which he or she has been involved or other information otherwise affecting his or her status as a driver.

Sec. 2. NRS 331.200 is hereby amended to read as follows:

331.200 1. It shall be unlawful for any person to commit any of the following acts upon the grounds of the State Capitol or of any other state building or property:

(a) Willfully deface, break down or destroy any fence upon or surrounding such grounds;

(b) ~~Erect~~ **Except as otherwise provided in section 1 of this act, erect** any bulletin board or other advertising device in or upon such grounds;

(c) Deposit any garbage, debris or other obstruction in or upon such grounds;

(d) Injure, break down or destroy any tree, shrub or other thing upon such grounds; or

(e) Injure the grass upon such grounds by walking upon it.

2. Any person violating any of the provisions of this section shall be guilty of a public offense, as prescribed in NRS 193.155, proportionate to the value of the property damaged or destroyed, and in no event less than a misdemeanor.

Sec. 2.3. NRS 590.070 is hereby amended to read as follows:

590.070 1. The ~~{State Board of Agriculture}~~ **Department of Motor Vehicles** shall adopt by regulation specifications for motor vehicle fuel:

(a) Based upon scientific evidence which demonstrates that any motor vehicle fuel which is produced in accordance with the specifications is of sufficient quality to ensure appropriate performance when used in a motor vehicle in this State; or

(b) Proposed by an air pollution control agency to attain or maintain national ambient air quality standards in any area of this State. As used in this paragraph, "air pollution control agency" means any federal air pollution control agency or any state, regional or local agency that has the authority pursuant to chapter 445B of NRS to regulate or control air pollution or air quality in any area of this State.

2. The ~~{State Board of Agriculture}~~ **Department of Motor Vehicles** shall adopt by regulation procedures for allowing variances from the specifications for motor vehicle fuel adopted pursuant to this section.

3. It is unlawful for any person, or any officer, agent or employee thereof, to sell, offer for sale, assist in the sale of, deliver or permit to be sold or offered for sale, any petroleum or petroleum product as, or purporting to be, motor vehicle fuel, unless it conforms with the regulations adopted by the ~~{State Board of Agriculture}~~ **Department of Motor Vehicles** pursuant to this section.

4. This section does not apply to aviation fuel.

5. In addition to any criminal penalty that is imposed pursuant to the provisions of NRS 590.150, any person who violates any provision of this section may be further punished as provided in NRS 590.071.

Sec. 2.5. NRS 590.071 is hereby amended to read as follows:

590.071 1. The ~~{State Board of Agriculture}~~ **Department of Motor Vehicles** shall:

(a) Enforce the specifications for motor vehicle fuel adopted by regulation pursuant to NRS 590.070.

(b) Adopt regulations specifying a schedule of fines that it may impose, upon notice and hearing, for each violation of the provisions of

NRS 590.070. The maximum fine that may be imposed by the ~~[Board]~~ Department of Motor Vehicles for each violation must not exceed \$5,000 per day. All fines collected by the ~~[Board]~~ Department of Motor Vehicles pursuant to the regulations adopted pursuant to this subsection must be deposited with the State Treasurer for credit to the State General Fund.

2. The ~~[State Board of Agriculture]~~ Department of Motor Vehicles may:

(a) In addition to imposing a fine pursuant to subsection 1, issue an order requiring a violator to take appropriate action to correct the violation.

(b) Request the district attorney of the appropriate county to investigate or file a criminal complaint against any person that the ~~[Board]~~ Department of Motor Vehicles suspects may have violated any provision of NRS 590.070.

Sec. 2.7. NRS 590.100 is hereby amended to read as follows:

590.100 ~~[The]~~ Except as otherwise provided in NRS 590.070 and 590.071, the State Sealer of Weights and Measures is charged with the proper enforcement of NRS 590.010 to 590.150, inclusive, and has the following powers and duties:

1. The State Sealer of Weights and Measures may publish reports relating to petroleum products and motor vehicle fuel in such form and at such times as he or she deems necessary.

2. The State Sealer of Weights and Measures, or the appointees thereof, shall inspect and check the accuracy of all measuring devices for petroleum products and motor vehicle fuel maintained in this State, and shall seal all such devices whose tolerances are found to be within those prescribed by the National Institute of Standards and Technology.

3. The State Sealer of Weights and Measures, or the appointees thereof, or any member of the Nevada Highway Patrol, may take such samples as he or she deems necessary of any petroleum product or motor vehicle fuel that is kept, transported or stored within the State of Nevada. It is unlawful for any person, or any officer, agent or employee thereof, to refuse to permit the State Sealer of Weights and Measures, or the appointees thereof, or any member of the Nevada Highway Patrol, in the State of Nevada, to take such samples, or to prevent or to attempt to prevent the State Sealer of Weights and Measures, or the appointees thereof, or any member of the Nevada Highway Patrol, from taking them. If the person, or any officer, agent or employee thereof, from which a sample is taken at the time of taking demands payment, then the person taking the sample shall pay the reasonable market price for the quantity taken.

4. The State Sealer of Weights and Measures, or the appointees thereof, may close and seal the outlets of any unlabeled or mislabeled containers, pumps, dispensers or storage tanks connected thereto or which contain any petroleum product or motor vehicle fuel which, if sold, would violate any of the provisions of NRS 590.010 to 590.150, inclusive, and shall post, in a

conspicuous place on the premises where those containers, pumps, dispensers or storage tanks have been sealed, a notice stating that the action of sealing has been taken in accordance with the provisions of NRS 590.010 to 590.150, inclusive, and giving warning that it is unlawful to break, mutilate or destroy the seal or seals thereof under penalty as provided in NRS 590.110.

5. The State Sealer of Weights and Measures, or the appointees thereof, shall, upon at least 24 hours' notice to the owner, manager, operator or attendant of the premises where a container, pump, dispenser or storage tank has been sealed, and at the time specified in the notice, break the seal for the purpose of permitting the removal of the contents of the container, pump, dispenser or storage tank. If the contents are not immediately and completely removed, the container, pump, dispenser or storage tank must be again sealed.

6. The State Sealer of Weights and Measures shall adopt regulations which are necessary for the enforcement of NRS 590.010 to 590.150, inclusive, including standard procedures for testing petroleum products or motor vehicle fuel which are based on sources such as those approved by ASTM International, and may adopt specifications for any fuel for use in internal combustion engines which is sold or offered for sale and contains any alcohol or other combustible chemical that is not a petroleum product or motor vehicle fuel.

Sec. 3. The amendatory provisions of **sections 1 and 2 of** this act that concern property occupied by the Department of Motor Vehicles apply only with respect to such property for which:

1. The Department entered into a lease on or after the effective date of ~~this act,~~ **those sections;** or

2. The Department entered into a lease before the effective date of ~~this act,~~ **those sections** that did not prohibit the Department from receiving payment for advertising upon such property.

Sec. 3.3. Any regulations adopted by the State Board of Agriculture pursuant to NRS 590.070 or 590.071 remain in effect and may be enforced by the Department of Motor Vehicles until the Department adopts regulations to repeal or replace those regulations.

Sec. 3.5. The Department of Motor Vehicles shall:

1. On or before February 1, 2012, submit a report to the Interim Finance Committee summarizing any agreement entered into pursuant to section 1 of this act. The report must include, without limitation, the terms of the agreement, a list of buildings owned or occupied by the Department in which advertising is placed and a description of the types of advertising placed pursuant to the agreement.

2. On or before August 1, 2012, submit an update to the report required by subsection 1 and a report which must include, without limitation, information concerning the manner in which any money collected by the Department pursuant to any agreement entered into pursuant to section 1 of this act has been expended during the 2011-2013 biennium and the manner in which the Department plans to use such money during the 2013-2015 biennium.

Sec. 4. 1. This section and sections 1 and 2 to 3.5, inclusive, of this act becomes become effective upon passage and approval.

2. Section 1.5 of this act becomes effective on July 1, 2011.

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 1:31 p.m.

ASSEMBLY IN SESSION

At 1:36 p.m.

Mr. Speaker presiding.

Quorum present.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Conklin moved that Senate Bills Nos. 149 and 437 be taken from their position on the General File and placed at the bottom of the General File.

Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 571.

Bill read third time.

Remarks by Assemblywoman Smith.

Roll call on Assembly Bill No. 571:

YEAS—23.

NAYS—Aizley, Anderson, Atkinson, Benitez-Thompson, Bobzien, Brooks, Bustamante Adams, Frierson, Horne, Livermore, Mastroluca, Munford, Neal, Ocegüera, Ohrenschall, Pierce, Segerblom, Smith, Stewart—19.

Assembly Bill No. 571 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 536.

Bill read third time.

Roll call on Assembly Bill No. 536:

YEAS—42.

NAYS—None.

Assembly Bill No. 536 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Senate Bill No. 129.

Bill read third time.

Roll call on Senate Bill No. 129:

YEAS—26.

NAYS—Ellison, Goedhart, Goicoechea, Grady, Hambrick, Hammond, Hansen, Hardy, Hickey, Kirner, Kite, Livermore, McArthur, Sherwood, Stewart, Woodbury—16.

Senate Bill No. 129 having received a constitutional majority, Mr. Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 338.

Bill read third time.

Roll call on Senate Bill No. 338:

YEAS—35.

NAYS—Ellison, Goedhart, Hansen, Kirner, Livermore, McArthur, Sherwood—7.

Senate Bill No. 338 having received a constitutional majority, Mr. Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 278.

Bill read third time.

Roll call on Senate Bill No. 278:

YEAS—33.

NAYS—Ellison, Goedhart, Hambrick, Hansen, Hardy, Kirner, Livermore, McArthur, Woodbury—9.

Senate Bill No. 278 having received a constitutional majority, Mr. Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 374.

Bill read third time.

Roll call on Senate Bill No. 374:

YEAS—40.

NAYS—Goedhart, Kirkpatrick—2.

Senate Bill No. 374 having received a constitutional majority, Mr. Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 423.

Bill read third time.

Roll call on Senate Bill No. 423:

YEAS—42.

NAYS—None.

Senate Bill No. 423 having received a constitutional majority, Mr. Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 447.

Bill read third time.

Remarks by Assemblywoman Smith.

Roll call on Senate Bill No. 447:

YEAS—42.

NAYS—None.

Senate Bill No. 447 having received a constitutional majority, Mr. Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 449.

Bill read third time.

Remarks by Assemblywoman Smith.

Roll call on Senate Bill No. 449:

YEAS—42.

NAYS—None.

Senate Bill No. 449 having received a constitutional majority, Mr. Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 471.

Bill read third time.

Remarks by Assemblywoman Smith.

Roll call on Senate Bill No. 471:

YEAS—42.

NAYS—None.

Senate Bill No. 471 having received a constitutional majority, Mr. Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 476.

Bill read third time.

Remarks by Assemblywoman Smith.

Roll call on Senate Bill No. 476:

YEAS—42.

NAYS—None.

Senate Bill No. 476 having received a constitutional majority, Mr. Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 480.

Bill read third time.

Remarks by Assemblymen Sherwood and Mastroluca.

Roll call on Senate Bill No. 480:

YEAS—41.

NAYS—Ellison.

Senate Bill No. 480 having received a constitutional majority, Mr. Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 503.

Bill read third time.

Remarks by Assemblywoman Smith.

Roll call on Senate Bill No. 503:

YEAS—36.

NAYS—Ellison, Goedhart, Hambrick, Hardy, Livermore, McArthur—6.

Senate Bill No. 503 having received a constitutional majority, Mr. Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 504.

Bill read third time.

Remarks by Assemblywoman Smith.

Roll call on Senate Bill No. 504:

YEAS—36.

NAYS—Ellison, Goedhart, Hambrick, Hardy, Livermore, McArthur—6.

Senate Bill No. 504 having received a constitutional majority, Mr. Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 505.

Bill read third time.

Remarks by Assemblywoman Smith.

Roll call on Senate Bill No. 505:

YEAS—36.

NAYS—Ellison, Goedhart, Hambrick, Hardy, Livermore, McArthur—6.

Senate Bill No. 504 having received a constitutional majority, Mr. Speaker declared it passed.

Bill ordered transmitted to the Senate.

Assembly Bill No. 114.

Bill read third time.

Roll call on Assembly Bill No. 114:

YEAS—42.

NAYS—None.

Assembly Bill No. 114 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered reprinted, reengrossed, and transmitted to the Senate.

Assembly Bill No. 195.

Bill read third time.

Roll call on Assembly Bill No. 195:

YEAS—42.

NAYS—None.

Assembly Bill No. 195 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered reprinted, reengrossed, and transmitted to the Senate.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Conklin moved that Assembly Bill No. 580 be taken from the Chief Clerk's desk and placed at the top of the General File.

Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 580.

Bill read third time.

Remarks by Assemblywoman Smith.

Assemblyman Conklin moved that the following remarks be entered in the Journal.

Motion carried.

ASSEMBLYWOMAN SMITH:

Thank you, Mr. Speaker. This is the last of the bills—probably the last of the bills—probably the one we have all been waiting for, or not. This is the bill that makes the appropriations for our budget.

If it is the pleasure of the body I would like to read one statement in and just note what this covers. Then I would like to provide a copy of the floor statement to all of the members so you will have a synopsis. The floor statement is about ten pages long, and so if that would meet the pleasure of the body I can handle it that way.

The General Appropriations Act, the General Authorizations Act, the salary bill, the school funding bill, and the capital improvement bill are the final result of the long deliberations by the Assembly Committee on Ways and Means and the Senate Committee on Finance. The General Appropriations Act and other appropriations bills considered throughout the session delineate the amount of General Fund support approved by the money committees for the operation of Nevada State Government for the next biennium. The General Fund appropriations included in the General Appropriations Act total \$1,932,443,749 in FY 12 and \$1,908,199,855 in FY 13 or \$3.84 billion over the biennium—a reduction of approximately \$42.4 million when compared to General Fund appropriations approved by the 2009 legislature. The act includes the Highway Fund appropriations totaling \$140,067,987 in FY 12 and \$142,023,229 in FY 13. This floor

statement, then, will outline each of the highlights of the spending recommendations in each of the categories of the budget. I will have this into your offices when we leave floor today.

Roll call on Assembly Bill No. 580:

YEAS—36.

NAYS—Ellison, Goedhart, Hambrick, Hardy, Livermore, McArthur—6.

Assembly Bill No. 580 having received a constitutional majority, Mr. Speaker declared it passed.

Bill ordered transmitted to the Senate.

Mr. Speaker announced if there were no objections, the Assembly would recess subject to the call of the Chair.

Assembly in recess at 2:11 p.m.

ASSEMBLY IN SESSION

At 2:12 p.m.

Madam Speaker pro Tempore presiding.

Quorum present.

GENERAL FILE AND THIRD READING

Assembly Bill No. 401.

Bill read third time.

Remarks by Assemblymen Oceguela, Hansen, Carlton, Hickey, Conklin, Sherwood, Brooks, and Hardy.

Assemblyman Goicoechea moved that the following remarks be entered into the Journal.

Motion carried.

ASSEMBLYMAN OCEGUERA:

I rise today in support of Assembly Bill 401. I urge the passage of Assembly Bill 401. This bill revises and reforms NRS 40.600, Nevada's construction defect law, commonly referred to as Chapter 40.

A little history lesson here—Chapter 40 was initially enacted in 1995 as remedial legislation to address a growing crisis in the district courts throughout our state. As our state led the country year in and year out as the fastest growing state in the nation, so, too, did the number of construction defect litigation filings. Simple human error coupled with the large volume and speed of new construction led to the inevitability of defective dwellings being sold to the public. In 1995, members of the homebuilding industry and consumer advocates met and forged a solution to this problem, which was approved and enacted by this body.

Contrary to popular belief, homeowners' rights against faulty construction are limited under Chapter 40. In this regard, while a homeowner is entitled to recover the reasonable costs to repair a defective home and reasonable attorney's fees and legal costs, homeowners in our state are not permitted to recover noneconomic damages such as pain and suffering or emotional distress. Chapter 40 even prevents the recovery of punitive damages in cases involving willful misconduct or fraudulent concealment. Significantly, the homebuilding industry embraced this limitation, since punitive damages are not covered by insurance as a matter of law.

In 2003, after literally hundreds—and I can tell you hundreds because I was involved in this—if not thousands of hours of meetings, hearings, and debate after debate, Chapter 40 was

amended at the request of the homebuilding industry. They wanted what they called the “right to repair.” The right to repair provision in Chapter 40 has been emulated by many states across our great country. This unfettered right of repair means that upon the notice of a defect, a builder is entitled to make any repair a builder believes will fix the defect so long as the builder stands behind that repair. Assembly Bill 401 further fosters the right to repair by giving parties a means by which to quickly resolve disputes over the reasonableness of legal fees when a builder makes timely and lasting repairs.

Although according to homebuilder industry records more than \$6 billion in residential construction was performed since 1995, some contractors have expressed dissatisfaction with Chapter 40. This session, those contractors took aim at eliminating homeowners’ rights to reimbursement of reasonable legal fees when a homeowner successfully proves a defect in court. I do not believe that such a rule is the right public policy for the state of Nevada.

One of the purposes of A.B. 401 is to make clear, once and for all, that Chapter 40 is a prevailing party statute when it comes to the attorney fees. This means that if a contractor prevails in disproving the existence of a defect in court, judges are authorized to award legal fees to the contractor and to deny fees to the homeowner. At the same time, A.B. 401 preserves the right of homeowners to be made whole, the central purpose behind this chapter in the first place.

Assembly Bill 401 also improves and clarifies the definition of what constitutes a constructional defect. The concept was taken from a bill advocated last session by the homebuilding industry. Specifically, Chapter 40 will now state that construction conditions that meet or exceed the building codes are not construction defects under Chapter 40. To be sure, builders must still build homes in compliance with the building codes which establish by law the minimum standards necessary to protect life, limb, and property; but so long as homes are constructed in compliance with the building codes, builders are free to exceed those codes without fear of legal recourse.

Finally, A.B. 401 makes substantial changes to Nevada’s statute of limitations and statute of repose. By reducing the outside time limit by which a homeowner may seek legal recourse for a defective dwelling from ten years to six years, and by reducing the statute of limitations from four years to three years, even in cases of fraud, the homebuilding industry will realize substantial savings in insurance, administrative, and human resource costs for homes first built and sold after October of this year.

This compromise is not perfect, and it will not satisfy everyone concerned. It does, however, make significant and equitable changes to the statute that has well served Nevada homeowners and the homebuilding industry alike.

ASSEMBLYMAN HANSEN:

I rise in opposition to A.B. 401. The construction industry is the second biggest industry in this state. It currently suffers 80 percent unemployment, and the only thing that they asked us to fix this time was Chapter 40. My original bill, A.B. 285, was granted a hearing but was never brought up for a vote, and that is the one that they have been pushing for. Assembly Bill 401 has been actively opposed by the construction industry in every single one of the hearings that we have held, including the ones today in the Senate and the one yesterday or the day before in Ways and Means.

The right to repair is an absolute fallacy. It is true that it is in the law, but it is never practiced. I gave a handout to all of my colleagues in which I showed a photograph, which is actually mailed by the trial lawyers to people living in housing tracts, describing examples of construction defects. One of them I was particularly intrigued by, and that is the plumbing spouts are not sealed. They actually will sue people like myself, a contractor, before they even grant us a right to repair it, and that is the whole crux of this issue. For a decade now, we have come to the Legislature—the second largest industry in the state—and we’ve been unable to get relief on this one simple issue, and that is summed up in one sentence. That is all the industry wanted the entire time that they have come down to all of the hearings. And everybody that has

been involved in those hearings knows that nobody from the construction industry has been in support of A.B. 401 during all these hearings.

The problem, as well, goes even further because we are actually retarding the development of housing projects in Nevada because every developer is afraid of being in one of these absolutely guaranteed class action lawsuits. Because of that, you have thousands of men that could be employed in this state being denied that opportunity because of this fear on the parts of the homebuilders in this state. I would also say that once your home has been involved in one of these class action lawsuits, its value goes down. Additionally, when you go to purchase a home in the first place, the costs are substantially higher because contractors like myself are forced to pay higher rates of liability insurance, which are indirect costs that are then passed on to the consumer. The idea that we are removing homeowners' rights is ridiculous. All we're asking for—which this bill, by the way, does not do—is simply the right to repair before they can file a lawsuit against you. We are all pulled into these class action lawsuits, and it is absolutely killing the small business construction owners in this state, and it is doing nobody any good except a handful of very specific trial lawyers who have literally made tens of millions, if not hundreds of millions, of dollars off of these class action lawsuits that have been going on for the past decade.

So I rise in strong opposition to this bill, and I urge my colleagues to give very careful thought to this, because this is a huge one for our industry, and that's why we fought so hard for these things. And when I say "my industry," I mean all the small businessmen that are contractors, all the people that are involved in the building trades in this state, and even the homeowners themselves who end up having decreased values in their homes because of these class action lawsuits on entire housing tracts. We have asked for some reasonable things, and this bill simply does not do it. So please, I urge you to vote no on A.B. 401. Thank you.

ASSEMBLYWOMAN CARLTON:

I rise in support of Assembly Bill 401. I have heard these same discussions and same arguments since 1999. The same comments that my colleague from Assembly District 32 just made, I heard in hearings in Commerce and Labor my first legislative session. That did not slow down what happened in Las Vegas for the following ten years. We had a boom; things grew, houses were built, folks had jobs. We heard it again in 2001. We heard it again in 2003. Some things were addressed. There was a stand down for one or two sessions, and now it's back again.

My first session in 1999, when we had this issue, it was S.B. 286. And there were people walking around in the hallways of this building with t-shirts on with S.B. 286 on the front with a big circle with a cross across it—no S.B. 286. We were trying to figure out what was the best thing to do for the people and for ourselves for our homes. I believe that in 1999 and the following years, we have addressed the individual problems that have arisen. Between the subcontractors and the general contractors, they make an agreement on how they deal with these types of things. If the subcontractors were truly serious about wanting to deal with being sucked into construction defect lawsuits, they could merely stand together and say to the generals, "If this happens, your attorney protects us. We don't have to go out and get an attorney." I agree. The landscaping guy shouldn't get sucked in on a roofing issue, and the guy that lays the concrete shouldn't be sucked in on an electrical issue. But that's not up to you or I to figure out. That's up to the judge, the lawyers, and the contractors to agree upon how this is going to be dealt with in their contract. They had the opportunity to do it 1999 and every single year since then, but they have not done that. They want their protections in the statute. I can't do that because that would take away the protections of my constituents, so I stand in support of A.B. 401. It is not a perfect bill. There are some things in there that I'm not happy about. But the fact that I heard in testimony that the reason they didn't want this bill is so that they could come back and renegotiate again next session—this wasn't good enough for them—made me want to support it even more. Thank you very much, Madam Speaker pro Tempore.

ASSEMBLYMAN HICKEY:

I rise in opposition, with short remarks to A.B. 401. With regards to Chapter 40, as in medicine, sometimes the treatment or the remedy is worse than the original problem. With A.B. 401, this problem is being treated by a placebo. I urge my colleagues not to vote for this measure.

ASSEMBLYMAN CONKLIN:

For me, this bill is not about the construction of homes today. Part of the reason for that is because there are 35,000-plus excess homes on the market for sale. Constructors are not building because there isn't demand for homes.

But instead, for me, I rise in support of this bill out of my desire to keep consumers whole. I would remind the body of the following quote from Adam Smith: "Consumption is the soul end and purpose of all production; and the interest of the producer ought to be attended to, only so far as it may be necessary for promoting that of the consumer." This is a consumer protection bill. That is what we are taking about—making homeowners protected. Thank you.

ASSEMBLYMAN SHERWOOD:

I rise in opposition to the latest remedy for Chapter 40. And for me, I guess I came to the Legislature and kind of was looking for justice for the folks who come up here. I am not a plumber or a subcontractor or anything like that, but I have met enough of these folks to know that this is not an esoteric argument. This is real. We talk about creating jobs, and we talk about lowering taxes and repealing Chapter 40—and I will agree we were a very fast-growing state, specifically in Las Vegas, several years ago. That is not the case now.

I've got something on a plumbing company down in Las Vegas. Many of you will know these folks—Cox & Sons Plumbing. It was started in 1965 by Ken Cox. The dad retired and handed it over to his sons, Ken and Orlando. They employed 100 people. They filed dissolution papers in 2009, and not because of lack of demand, although, yes, we are not building as much as we were building. They would still be in business today, but they were literally put out of business because they couldn't pay for the insurance on the massive lawsuits—the "CD lawsuits," they call them.

So this is not about taking away consumers rights to a remedy for a problem. There is a remedy. If you have a problem with your home and a contractor did you wrong, there is still a remedy, even without Chapter 40. So in my mind, it is heartbreaking to see these businesses that have been in our state for years, have employed dozens, if not hundreds, of people. This makes the trough deeper; this makes it harder to come out when we have things like this. So I am disappointed that we were unable to have an honest and open and adult conversation about this when we came here, and we have to wait until 36 hours until we adjourn to pat ourselves on the back and say we did something. Thank you.

ASSEMBLYMAN BROOKS:

I rise in support of Assembly Bill 401. I just want to remind everybody what our responsibility is when we come here. We have a responsibility to protect the people that brought us here and to protect the citizens of Nevada. When you talk about construction defects and you talk about our party reaching across the table, we have made a very sincere effort to try to support the issues that my colleagues have. But let us not forget that when we talk about construction defects, we talk about latent defects, and a latent defect is one that a property owner does not know about and would not be expected to discover through the exercise of reasonable care. Construction defect claims have risen over the years, and yes, there was a boom. There was a time when subcontractors and contractors had a chance to enjoy the spoils. We are in a new day, and we have some things that are going on in these homes. I have personally been a victim of a home with a constructional defect. I can tell you it wasn't those nice little pictures that my colleague showed me; they were serious issues with my home—cracks in my windows,

stains on my ceiling, things that I would have never been able to challenge had I not had an opportunity for someone to bring this to my attention and to fight for me in court.

We are here because we believe in freedom and we believe in justice. We cannot do away with Chapter 40 because it would take away the rights of our citizens, and we are here to protect those rights. Thank you, Madam pro Tempore.

ASSEMBLYMAN HARDY:

Thank you, Madam pro Tempore. I rise in opposition to this bill. This bill, as well as it might like to be an improvement on the construction defects, does nothing and it will do nothing. What has happened in the past is not necessarily the fault of the construction people, in many cases. Every subcontractor gets dragged into a home defect, myself included. I don't do homes. I am a site contractor that does concrete, paving, and other things out on the site and the streets and the underground utilities. I get dragged in because I show up on the site, and in most of the cases, it is because of a maintenance problem. It is not a stucco problem if somebody has got their water running on their house or leaves their water running for hours underneath their house and washes their footings away. It is not a contractor problem if they don't maintain their asphalt and keep it slurried to where it is supposed to not crack. It is not a contractor's problem if a homeowner does not clean the dirt from within the cracks of their concrete out in the exterior of their yard to keep it, during those hot and cold moments, from raising concrete or cracking in unusual spots. We, as contractors, have been nailed from every side, and 70 percent of the money never goes to the homeowner. It goes to the lawyers in this defect. Time and time again, I have had the same attorneys over and over in projects go from one home—subdivision—to the next one. Nine years and 364 days later, you get a lawsuit. Most of those cases, they can't even identify what is my responsibility, but I get dragged in, and my insurance company is afraid to back out of it or settle because they don't know what is going to come down the road. If the judge settles one dollar in favor of the homeowner, we have to pay all attorneys fees. One dollar—is that a fair prospect? I don't think that is fair at all. So anyway, I rise in opposition to this. Thank you.

Assemblyman Grady, Ocegüera, and Stewart moved the previous question.
Motion carried.

The question being the passage of Assembly Bill No. 401.

Roll call on Assembly Bill No. 401:

YEAS—26.

NAYS—Ellison, Goedhart, Goicoechea, Grady, Hambrick, Hammond, Hansen, Hardy, Hickey, Kirner, Kite, Livermore, McArthur, Sherwood, Stewart, Woodbury—16.

Assembly Bill No. 401 having received a constitutional majority, Madam Speaker pro Tempore declared it passed, as amended.

Bill ordered reprinted, reengrossed, and transmitted to the Senate.

Madam Speaker pro Tempore announced if there were no objections, the Assembly would recess subject to the call of the Chair.

Assembly in recess at 2:34 p.m.

ASSEMBLY IN SESSION

At 2:35 p.m.

Mr. Speaker presiding.

Quorum present.

REPORTS OF COMMITTEES

Mr. Speaker:

Your Committee on Ways and Means, to which was referred Assembly Bill No. 561, 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*

GENERAL FILE AND THIRD READING

Assembly Bill No. 561.

Bill read third time.

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

Amendment No. 930.

AN ACT relating to governmental financial administration; delaying the commencement of certain transfers to the Fund to Stabilize the Operation of the State Government; ~~revising the provisions governing the amount and use of certain reserve accounts for bond payments;~~ revising the provisions governing the rate and calculation of the payroll tax imposed on certain businesses other than financial institutions; requiring the deposit of certain fees imposed on the short-term lease of passenger cars into the State General Fund; extending the prospective expiration of certain requirements regarding the **imposition and** advance payment of ~~the tax imposed on the net proceeds of minerals; temporarily authorizing the securitization of the proceeds of the tax on insurance premiums;~~ **certain taxes and fees; requiring the transfer of money from the Fund to Stabilize the Operation of the State Government to the State General Fund;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

The Fund to Stabilize the Operation of the State Government, also known as the Rainy Day Fund, is a special revenue fund into which surplus state revenues are deposited to be used in case of fiscal emergencies. Under existing law, the State Controller is required to transfer from the State General Fund to the Fund to Stabilize the Operation of the State Government at the beginning of each fiscal year that begins on or after July 1, 2011, 1 percent of the total anticipated revenue projected for that fiscal year by the Economic Forum in May of odd-numbered years, as adjusted by any legislation enacted by the Legislature that affects state revenue for that fiscal year. (NRS 353.288) **Sections 1 and 10** of this bill delay the commencement of those transfers until July 1, 2013.

~~Under existing law, a school district that issues certain general obligation bonds is required to maintain a reserve account for the payment of those bonds which equals or exceeds the amount of the payments due on those bonds for the next fiscal year or 10 percent of the outstanding principal~~

~~amount of the bonds, whichever is less. Section 2 of this bill reduces the amount required to be maintained in such a reserve account by 75 percent for school districts in counties whose population is less than 100,000 (currently counties other than Clark and Washoe Counties) and by 90 percent for school districts in other counties. Section 14 of this bill requires the transfer of the resulting excess amount into the county school district fund and requires the allocation of that amount as local funds available for the next 2 fiscal years for the purpose of determining the pertinent apportionments from the State Distributive School Account in the State General Fund.] **Section 16 of this bill requires the State Controller to transfer a sum of money from the Fund to Stabilize the Operation of the State Government to the State General Fund.**~~

Existing law imposes an excise tax on certain businesses other than financial institutions at the rate of 0.5 percent of the total wages paid by the business each calendar quarter that do not exceed \$62,500 and 1.17 percent of those wages paid in excess of \$62,500. (NRS 363B.110) On July 1, 2011, this rate is scheduled to change to 0.63 percent of the total wages paid by the business each calendar quarter. (Chapter 395, Statutes of Nevada 2009, pp. 2190, 2199) **Section 4** of this bill revises that rate change **until June 30, 2013,** to impose ~~the tax at the rate of 0.5 percent of the total~~ **no tax on the** wages paid by the business each calendar quarter that do not exceed \$62,500 and ~~0.63~~ **to impose the tax at the rate of 1.17** percent of ~~those~~ **the total** wages paid **by the business each calendar quarter** in excess of \$62,500. ~~[Section 3 of this bill revises the method for determining the amount of the tax due from a company that leases employees to client companies, by requiring separate calculations of the tax for the wages paid to employees leased to each separate client company.]~~

Under existing law, a short-term lessor of passenger cars is required to collect from its customers a governmental services fee of 10 percent of the adjusted total amount of each lease, and to remit the fee to the Department of Taxation. Of the amount remitted to the Department, 90 percent must be deposited in the State General Fund and 10 percent must be deposited in the State Highway Fund. (NRS 482.313) **Section 6** of this bill instead requires the deposit of all of that amount into the State General Fund.

Existing law requires, until June 30, 2011, the advance payment of the tax on the net proceeds of minerals based upon the estimated net proceeds and royalties of a mining operation for the current calendar year. (Chapter 4, Statutes of Nevada 2008, 25th Special Session, pp. 15-18, 23) **Sections 7, 8, 9 and 11** of this bill delay the expiration of this requirement for advance payment until June 30, 2013.

~~[Section 12 of this bill authorizes the State Treasurer to securitize a portion of the proceeds of the tax on insurance premiums for the next 10 fiscal years.]~~

Existing law imposes an annual fee of \$200 for a state business license. (NRS 76.100, 76.130) On July 1, 2011, this fee is scheduled to change to \$100. (Chapter 429, Statutes of Nevada 2009, pp. 2408-10) Section 10.3 of this bill delays this change until July 1, 2013.

Existing law requires, until June 30, 2011, an increase in the rate of the Local School Support Tax of 0.35 percent. (Chapter 395, Statutes of Nevada 2009, pp. 2191, 2199) Section 10.7 of this bill delays the expiration of this increase until June 30, 2013.

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

Section 1. NRS 353.288 is hereby amended to read as follows:

353.288 1. The Fund to Stabilize the Operation of the State Government is hereby created as a special revenue fund. Except as otherwise provided in subsections 3 and 4, each year after the close of the previous fiscal year and before the issuance of the State Controller's annual report, the State Controller shall transfer from the State General Fund to the Fund to Stabilize the Operation of the State Government:

(a) Forty percent of the unrestricted balance of the State General Fund, as of the close of the previous fiscal year, which remains after subtracting an amount equal to 7 percent of all appropriations made from the State General Fund during that previous fiscal year for the operation of all departments, institutions and agencies of State Government and for the funding of schools; and

(b) Commencing with the fiscal year that begins on July 1, ~~[2011,]~~ **2013**, 1 percent of the total anticipated revenue for the fiscal year in which the transfer will be made, as projected by the Economic Forum for that fiscal year pursuant to paragraph (e) of subsection 1 of NRS 353.228 and as adjusted by any legislation enacted by the Legislature that affects state revenue for that fiscal year.

2. Money transferred pursuant to subsection 1 to the Fund to Stabilize the Operation of the State Government is a continuing appropriation solely for the purpose of authorizing the expenditure of the transferred money for the purposes set forth in this section.

3. The balance in the Fund to Stabilize the Operation of the State Government, excluding the aggregate balance in the Disaster Relief Account and the Emergency Assistance Subaccount, must not exceed 20 percent of the total of all appropriations from the State General Fund for the operation of all departments, institutions and agencies of the State Government and for

the funding of schools and authorized expenditures from the State General Fund for the regulation of gaming for the fiscal year in which that revenue will be transferred to the Fund to Stabilize the Operation of the State Government.

4. Except as otherwise provided in this subsection and NRS 353.2735, beginning with the fiscal year that begins on July 1, 2003, the State Controller shall, at the end of each quarter of a fiscal year, transfer from the State General Fund to the Disaster Relief Account created pursuant to NRS 353.2735 an amount equal to not more than 10 percent of the aggregate balance in the Fund to Stabilize the Operation of the State Government during the previous quarter, excluding the aggregate balance in the Disaster Relief Account and the Emergency Assistance Subaccount created pursuant to NRS 414.135. The State Controller shall not transfer more than \$500,000 for any quarter pursuant to this subsection.

5. The Chief of the Budget Division of the Department of Administration may submit a request to the State Board of Examiners to transfer money from the Fund to Stabilize the Operation of the State Government to the State General Fund:

(a) If the total actual revenue of the State falls short by 5 percent or more of the total anticipated revenue for the biennium in which the transfer will be made, as determined by the Legislature, or the Interim Finance Committee if the Legislature is not in session; or

(b) If the Legislature, or the Interim Finance Committee if the Legislature is not in session, and the Governor declare that a fiscal emergency exists.

6. The State Board of Examiners shall consider a request made pursuant to subsection 5 and shall, if it finds that a transfer should be made, recommend the amount of the transfer to the Interim Finance Committee for its independent evaluation and action. The Interim Finance Committee is not bound to follow the recommendation of the State Board of Examiners.

7. If the Interim Finance Committee finds that a transfer recommended by the State Board of Examiners should and may lawfully be made, the Committee shall by resolution establish the amount and direct the State Controller to transfer that amount to the State General Fund. The State Controller shall thereupon make the transfer.

8. In addition to the manner of allocation authorized pursuant to subsections 5, 6 and 7, the money in the Fund to Stabilize the Operation of the State Government may be allocated directly by the Legislature to be used for any other purpose.

~~Sec. 2. NRS 350.020 is hereby amended to read as follows:
350.020 1. Except as otherwise provided by subsections 3 and 4, if a municipality proposes to issue or incur general obligations, the proposal must~~

~~be submitted to the electors of the municipality at a special election called for that purpose or the next general municipal election or general state election.~~

~~2.—Such a special election may be held:~~

~~(a) At any time, including, without limitation, on the date of a primary municipal election or a primary state election, if the governing body of the municipality determines, by a unanimous vote, that an emergency exists; or~~

~~(b) On the first Tuesday after the first Monday in June of an odd-numbered year.~~

~~↳ The determination made by the governing body is conclusive unless it is shown that the governing body acted with fraud or a gross abuse of discretion. An action to challenge the determination made by the governing body must be commenced within 15 days after the governing body's determination is final. As used in this subsection, "emergency" means any occurrence or combination of occurrences which requires immediate action by the governing body of the municipality to prevent or mitigate a substantial financial loss to the municipality or to enable the governing body to provide an essential service to the residents of the municipality.~~

~~3.—If payment of a general obligation of the municipality is additionally secured by a pledge of gross or net revenue of a project to be financed by its issue, and the governing body determines, by an affirmative vote of two-thirds of the members elected to the governing body, that the pledged revenue will at least equal the amount required in each year for the payment of interest and principal, without regard to any option reserved by the municipality for early redemption, the municipality may, after a public hearing, incur this general obligation without an election unless, within 90 days after publication of a resolution of intent to issue the bonds, a petition is presented to the governing body signed by not less than 5 percent of the registered voters of the municipality. Any member elected to the governing body whose authority to vote is limited by charter, statute or otherwise may vote on the determination required to be made by the governing body pursuant to this subsection. The determination by the governing body becomes conclusive on the last day for filing the petition. For the purpose of this subsection, the number of registered voters must be determined as of the close of registration for the last preceding general election. The resolution of intent need not be published in full, but the publication must include the amount of the obligation and the purpose for which it is to be incurred. Notice of the public hearing must be published at least 10 days before the day of the hearing. The publications must be made once in a newspaper of general circulation in the municipality. When published, the notice of the public hearing must be at least as large as 5 inches high by 4 inches wide.~~

~~4.—The board of trustees of a school district may issue general obligation bonds which are not expected to result in an increase in the existing property~~

~~tax levy for the payment of bonds of the school district without holding an election for each issuance of the bonds if the qualified electors approve a question submitted by the board of trustees that authorizes issuance of bonds for a period of 10 years after the date of approval by the voters. If the question is approved, the board of trustees of the school district may issue the bonds for a period of 10 years after the date of approval by the voters, after obtaining the approval of the debt management commission in the county in which the school district is located and, in a county whose population is 100,000 or more, the approval of the oversight panel for school facilities established pursuant to NRS 393.092 in that county, if the board of trustees of the school district finds that the existing tax for debt service will at least equal the amount required to pay the principal and interest on the outstanding general obligations of the school district and the general obligations proposed to be issued. The finding made by the board of trustees is conclusive in the absence of fraud or gross abuse of discretion. As used in this subsection, "general obligations" does not include medium term obligations issued pursuant to NRS 350.087 to 350.095, inclusive.~~

~~5. At the time of issuance of bonds authorized pursuant to subsection 4, the board of trustees shall establish a reserve account in its debt service fund for payment of the outstanding bonds of the school district. [The] *In a county whose population:*~~

~~(a) *Is less than 100,000, the* reserve account must be established and maintained in an amount at least equal to the lesser of *25 percent of* the amount of principal and interest payments due on all of the outstanding bonds of the school district in the next fiscal year or [10] *2.5* percent of the outstanding principal amount of the outstanding bonds of the school district.~~

~~(b) *Is 100,000 or more, the reserve account must be established and maintained in an amount at least equal to the lesser of 10 percent of the amount of principal and interest payments due on all of the outstanding bonds of the school district in the next fiscal year or 1 percent of the outstanding principal amount of the outstanding bonds of the school district.*~~

~~6. If the amount in the reserve account *required by subsection 5* falls below the amount required by [this] *that* subsection:~~

~~(a) The board of trustees shall not issue additional bonds pursuant to subsection 4 until the reserve account is restored to the level required by this subsection; and~~

~~(b) The board of trustees shall apply all of the taxes levied by the school district for payment of bonds of the school district that are not needed for payment of the principal and interest on bonds of the school district in the current fiscal year to restore the reserve account to the level required pursuant to this subsection.~~

~~[6.]7.—A question presented to the voters pursuant to subsection 4 may authorize all or a portion of the revenue generated by the debt rate which is in excess of the amount required:~~

- ~~(a) For debt service in the current fiscal year;~~
- ~~(b) For other purposes related to the bonds by the instrument pursuant to which the bonds were issued; and~~
- ~~(c) To maintain the reserve account required pursuant to subsection 5, to be transferred to the county school district's fund for capital projects established pursuant to NRS 387.328 and used to pay the cost of capital projects which can lawfully be paid from that fund. Any such transfer must not limit the ability of the school district to issue bonds during the period of voter authorization if the findings and approvals required by subsection 4 are obtained.~~

~~[7.]8.—A municipality may issue special or medium-term obligations without an election.] (Deleted by amendment.)~~

Sec. 3. ~~[Chapter 363B of NRS is hereby amended by adding thereto a new section to read as follows:~~

~~1.—The amount of the tax imposed by NRS 363B.110 on an employee leasing company for each calendar quarter must be calculated by:~~

~~(a) Determining separately for each client company to whom the employee leasing company leases employees the amount of the tax based upon the sum of all the wages paid by the employee leasing company during that calendar quarter with respect to the employment of its employees for the purpose of leasing those employees to that client company; and~~

~~(b) Determining separately the amount of the tax based upon the sum of all the wages paid by the employee leasing company during that calendar quarter with respect to the employment of its employees in connection with its business activities for any purpose other than the leasing of those employees to a client company.~~

~~2.—The Nevada Tax Commission shall adopt such regulations as may be necessary to carry out the provisions of this section, including, without limitation, regulations establishing a formula for the appropriate apportionment by an employee leasing company of any deductions authorized by NRS 363B.115 from the total amount of wages reported by the employee leasing company.~~

~~3.—As used in this section, “client company” and “employee leasing company” have the meanings ascribed to them in NRS 616B.670.] (Deleted by amendment.)~~

Sec. 4. NRS 363B.110 is hereby amended to read as follows:

363B.110 1. There is hereby imposed an excise tax on each employer at the rate of ~~[0.63]~~ **1.17 percent of the amount by which the sum of all the wages, as defined in NRS 612.190, ~~in the amount determined as follows:~~**

~~(a) If the sum of all the wages~~ paid by the employer during a calendar quarter with respect to employment in connection with the business activities of the employer ~~[.]~~ ~~does not exceed \$62,500, the amount of the tax for that calendar quarter is 0.5 percent of the sum of those wages; or~~

~~(b) If the sum of all the wages paid by the employer during a calendar quarter with respect to employment in connection with the business activities of the employer exceeds \$62,500, the amount of the tax for that calendar quarter is \$312.50 plus 0.63 percent of the amount by which the sum of those wages exceeds \$62,500.~~

2. The tax imposed by this section:

(a) Does not apply to any person or other entity or any wages this State is prohibited from taxing under the Constitution, laws or treaties of the United States or the Nevada Constitution.

(b) Must not be deducted, in whole or in part, from any wages of persons in the employment of the employer.

3. Each employer shall, on or before the last day of the month immediately following each calendar quarter for which the employer is required to pay a contribution pursuant to NRS 612.535:

(a) File with the Department a return on a form prescribed by the Department; and

(b) Remit to the Department any tax due pursuant to this chapter for that calendar quarter.

Sec. 4.5. NRS 363B.115 is hereby amended to read as follows:

363B.115 1. Except as otherwise provided in subsection 2, an employer may deduct from the total amount of wages reported ~~and upon which~~ **for the purpose of calculating the amount of** the excise tax ~~is imposed~~ **required to be paid** pursuant to NRS 363B.110 any amount authorized pursuant to this section that is paid by the employer for health insurance or a health benefit plan for its employees in the calendar quarter for which the tax is paid. The amounts for which the deduction is allowed include:

(a) For a self-insured employer, all amounts paid during the calendar quarter for claims, direct administrative services costs, including such services provided by the employer, and any premiums paid for individual or aggregate stop-loss insurance coverage. An employer is not authorized to deduct the costs of a program of self-insurance unless the program is a qualified employee welfare benefit plan pursuant to the Employee Retirement Income Security Act of 1974, 29 U.S.C. §§ 1001 et seq.

(b) The premiums for a policy of health insurance or reinsurance for a health benefit plan for employees.

(c) Any amounts which are:

(1) Paid by an employer to a Taft-Hartley trust which:

(I) Is formed pursuant to 29 U.S.C. § 186(c)(5); and

(II) Qualifies as an employee welfare benefit plan; and

(2) Considered by the Internal Revenue Service to be fully tax deductible pursuant to the provisions of the Internal Revenue Code.

(d) Such other similar payments for health care or insurance for health care for employees as are authorized by the Department.

2. An employer may not deduct ~~[from the wages upon which the excise tax is imposed pursuant to NRS 363B.110.]~~ ***pursuant to subsection 1 any:***

(a) Amounts paid for health care or premiums paid for insurance for an industrial injury or occupational disease for which coverage is required pursuant to chapters 616A to 616D, inclusive, or 617 of NRS; or

(b) ~~[Any payments]~~ ***Payments*** made by employees for health care or health insurance or amounts deducted from the wages of employees for such health care or insurance.

3. If the amount of the deduction allowed pursuant to this section to an employer for a calendar quarter exceeds the amount of reported wages for that calendar quarter, the excess amount of that deduction may be carried forward to the following calendar quarter until the deduction is exhausted. An employer claiming the deduction allowed pursuant to this section shall, upon the request of the Department, explain the amount claimed to the satisfaction of the Department and provide the Department with such documentation as the Department deems appropriate for that purpose.

4. As used in this section:

(a) "Claims" means claims for those categories of health care expenses that are generally deductible by employees on their individual federal income tax returns pursuant to the provisions of 26 U.S.C. § 213 and any federal regulations relating thereto, if those expenses had been borne directly by those employees.

(b) "Direct administrative services costs" means, if borne directly by a self-insured employer and reasonably allocated to the direct administration of claims:

(1) Payments for medical or office supplies that will be consumed in the course of the provision of medical care or the direct administration of claims;

(2) Payments to third-party administrators or independent contractors for the provision of medical care or the direct administration of claims;

(3) Rent and utility payments for the maintenance of medical or office space used for the provision of medical care or the direct administration of claims;

(4) Payments for the maintenance, repair and upkeep of medical or office space used for the provision of medical care or the direct administration of claims;

(5) Salaries and wages paid to medical, clerical and administrative staff and other personnel employed to provide medical care or directly to administer claims; and

(6) The depreciation of property other than medical or office supplies, used for the provision of medical care or the direct administration of claims.

(c) "Employee welfare benefit plan" has the meaning ascribed to it in 29 U.S.C. § 1002.

(d) "Employees" means employees whose wages are included within the ~~measure~~ calculation of the amount of the excise tax imposed upon an employer by NRS 363B.110, and their spouses, children and other dependents who qualify for coverage under the terms of the health insurance or health benefit plan provided by that employer.

(e) "Health benefit plan" means a health benefit plan that covers only those categories of health care expenses that are generally deductible by employees on their individual federal income tax returns pursuant to the provisions of 26 U.S.C. § 213 and any federal regulations relating thereto, if those expenses had been borne directly by those employees.

(f) "Self-insured employer" means an employer that provides a program of self-insurance for its employees.

Sec. 5. NRS 408.235 is hereby amended to read as follows:

408.235 1. There is hereby created the State Highway Fund.

2. Except as otherwise provided by a specific statute, the proceeds from the imposition of any:

(a) License or registration fee and other charges with respect to the operation of any motor vehicle upon any public highway, city, town or county road, street, alley or highway in this State; and

(b) Excise tax on gasoline or other motor vehicle fuel,
➔ must be deposited in the State Highway Fund and must, except for costs of administering the collection thereof, be used exclusively for the administration, construction, reconstruction, improvement and maintenance of highways as provided for in this chapter.

3. The interest and income earned on the money in the State Highway Fund, after deducting any applicable charges, must be credited to the Fund.

4. Costs of administration for the collection of the proceeds for any license or registration fees and other charges with respect to the operation of any motor vehicle must be limited to a sum not to exceed 22 percent of the total proceeds so collected.

5. Costs of administration for the collection of any excise tax on gasoline or other motor vehicle fuel must be limited to a sum not to exceed 1 percent of the total proceeds so collected.

6. All bills and charges against the State Highway Fund for administration, construction, reconstruction, improvement and maintenance of highways under the provisions of this chapter must be certified by the Director and must be presented to and examined by the State Board of Examiners. When allowed by the State Board of Examiners and upon being audited by the State Controller, the State Controller shall draw his or her warrant therefor upon the State Treasurer.

7. The money deposited in the State Highway Fund pursuant to NRS 244A.637 and 354.59815 must be maintained in a separate account for the county from which the money was received. The interest and income on the money in the account, after deducting any applicable charges, must be credited to the account. Any money remaining in the account at the end of each fiscal year does not revert to the State Highway Fund but must be carried over into the next fiscal year. The money in the account:

(a) Must be used exclusively for the construction, reconstruction, improvement and maintenance of highways in that county as provided for in this chapter;

(b) Must not be used to reduce or supplant the amount or percentage of any money which would otherwise be made available from the State Highway Fund for projects in that county; and

(c) Must not be used for any costs of administration or to purchase any equipment.

~~{8. The money deposited in the State Highway Fund pursuant to NRS 482.313 must be maintained in a separate account. The interest and income on the money in the account, after deducting any applicable charges, must be credited to the account. Any money remaining in the account at the end of each fiscal year does not revert to the State Highway Fund but must be carried over into the next fiscal year. The money in the account:~~

~~(a) Must be used exclusively for the construction, reconstruction, improvement and maintenance of highways as provided for in this chapter; and~~

~~(b) Must not be used for any costs of administration or to purchase any equipment.}~~

Sec. 6. NRS 482.313 is hereby amended to read as follows:

482.313 1. Upon the lease of a passenger car by a short-term lessor in this State, the short-term lessor shall charge and collect from the short-term lessee:

(a) A governmental services fee of 10 percent of the total amount for which the passenger car was leased, excluding the items described in subsection 7; and

(b) Any fee required pursuant to NRS 244A.810 or 244A.860.

↪ The amount of each fee charged pursuant to this subsection must be indicated in the lease agreement.

2. The fees due from a short-term lessor to the Department of Taxation pursuant to subsection 1 are due on the last day of each calendar quarter. On or before the last day of the month following each calendar quarter, the short-term lessor shall:

(a) File with the Department of Taxation, on a form prescribed by the Department of Taxation, a report indicating the total amount of each of the fees collected by the short-term lessor pursuant to subsection 1 during the immediately preceding calendar quarter; and

(b) Remit to the Department of Taxation the fees collected by the short-term lessor pursuant to subsection 1 during the immediately preceding calendar quarter.

3. Except as otherwise provided in a contract made pursuant to NRS 244A.820 or 244A.870, the Department of Taxation shall deposit ~~£~~

~~(a) All~~ **all** money received from short-term lessors pursuant to the provisions of ~~paragraph (b) of~~ subsection 1 with the State Treasurer for credit to the State General Fund. ~~£~~

~~(b) Nine tenths of the money received from short term lessors pursuant to the terms of paragraph (a) of subsection 1 with the State Treasurer for credit to the State General Fund; and~~

~~(c) One tenth of the money received from short term lessors pursuant to the terms of paragraph (a) of subsection 1 with the State Treasurer for credit to the State Highway Fund for administration pursuant to subsection 8 of NRS 408.235.]~~

4. To ensure compliance with this section, the Department of Taxation may audit the records of a short-term lessor.

5. The provisions of this section do not limit or affect the payment of any taxes or fees imposed pursuant to the provisions of this chapter.

6. The Department of Motor Vehicles shall, upon request, provide to the Department of Taxation any information in its records relating to a short-term lessor that the Department of Taxation considers necessary to collect the fees described in subsection 1.

7. For the purposes of charging and collecting the governmental services fee described in paragraph (a) of subsection 1, the following items must not be included in the total amount for which the passenger car was leased:

(a) The amount of any fee charged and collected pursuant to paragraph (b) of subsection 1;

- (b) The amount of any charge for fuel used to operate the passenger car;
- (c) The amount of any fee or charge for the delivery, transportation or other handling of the passenger car;
- (d) The amount of any fee or charge for insurance, including, without limitation, personal accident insurance, extended coverage or insurance coverage for personal property; and
- (e) The amount of any charges assessed against a short-term lessee for damages for which the short-term lessee is held responsible.

8. The Executive Director of the Department of Taxation shall:

- (a) Adopt such regulations as the Executive Director determines are necessary to carry out the provisions of this section; and
- (b) Upon the request of the Director of the Department of Motor Vehicles, provide to the Director of the Department of Motor Vehicles a copy of any record or report described in this section.

Sec. 6.5. NRS 701A.370 is hereby amended to read as follows:

701A.370 1. If the Commissioner approves an application for a partial abatement pursuant to NRS 701A.300 to 701A.390, inclusive, of:

(a) Property taxes imposed pursuant to chapter 361 of NRS, the partial abatement must:

- (1) Be for a duration of the 20 fiscal years immediately following the date of approval of the application;
- (2) Be equal to 55 percent of the taxes on real and personal property payable by the facility each year; and
- (3) Not apply during any period in which the facility is receiving another abatement or exemption from property taxes imposed pursuant to chapter 361 of NRS, other than any partial abatement provided pursuant to NRS 361.4722.

(b) Local sales and use taxes:

- (1) The partial abatement must:
 - (I) Be for the 3 years beginning on the date of approval of the application;
 - (II) Be equal to that portion of the combined rate of all the local sales and use taxes payable by the facility each year which exceeds ~~0.25~~ 0.6 percent; and
 - (III) Not apply during any period in which the facility is receiving another abatement or exemption from local sales and use taxes.

(2) The Department of Taxation shall issue to the facility a document certifying the abatement which can be presented to retailers at the time of sale. The document must clearly state that the purchaser is only required to pay sales and use taxes imposed in this State at the rate of ~~2.25~~ 2.6 percent.

2. Upon approving an application for a partial abatement pursuant to NRS 701A.300 to 701A.390, inclusive, the Commissioner shall immediately

notify the Director of the terms of the abatement and the Director shall immediately forward a certificate of eligibility for the abatement to:

- (a) The Department of Taxation;
- (b) The board of county commissioners;
- (c) The county assessor;
- (d) The county treasurer; and
- (e) The Commission on Economic Development.

Sec. 7. Section 16 of chapter 4, Statutes of Nevada 2008, 25th Special Session, as amended by chapter 387, Statutes of Nevada 2009, at page 2097, is hereby amended to read as follows:

Sec. 16. 1. This section and sections 2, 4, 14 and 15 of this act become effective upon passage and approval.

2. Sections 6 to 12, inclusive, of this act become effective on January 1, 2009.

3. Sections 4 and 12 of this act expire by limitation on June 30, 2009.

4. Sections 1, 3, 5 and 13 of this act become effective on July 1, 2009.

5. Sections 1, 2, 3 and 5 of this act expire by limitation on June 30, ~~2011.~~ **2013.**

Sec. 8. Section 29 of chapter 287, Statutes of Nevada 2009, at page 1233, is hereby amended to read as follows:

Sec. 29. ~~1.~~ NRS 361A.155 is hereby repealed.

~~[2. Section 5 of chapter 4, Statutes of Nevada 2008, 25th Special Session, at page 17, is hereby repealed.]~~

Sec. 9. Section 31 of chapter 287, Statutes of Nevada 2009, at page 1233, is hereby amended to read as follows:

Sec. 31. 1. This section and sections 3, 4, 27 ~~[, 28, subsection 2 of section 29 and section]~~ **and** 30 of this act become effective upon passage and approval.

2. Sections 1, 2, ~~and~~ 5 to 26, inclusive, and ~~[subsection 1 of section]~~ 29 of this act become effective on July 1, 2009.

Sec. 10. Section 3 of chapter 322, Statutes of Nevada 2009, at page 1415, is hereby amended to read as follows:

Sec. 3. 1. The Governor shall provide initially for the reserve required pursuant to paragraph (b) of subsection 3 of NRS 353.213, as amended by section 1 of this act, in the proposed biennial budget for the period that begins on July 1, 2011, and ends on June 30, 2013.

2. The fiscal year that begins on July 1, ~~2011.~~ **2013**, is the initial fiscal year in which a transfer of money must be made from the State General Fund to the Fund to Stabilize the Operation of the State Government pursuant to paragraph (b) of subsection 1 of NRS 353.288, as amended by section 2 of this act.

Sec. 10.3. Section 47 of chapter 381, Statutes of Nevada 2009, as amended by chapter 429, Statutes of Nevada 2009, at page 2410, is hereby amended to read as follows:

Sec. 47. 1. This section and section 45.5 of this act become effective upon passage and approval.

2. Sections 1 to 44, inclusive, 45, 46 and 46.5 of this act become effective:

(a) Upon passage and approval for the purposes of adopting regulations and performing any other preparatory actions that are necessary to carry out the provisions of this act; and

(b) On October 1, 2009, for all other purposes.

3. Sections 44.3 and 44.7 of this act become effective on July 1, ~~2011~~ **2013**.

Sec. 10.7. Section 20 of chapter 395, Statutes of Nevada 2009, at page 2199, is hereby amended to read as follows:

Sec. 20. 1. This section and section 19 of this act become effective upon passage and approval.

2. Sections 1 ~~, 2, 3 and 6 to 12, inclusive,~~ **and 2 of this act become effective on July 1, 2009.**

~~3. Section 3 of this act becomes~~ **becomes** effective on July 1, 2009, and ~~expires~~ **expires** by limitation on June 30, 2011.

~~4. Sections 6 to 12, inclusive, of this act become effective on July 1, 2009, and expire by limitation on June 30, 2013.~~

5. Sections 4, 5, 13, 14, 15, 16, 17 and 18 of this act become effective:

(a) Upon passage and approval for the purpose of performing any preparatory administrative tasks that are necessary to carry out the provisions of this act; and

(b) On September 1, 2009, for all other purposes.

~~4~~ **6.** Sections 15.5 and 18.5 of this act become effective on July 1, 2013.

~~5~~ **7.** Section 18 of this act expires by limitation on June 30, 2013.

Sec. 11. Section 28 of chapter 287, Statutes of Nevada 2009, at page 1232, is hereby repealed.

Sec. 12. ~~[The State Treasurer may securitize any portion of the proceeds of the tax imposed by NRS 680B.027 that the State Treasurer determines to be appropriate for the benefit of the State.] (Deleted by amendment.)~~

Sec. 13. ~~[Sections 3 and]~~ **The amendatory provisions of section 4** of this act ~~do~~ **:**

1. Do not apply to any taxes due for any period ending on or before June 30, 2011 ~~;~~ **and**

2. **Except as otherwise provided in subsection 1 and notwithstanding the expiration of that section by limitation pursuant to section 17 of this**

act, apply to taxes due pursuant to NRS 363B.110 for each calendar quarter ending on or before June 30, 2013.

~~Sec. 14. 1. Notwithstanding any other statutory provision to the contrary, the board of trustees of a school district that maintains a separate account in its debt service fund pursuant to subsection 5 of NRS 350.020 shall transfer from that account to the county school district fund the amount contained in that account on July 1, 2011, which is not required by subsection 5 of NRS 350.020, as amended by section 2 of this act, to be maintained in that account on that date.~~

~~2. From the amount of any money transferred to a county school district fund pursuant to subsection 1:~~

~~(a) Fifty percent of that amount shall be deemed, for the purposes of NRS 387.124, to constitute local funds available pursuant to NRS 387.1235 for the fiscal year beginning on July 1, 2011; and~~

~~(b) Fifty percent of that amount shall be deemed, for the purposes of NRS 387.124, to constitute local funds available pursuant to NRS 387.1235 for the fiscal year beginning on July 1, 2012.] (Deleted by amendment.)~~

Sec. 15. 1. When preparing its certificate of the tax due from a taxpayer pursuant to NRS 362.130 during the calendar year 2014, the Department of Taxation shall reduce the amount of the tax due from the taxpayer by the amount of:

(a) Any estimated payments of the tax made by or on behalf of the taxpayer during the calendar year 2013 pursuant to NRS 362.115, as that section read on January 1, 2013; and

(b) Any unused credit to which the taxpayer may be entitled as a result of any previous overpayment of the tax.

2. Notwithstanding any provision of NRS 362.170 to the contrary:

(a) The amount appropriated to each county pursuant to that section for distribution to the county during the calendar year 2014 must be reduced by the amount appropriated to the county pursuant to that section for distribution to the county during the calendar year 2013, excluding any portion of the amount appropriated to the county pursuant to that section for distribution to the county during the calendar year 2013 which is attributable to a pro rata share of any penalties and interest collected by the Department of Taxation for the late payment of taxes distributed to the county.

(b) In calculating the amount required to be apportioned to each local government or other local entity pursuant to subsection 2 of that section for the calendar year 2014, the county treasurer shall reduce the amount required to be determined pursuant to paragraph (a) of that subsection for that calendar year by the amount determined pursuant to that paragraph for the calendar year 2013.

Sec. 16. The State Controller shall transfer from the Fund to Stabilize the Operation of the State Government to the State General Fund the sum of \$41,321,014 for unrestricted State General Fund use.

~~{Sec. 16.}~~ **Sec. 17.** 1. This section and sections 1 ~~{,}~~ **and** 7 to ~~{11,}~~ **16**, inclusive, ~~{and 15}~~ of this act become effective upon passage and approval.

2. Sections ~~{2, 3, 4, 6, 13 and 14}~~ **4.5 and 6** of this act become effective on July 1, 2011.

3. ~~{Section 12}~~ **Sections 4 and 6.5** of this act ~~{becomes}~~ **become** effective on July 1, 2011, and ~~{expires}~~ **expire** by limitation on June 30, ~~{2021,}~~ **2013.**

4. Section 5 of this act becomes effective on the date that the balance of the separate account required by subsection 8 of NRS 408.235 is reduced to zero.

TEXT OF REPEALED SECTION

Section 28 of chapter 287, Statutes of Nevada 2009:

Sec. 28. Section 16 of chapter 4, Statutes of Nevada 2008, 25th Special Session, at page 23, is hereby amended to read as follows:

Sec. 16. 1. This section and sections 2, 4, 14 and 15 of this act become effective upon passage and approval.

2. Sections 6 to 12, inclusive, of this act become effective on January 1, 2009 ~~{.~~

~~3.—Sections 4 and 6 to 12, inclusive, of this act}, **and** expire by limitation on June 30, 2009.~~

~~{4.}~~ 3. Sections 1, 3 ~~{, 5}~~ and 13 of this act become effective on July 1, 2009.

~~{5.}~~ 4. Sections 1 ~~{, 2, 3 and 5}~~ **to 4, inclusive**, of this act expire by limitation on June 30, 2011.

Assemblywoman Smith moved the adoption of the amendment.

Remarks by Assemblywoman Smith.

Amendment adopted.

Bill ordered to third reading.

Assembly Bill No. 416.

Bill read third time.

Remarks by Assemblywoman Carlton.

Roll call on Assembly Bill No. 416:

YEAS—42.

NAYS—None.

Assembly Bill No. 416 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered reprinted, reengrossed, and transmitted to the Senate.

Assembly Bill No. 427.

Bill read third time.

Remarks by Assemblyman Ohrenschall.

Roll call on Assembly Bill No. 427:

YEAS—30.

NAYS—Ellison, Goicoechea, Grady, Hammond, Hardy, Kirkpatrick, Kirner, Kite, Livermore, McArthur, Sherwood, Stewart—12.

Assembly Bill No. 427 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered reprinted, reengrossed, and transmitted to the Senate.

Assembly Bill No. 476.

Bill read third time.

Remarks by Assemblywoman Smith.

Roll call on Assembly Bill No. 476:

YEAS—42.

NAYS—None.

Assembly Bill No. 476 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered reprinted, engrossed, and transmitted to the Senate.

Assembly Bill No. 560.

Bill read third time.

Remarks by Assemblywoman Smith.

Roll call on Assembly Bill No. 560:

YEAS—42.

NAYS—None.

Assembly Bill No. 560 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered reprinted, engrossed, and transmitted to the Senate.

Assembly Bill No. 576.

Bill read third time.

Roll call on Assembly Bill No. 576:

YEAS—42.

NAYS—None.

Assembly Bill No. 576 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered reprinted, engrossed, and transmitted to the Senate.

Assembly Bill No. 577.

Bill read third time.

Roll call on Assembly Bill No. 577:

YEAS—41.

NAYS—Ohrenschall.

Assembly Bill No. 577 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 578.

Bill read third time.

Roll call on Assembly Bill No. 578:

YEAS—28.

NAYS—Ellison, Goedhart, Goicoechea, Grady, Hambrick, Hammond, Hansen, Hardy, Kirner, Kite, Livermore, McArthur, Sherwood, Woodbury—14.

Assembly Bill No. 578 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered reprinted, engrossed, and transmitted to the Senate.

Senate Bill No. 276.

Bill read third time.

Roll call on Senate Bill No. 276:

YEAS—29.

NAYS—Ellison, Goedhart, Goicoechea, Grady, Hambrick, Hansen, Hardy, Hickey, Kirner, Kite, Livermore, McArthur, Sherwood—13.

Senate Bill No. 276 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered reprinted, reengrossed, and transmitted to the Senate.

Mr. Speaker announced if there were no objections, the Assembly would recess subject to the call of the Chair.

Assembly in recess at 2:52 p.m.

ASSEMBLY IN SESSION

At 3:05 p.m.

Mr. Speaker presiding.

Quorum present.

REPORTS OF COMMITTEES

Mr. Speaker:

Your Committee on Government Affairs, to which was referred Senate Bill No. 439, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

MARILYN K. KIRKPATRICK, *Chair*

MOTIONS, RESOLUTIONS AND NOTICES

By the Committee on Legislative Operations and Elections:

Assembly Concurrent Resolution No. 12—Directing the Legislative Commission to conduct an interim study concerning the structure and operations of the Nevada Legislature.

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

Motion carried.

UNFINISHED BUSINESS

RECEDE FROM ASSEMBLY AMENDMENTS

Assemblywoman Carlton moved that the Assembly do not recede from its action on Senate Bill No. 168, that a conference be requested, and that Mr. Speaker appoint a Conference Committee consisting of three members to meet with a like committee of the Senate.

Remarks by Assemblywoman Carlton.

Motion carried.

APPOINTMENT OF CONFERENCE COMMITTEES

Mr. Speaker appointed Assemblymen Carlton, Bustamante Adams, and Goedhart as a Conference Committee to meet with a like committee of the Senate for the further consideration of Assembly Bill No. 168.

Mr. Speaker appointed Assemblymen Bobzien, Daly, and Hickey as a Conference Committee to meet with a like committee of the Senate for the further consideration of Assembly Bill No. 376.

GENERAL FILE AND THIRD READING

Senate Bill No. 439.

Bill read third time.

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

Amendment No. 944.

AN ACT relating to fire protection; amending the membership and duties of the State Board of Fire Services; eliminating the Fire Service Standards and Training Committee; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law sets forth the membership and duties of the State Board of Fire Services and the Fire Service Standards and Training Committee. (NRS 477.020, 477.070-477.090) **Section 11** of this bill eliminates the Fire Service Standards and Training Committee. **Section 3** of this bill revises the membership and duties of the State Board of Fire Services.

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

Section 1. Chapter 477 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.

Sec. 2. *As used in NRS 477.080, 477.085 and 477.090 and sections 2 and 3 of this act, unless the context otherwise requires, “Board” means the State Board of Fire Services created pursuant to section 3 of this act.*

Sec. 3. 1. *The State Board of Fire Services is hereby created. The Board consists of:*

(a) *The State Fire Marshal, who is a nonvoting member;*
 (b) *The State Forester Firewarden, who is a voting member; and*
 (c) *The following ~~eight~~ nine voting members appointed by the Governor as follows:*

- (1) *A licensed architect;*
- (2) *A chief, deputy chief, assistant chief or division chief of a volunteer fire department or a partially paid fire department;*
- (3) *A chief, deputy chief, assistant chief or division chief of a full-time, paid fire department;*
- (4) *A professional engineer;*
- (5) *A chief officer, person of equivalent rank or any other person who is experienced in fire service training and represents a volunteer or partially paid fire department or fire district;*
- (6) *A chief officer, person of equivalent rank or any other person who is experienced in fire service training and represents a fully paid fire department or fire district;*
- (7) *A fire marshal, fire protection engineer or any other person who is experienced in developing or enforcing any code related to fire prevention; ~~and~~*
- (8) *A firefighter who does not otherwise meet the requirements of subparagraphs (1) to (7), inclusive; and*
- (9) *A member of the general public who has an interest in public safety and is not an employee or a volunteer of a fire department or fire district.*

2. *The members described in paragraph (c) of subsection 1:*

(a) *Must be selected by the Governor based on nominations received from fire chiefs;*

(b) *Shall serve for a term of 4 years; and*

(c) *Serve at the pleasure of the Governor.*

3. *Of the members described in paragraph (c) of subsection 1:*

(a) *At least one member must be from Clark County;*

(b) *At least one member must be from Washoe County; and*

(c) *A majority of such members must not be from one county.*

4. *No member other than the State Fire Marshal and the State Forester Firewarden may serve for more than two consecutive terms.*

5. *A vacancy in the Board must be filled for the remainder of the unexpired term in the same manner as the original appointment.*

6. *The Board shall select a Chair from among its members to serve for 1 year. The State Fire Marshal shall serve as the Secretary of the Board.*

7. *The Board shall meet at least twice each year and on the call of the Chair, the Secretary or any three members.*

8. *The members of the Board are entitled to receive from the State Fire Marshal Division of the Department of Public Safety the per diem allowance and travel expenses provided for state officers and employees generally for each day or portion of a day during which the member attends a meeting of the Board.*

9. *The State Fire Marshal Division shall provide the Board with administrative support.*

Sec. 4. NRS 477.039 is hereby amended to read as follows:

477.039 1. The State Fire Marshal shall:

- (a) Furnish and administer programs for the training of firefighters;
- (b) Describe the programs that are available for training of firefighters and notify fire departments of the availability of these programs;
- (c) Administer a program to certify firefighters, whenever requested to do so, for successful completion of a training program;
- (d) Develop a program to train instructors;
- (e) Assist other agencies and organizations to prepare and administer training programs;
- (f) Carry out the provisions of paragraphs (a) to (e), inclusive, in accordance with recommendations submitted to the State ~~Fire Marshal by the Fire Service Standards and Training Committee~~ **Board of Fire Services** and the regulations adopted by the ~~Committee~~ **Board**; and
- (g) Establish a regional hazardous materials training facility and furnish training programs concerning hazardous materials for emergency personnel, agencies and other persons.

2. The State Fire Marshal may enter into agreements for the procurement of necessary services or property, may accept gifts, grants, services or property for the training programs and may charge fees for training programs, materials or services provided.

Sec. 5. NRS 477.080 is hereby amended to read as follows:

477.080 The ~~Committee~~ **Board** shall:

- 1. ~~Meet at the call of the Chair at least four times each year.~~
- 2. Encourage the training and education of fire service personnel to improve the system of public safety in the State.
- ~~3.~~ 2. Adopt regulations establishing minimum standards for the approval of training and certification programs submitted by a fire department ~~for other fire service training agency or organization of the State~~

~~3~~, *fire district or any political subdivision or agency of the State or Federal Government* pursuant to NRS 477.090. The regulations must provide minimum standards for the training and certification, including the renewal and revocation of certification, of ~~fire service~~ *emergency response* personnel who serve in positions for which the ~~Committee~~ *Board* determines minimum standards of training and certification are necessary.

~~4~~ 3. Provide information and make recommendations to the State Fire Marshal ~~and the State Board of Fire Services~~ concerning the training of fire service personnel.

~~5. Approve the budget for the operation of the Committee.~~

4. *Make recommendations to the State Fire Marshal and to the Legislature concerning necessary legislation in the fields of fire fighting and fire protection.*

5. *When requested to do so by the Director of the Department of Public Safety, recommend to the Director not fewer than three persons for appointment as State Fire Marshal.*

6. *Hear appeals of orders, decisions or determinations made by the State Fire Marshal pursuant to his or her statutory authority.*

Sec. 6. NRS 477.085 is hereby amended to read as follows:

477.085 The ~~Committee~~ *Board* may:

1. Adopt regulations which:

(a) It determines are necessary for the operation of the ~~Committee~~ *Board*.

(b) Require that training programs which are approved by the ~~Committee~~ *Board* and require special facilities be conducted at facilities approved by the ~~Committee~~ *Board*.

2. Recommend to the Legislature any appropriate legislation concerning the training of fire service personnel.

Sec. 7. NRS 477.090 is hereby amended to read as follows:

477.090 1. A fire department ~~for other fire service training agency or organization of the State~~, *fire district or any political subdivision or agency of the State or Federal Government* may submit to the Chair of the ~~Committee~~ *Board* a proposed training and certification program for any of the ~~fire service personnel~~ *emergency response members* who serve in positions for which the ~~Committee~~ *Board* has adopted regulations pursuant to NRS 477.080. The proposed program must be submitted not less than 30 days before the next scheduled meeting of the ~~Committee~~ *Board*.

2. At that meeting, the ~~Committee~~ *Board* shall evaluate the proposed program and determine whether it meets the standards for training and certification prescribed in the regulations adopted by the ~~Committee~~ *Board* pursuant to NRS 477.080.

3. A proposed training and certification program submitted pursuant to this section must include:

- (a) A description of the ~~[fire service personnel]~~ *emergency response* positions which will be covered by the program;
- (b) A description of the training which the program will provide;
- (c) A procedure for the renewal of certification; and
- (d) A procedure for the revocation of certification.

4. If a training and certification program is approved by the ~~[Committee]~~ **Board**, the program constitutes the standard for state certification of ~~[fire service]~~ *emergency response* personnel.

Sec. 8. Notwithstanding any provision of law to the contrary, the term of office of any person currently serving on the State Board of Fire Services ends on June 30, 2011.

Sec. 9. 1. Any administrative regulations adopted by an officer, agency or other entity whose name has been changed or whose responsibilities have been transferred pursuant to the provisions of this act to another officer, agency or other entity remain in force until amended by the officer, agency or other entity to which the responsibility for the adoption of the regulations has been transferred.

2. Any contracts or other agreements entered into by an officer, agency or other entity whose name has been changed or whose responsibilities have been transferred pursuant to the provisions of this act to another officer, agency or other entity are binding upon the officer, agency or other entity to which the responsibility for the administration of the provisions of the contract or other agreement has been transferred. Such contracts and other agreements may be enforced by the officer, agency or other entity to which the responsibility for the enforcement of the provisions of the contract or other agreement has been transferred.

3. Any action taken by an officer, agency or other entity whose name has been changed or whose responsibilities have been transferred pursuant to the provisions of this act to another officer, agency or other entity remains in effect as if taken by the officer, agency or other entity to which the responsibility for the enforcement of such actions has been transferred.

Sec. 10. The Legislative Counsel shall:

1. In preparing the reprint and supplements to the Nevada Revised Statutes, appropriately change any references to an officer, agency or other entity whose name is changed or whose responsibilities have been transferred pursuant to the provisions of this act to refer to the appropriate officer, agency or other entity. If any internal reference is made to a section repealed by this act, the Legislative Counsel shall delete the reference and replace it by reference to the superseding section, if any.

2. In preparing supplements to the Nevada Administrative Code, appropriately change any references to an officer, agency or other entity whose name is changed or whose responsibilities are transferred pursuant to the provisions of this act to refer to the appropriate officer, agency or other entity.

Sec. 11. NRS 477.020, 477.070 and 477.075 are hereby repealed.

Sec. 12. 1. This section and section 8 of this act become effective upon passage and approval.

2. Sections 1 to 7, inclusive, 9, 10 and 11 of this act become effective on July 1, 2011.

TEXT OF REPEALED SECTIONS

477.020 State Board of Fire Services: Creation; members; qualifications of members; terms of members; meetings; compensation of members; duties.

1. The State Board of Fire Services, consisting of eight members appointed by the Governor, is hereby created.

2. The Governor shall appoint:

- (a) A licensed architect;
- (b) A chief of a volunteer fire department;
- (c) A chief of a full-time, paid fire department;
- (d) A professional engineer;
- (e) The State Forester Firewarden;
- (f) A training officer of a volunteer fire department;
- (g) A training officer of a partially or fully paid fire department; and
- (h) A specialist in hazardous materials,

↪ to the Board. No member other than the State Forester Firewarden may serve for more than two consecutive terms.

3. The Board shall select a Chair from among its members to serve for 1 year. The State Fire Marshal shall serve as the Secretary of the Board.

4. The Board may meet regularly at least twice each year or on the call of the Chair, the Secretary or any three members.

5. The members of the Board, except the State Forester Firewarden, are entitled to receive a salary of \$60 for each day's attendance at a meeting of the Board.

6. The Board shall make recommendations to the State Fire Marshal and to the Legislature concerning necessary legislation in the field of fire fighting and fire protection. When requested to do so by the Director of the Department of Public Safety, the Board shall recommend to the Director not fewer than three persons for appointment as State Fire Marshal.

7. The Board shall advise the State Fire Marshal on matters relating to the training of firefighters.

477.070 “Committee” defined. As used in NRS 477.070 to 477.090, inclusive, unless the context otherwise requires, “Committee” means the Fire Service Standards and Training Committee.

477.075 Creation; composition; appointment, terms and compensation of members; officers; vacancies; administrative support.

1. The Fire Service Standards and Training Committee, consisting of seven voting members and one nonvoting member, is hereby created.

2. The Committee consists of the Chair of the State Board of Fire Services, who is an ex officio member of the Committee, one member appointed by the State Fire Marshal, and six members appointed by the Governor as follows:

(a) Two chief officers or persons of equivalent rank, or two persons designated by the chief of the department, of a full-time, paid fire department who have experience in fire service training;

(b) Two chief officers or persons of equivalent rank, or two persons designated by the chief of the department, of a volunteer fire department who have experience in fire service training; and

(c) Two chief officers or persons of equivalent rank, or two persons designated by the chief of the department, of a combination paid and volunteer fire department who have experience in fire service training.

3. The six members appointed by the Governor must be from the following counties:

(a) One member from Clark County;

(b) One member from Washoe County; and

(c) Four members from other counties, except that a majority of the voting members on the Committee must not be from one county.

4. The Governor shall make the appointments from recommendations submitted by:

(a) The Nevada Fire Chiefs Association, Inc.;

(b) The Nevada State Firemen’s Association;

(c) The Professional Fire Fighters of Nevada;

(d) The Southern Nevada Fire Marshal’s Association;

(e) The Southern Nevada Fire Chiefs’ Association;

(f) The Northern Nevada Fire Marshal’s Association; and

(g) Representatives of fire departments of Washoe County.

5. For the initial terms of the members of the Committee, each entity listed in subsection 4 shall submit three recommendations to the Governor. After the initial terms, each entity shall submit two recommendations to the Governor.

6. The member appointed by the State Fire Marshal shall serve as Secretary to the Committee and is a nonvoting member of the Committee.

7. The members of the Committee shall select a Chair from among their membership.

8. After the initial terms, the term of each appointed member of the Committee is 2 years.

9. A vacancy in the Committee must be filled for the remainder of the unexpired term in the same manner as the original appointment.

10. Each member of the Committee is entitled to receive from the State Fire Marshal Division of the Department of Public Safety the per diem allowance and travel expenses provided for state officers and employees generally for each day or portion of a day during which the member attends a meeting of the Committee or is otherwise engaged in the work of the Committee.

11. The State Fire Marshal Division shall provide the Committee with administrative support.

Assemblywoman Kirkpatrick moved the adoption of the amendment.

Amendment adopted.

Bill ordered to third reading.

Senate Bill No. 439.

Bill read third time.

Remarks by Assemblywoman Kirkpatrick.

Roll call on Senate Bill No. 439:

YEAS—42.

NAYS—None.

Senate Bill No. 439 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered reprinted, engrossed, and transmitted to the Senate.

Mr. Speaker announced if there were no objections, the Assembly would recess subject to the call of the Chair.

Assembly in recess at 3:16 p.m.

ASSEMBLY IN SESSION

At 11:14 p.m.

Mr. Speaker presiding.

Quorum present.

REPORTS OF COMMITTEES

Mr. Speaker:

Your Committee on Ways and Means has had under consideration the Commission on Judicial Discipline budget, and begs leave to report back that the budget has been closed by the Committee.

DEBBIE SMITH, *Chair*

Mr. Speaker:

Your Committee on Commerce and Labor, to which was referred Senate Bill No. 164, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

Also, your Committee on Commerce and Labor, to which was referred Senate Bill No. 320, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

KELVIN ATKINSON, *Chair*

Mr. Speaker:

Your Committee on Education, to which was referred Senate Bill No. 212, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

DAVID P. BOBZIEN, *Chair*

Mr. Speaker

Your Committee on Legislative Operations and Elections, to which were referred Assembly Bill No. 71; Senate Bill No. 211, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

Also, your Committee on Legislative Operations and Elections, to which were referred Assembly Concurrent Resolution No. 12; Senate Concurrent Resolution No. 5, has had the same under consideration, and begs leave to report the same back with the recommendation: Be adopted.

TICK SEGERBLOM, *Chair*

Mr. Speaker:

Your Committee on Ways and Means, to which was referred Assembly Bill No. 484, 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. 421, 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. 219, 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. 405, 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 Senate Bill No. 159, 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 5, 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. 123, 171, 245, 300, 316, 330, 345, 380, 402, 486, 490, 491, 492, 493, 495, 497, 515, 546, 563, 574, 579, 580.

Also, I have the honor to inform your honorable body that the Senate amended, and on this day passed, as amended, Assembly Bill No. 137, Amendment No. 913; Assembly Bill No. 167, Amendment No. 879; Assembly Bill No. 228, Amendment No. 890; Assembly Bill No. 307, Amendment No. 902; Assembly Bill No. 404, Amendment No. 895; Assembly Bill No. 562,

Amendment No. 891, 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 adopted the report of the Conference Committee concerning Assembly Bill No. 277.

Also, I have the honor to inform your honorable body that the Senate on this day passed Senate Bills Nos. 485, 486.

Also, I have the honor to inform your honorable body that the Senate on this day passed, as amended, Senate Bills Nos. 11, 115, 347, 370, 425.

Also, I have the honor to inform your honorable body that the Senate on this day concurred in the Assembly Amendment No. 735 to Senate Bill No. 57.

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. 663 to Senate Bill No. 348.

SHERRY L. RODRIGUEZ
Assistant Secretary of the Senate

INTRODUCTION, FIRST READING AND REFERENCE

By the Committee on Ways and Means:

Assembly Bill No. 581—AN ACT relating to public financial administration; revising provisions relating to the use of money in the Account for Foreclosure Mediation; authorizing the Court Administrator to transfer certain funds from the Account to the operating budget for the Supreme Court for the 2011-2013 biennium; and providing other matters properly relating thereto.

Assemblyman Conklin moved that the bill be referred to the Committee on Ways and Means.

Motion carried.

Senate Bill No. 11.

Assemblyman Conklin moved that the bill be referred to the Committee on Ways and Means.

Motion carried.

Senate Bill No. 115.

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

Motion carried.

Senate Bill No. 347.

Assemblyman Conklin moved that the bill be referred to the Committee on Judiciary.

Motion carried.

Senate Bill No. 370.

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

Motion carried.

Senate Bill No. 425.

Assemblyman Conklin moved that the bill be referred to the Committee on Ways and Means.

Motion carried.

Senate Bill No. 485.

Assemblyman Conklin moved that the bill be referred to the Committee on Ways and Means.

Motion carried.

Senate Bill No. 486.

Assemblyman Conklin moved that the bill be referred to the Committee on Ways and Means.

Motion carried.

REPORTS OF COMMITTEES

Mr. Speaker:

Your Committee on Health and Human Services, to which was referred Senate Bill No. 340, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

APRIL MASTROLUCA, *Chair*

MOTIONS, RESOLUTIONS AND NOTICES

Assembly Concurrent Resolution No. 12.

Assemblyman Conklin moved the adoption of the resolution.

Remarks by Assemblyman Conklin.

Resolution adopted and ordered transmitted to the Senate.

Senate Concurrent Resolution No. 5

Assemblyman Conklin moved the adoption of the resolution.

Remarks by Assemblyman Conklin.

Resolution adopted and ordered transmitted to the Senate.

UNFINISHED BUSINESS

CONSIDERATION OF SENATE AMENDMENTS

Assembly Bill No. 307.

The following Senate amendment was read:

Amendment No. 902.

AN ACT relating to governmental administration; requiring a person who files certain applications for an energy development project to file a notice concurrently with the Department of Wildlife; requiring the Department of Wildlife to adopt regulations for the provision of information relating to wildlife based on the location of an energy development project; ~~authorizing a developer of an energy development project to request the Director of the~~

~~Office of Energy to coordinate certain discussions relating to an energy development project in certain circumstances;~~ creating the Energy Planning and Conservation Fund; requiring the Department of Wildlife to use money from the Energy Planning and Conservation Fund for certain wildlife activities; creating the Fund for the Recovery of Costs; requiring the Department of Wildlife to use money from the Fund for the Recovery of Costs solely to provide certain information relating to wildlife based on the location of an energy development project; **requiring the Director of the Office of Energy to coordinate certain discussions with interested parties relating to an energy development project in certain circumstances;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law creates the Department of Wildlife and requires the Department to administer the wildlife laws of this State. (NRS 501.331) Existing law also creates the Office of Energy within the Office of the Governor to analyze, review and study the use of energy and availability of energy in this State, as well as to coordinate activities with other agencies to administer programs related to the use of renewable energy and to conserve or reduce the demand for energy. (NRS 701.150, 701.180) This bill requires the Department of Wildlife and the Office of Energy to cooperate in acting as a resource for the Federal Government, the Public Utilities Commission of Nevada, the counties of this State and the public by compiling and providing certain information relating to certain energy development projects.

Section 5 of this bill defines an "energy development project" as any project for the generation, transmission and development of energy, whether on public or private land. **Section 6** of this bill exempts from the provisions of this bill a project that has a generating capacity of less than 10 megawatts.

Section 7 of this bill requires any person who files an application with the Federal Government for a lease or easement for a right-of-way for an energy development project or an application with the Public Utilities Commission of Nevada or any county in this State relating to the construction of an energy development project to file a notice concurrently with the Department of Wildlife. The notice required by **section 7** must include a description of the location, boundaries and estimated infrastructure requirements for the project and a description of the project itself and an estimate of the energy output of the project. **Section 7** further requires the Department to provide a copy of the notice to the Office of Energy and requires the Department, in consultation with the Office of Energy, to adopt regulations to provide for making reasonable deposits and reimbursing the Department for providing information relating to wildlife or wildlife habitat based on the location of an energy development project. ~~and to allow for developers to request the~~

~~Director of the Office of Energy to coordinate discussions with interested parties concerning the potential effects of energy development projects.]~~

Section 9 of this bill creates the Energy Planning and Conservation Fund and requires the money in the Fund to be administered by the Director of the Department of Wildlife and used by the Department in accordance with the State Wildlife Action Plan for conducting surveys of wildlife, for mapping locations of wildlife and its habitat, for conservation projects for the habitat of wildlife impacted by energy development projects and to match any federal money for a project or program for the conservation of any species of wildlife which is of critical concern. **Section 9.5** of this bill creates the Fund for the Recovery of Costs and requires the money in the Fund to be administered by the Director of the Department of Wildlife and used by the Department solely to provide to the Federal Government, the Public Utilities Commission of Nevada or any person with information relating to wildlife or wildlife habitat based on the location of an energy development project or to match any federal money for a project or program for the conservation of any species of wildlife.

Section 8 of this bill requires the Department of Wildlife to compile and maintain information on all energy development projects for which notice is filed pursuant to **section 7** and to prepare and submit a report detailing such projects to the Legislative Commission in even-numbered years and, in odd-numbered years, to the Director of the Legislative Counsel Bureau for transmittal to the Legislature.

Section 11 of this bill expands the duties of the Director of the Office of Energy to include coordinating discussions with interested parties concerning the potential effects of energy development projects.

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

Section 1. NRS 501.331 is hereby amended to read as follows:

501.331 The Department of Wildlife is hereby created. The Department:

1. Shall administer the wildlife laws of this State, ~~and~~ chapter 488 of NRS ~~and~~ ***sections 7 to 9.5, inclusive, of this act.***

2. Shall, on or before the fifth calendar day of each regular session of the Legislature, submit to the Legislature a financial report for each of the immediately preceding 2 fiscal years setting forth the activity and status of the Wildlife Obligated Reserve Account in the State General Fund, each subaccount within that Account and any other account or subaccount administered by the Department for which the use of the money in the account or subaccount is restricted. The report must include, without limitation:

(a) A description of each project for which money is expended from each of those accounts and subaccounts and a description of each recipient of that money; and

(b) The total amount of money expended from each of those accounts and subaccounts for each fiscal year, including, without limitation, the amount of any matching contributions received for those accounts and subaccounts for each fiscal year.

Sec. 2. NRS 501.337 is hereby amended to read as follows:

501.337 The Director shall:

1. Carry out the policies and regulations of the Commission.
2. Direct and supervise all administrative and operational activities of the Department, and all programs administered by the Department as provided by law. Except as otherwise provided in NRS 284.143, the Director shall devote his or her entire time to the duties of the office and shall not follow any other gainful employment or occupation.
3. Within such limitations as may be provided by law, organize the Department and, from time to time with the consent of the Commission, may alter the organization. The Director shall reassign responsibilities and duties as he or she may deem appropriate.
4. Appoint or remove such technical, clerical and operational staff as the execution of his or her duties and the operation of the Department may require, and all those employees are responsible to the Director for the proper carrying out of the duties and responsibilities of their respective positions. The Director shall designate a number of employees as game wardens and provide for their training.
5. Submit technical and other reports to the Commission as may be necessary or as may be requested, which will enable the Commission to establish policy and regulations.
6. Prepare, in consultation with the Commission, the biennial budget of the Department consistent with the provisions of this title, ~~and~~ chapter 488 of NRS *and sections 7 to 9.5, inclusive, of this act* and submit it to the Commission for its review and recommendation before the budget is submitted to the Chief of the Budget Division of the Department of Administration pursuant to NRS 353.210.
7. Administer real property assigned to the Department.
8. Maintain full control, by proper methods and inventories, of all personal property of the State acquired and held for the purposes contemplated by this title and by chapter 488 of NRS.
9. Act as nonvoting Secretary to the Commission.
- 10. Adopt the regulations required pursuant to sections 7 and 9 of this act.**

Sec. 3. 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, *the Energy Planning and Conservation Fund created by section 9 of this act or the Fund for the Recovery of Costs created by section 9.5 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. 4. Chapter 701 of NRS is hereby amended by adding thereto the provisions set forth as sections 5 to 9.5, inclusive, of this act.

Sec. 5. *“Energy development project” means a project for the generation, transmission and development of energy located on public or private land. The term includes, without limitation:*

1. A utility facility, as defined in NRS 704.860, constructed on private land; and

2. Electric generating plants and their associated facilities which use or will use renewable energy, as defined in NRS 704.7811, as their primary source of energy to generate electricity.

Sec. 6. *The provisions of sections 7, 8 and 9 of this act do not apply to a project that has a generating capacity of less than 10 megawatts.*

Sec. 7. 1. Except as otherwise provided in section 6 of this act, a person who files an application with the Federal Government for a lease or easement for a right-of-way for an energy development project or an application with the Public Utilities Commission of Nevada or any county in this State relating to the construction of an energy development project shall, concurrently with the filing of the application, file a notice of the energy development project with the Department of Wildlife.

2. The notice required by subsection 1 must be provided to the Department of Wildlife in such form as the Department prescribes and contain:

(a) A description of the location and the energy development project to be built thereon;

(b) A description of the boundaries of the project and the estimated requirements for infrastructure of the project; and

(c) The estimated energy output for the energy development project.

3. Within 30 days after a notice is filed pursuant to subsection 1, the Department of Wildlife shall provide a copy of the notice to the Office of Energy.

4. The Department of Wildlife shall, in consultation with the Office of Energy, adopt regulations to carry out the provisions of this section. The regulations must include, without limitation:

(a) Provisions setting forth the requirements for making reasonable deposits and reimbursing the Department of Wildlife for the actual costs, not to exceed \$100,000, incurred by the Department of Wildlife for providing to the Federal Government, the Public Utilities Commission of Nevada, an applicant or any county in this State any information relating to any wildlife or wildlife habitat based on the location of the energy development project for which a notice is filed pursuant to subsection 1; and

~~*(b) Provisions setting forth the requirements for allowing a developer of an energy development project or a local government in a county in which an energy development project is proposed to be located to request the Director of the Office of Energy to coordinate discussions, not otherwise required by any existing regulatory agency, with interested parties concerning any potential effect of the energy development project; and*~~

~~*(c) Except as otherwise provided in subsection 5, any other requirements concerning the filing of a notice pursuant to subsection 1.*~~

5. Any regulations adopted pursuant to subsection 4 must not require a person to reimburse any costs incurred by the Department of Wildlife for providing any information requested by the Federal Government, the Public Utilities Commission of Nevada or an applicant relating to an

energy development project that was previously provided pursuant to paragraph (a) of subsection 4.

Sec. 8. The Department of Wildlife shall:

1. Compile and maintain detailed information concerning each energy development project for which notice is filed pursuant to section 7 of this act. The information must include, without limitation:

- (a) The location of the energy development project;**
- (b) A description of the energy development project;**
- (c) The estimated energy output of the energy development project; and**
- (d) The amount charged for the reimbursement of costs for the energy development project in accordance with the regulations specified in subsection 4 of section 7 of this act.**

2. Prepare a report:

- (a) Containing the information compiled pursuant to subsection 1; and**
- (b) Setting forth the effect, if any, on the budget of the Department of Wildlife as a result of receiving the reimbursement of costs for providing information concerning energy development projects and the manner in which the total amount received for those costs was used by the Department of Wildlife.**

3. On or before January 1 of each even-numbered year, submit the report required pursuant to subsection 2 to the Legislative Commission. On or before January 1 of each odd-numbered year, the Department of Wildlife shall submit the report required pursuant to subsection 2 to the Director of the Legislative Counsel Bureau for transmittal to the Legislature.

Sec. 9. 1. The Energy Planning and Conservation Fund is hereby created in the State Treasury as a special revenue fund.

2. The Director of the Department of Wildlife may apply for and accept any gift, donation, bequest, grant or other source of money for use by the Fund. Any money so received must be deposited in the State Treasury for credit to the Fund.

3. The Fund is a continuing fund without reversion. The money in the Fund must be invested as the money in other state funds is invested. The interest and income earned on the money in the Fund, after deducting any applicable charges, must be credited to the Fund. Claims against the Fund must be paid as other claims against the State are paid.

4. The Director of the Department of Wildlife shall administer the Fund. The money in the Fund must be used in accordance with the State Wildlife Action Plan and used by the Department of Wildlife:

- (a) To conduct surveys of wildlife;**
- (b) To map locations of wildlife and wildlife habitat in this State;**
- (c) To pay for conservation projects for wildlife and its habitat;**

(d) To match any federal money for a project or program for the conservation of any species of wildlife which is of critical concern; and

(e) To coordinate carrying out the provisions of this subsection in cooperation with the Office of Energy.

5. The Department of Wildlife shall adopt regulations to carry out the provisions of this section. The regulations must include, without limitation, the criteria for projects for which the Department of Wildlife may use money from the Fund.

6. As used in this section, "State Wildlife Action Plan" means a statewide plan prepared by the Department of Wildlife and approved by the United States Fish and Wildlife Service which sets forth provisions for the conservation of wildlife and wildlife habitat, including, without limitation, provisions for assisting in the prevention of any species of wildlife from becoming threatened or endangered.

Sec. 9.5. 1. The Fund for the Recovery of Costs is hereby created in the State Treasury as a special revenue fund.

2. All money collected by the Department of Wildlife in accordance with regulations adopted pursuant to section 7 of this act must be deposited in the State Treasury for credit to the Fund.

3. The Fund is a continuing fund without reversion. The money in the Fund must be invested as the money in other state funds is invested.

4. The interest and income earned on the money in the Fund, after deducting any applicable charges, must be credited to the Fund. Claims against the Fund must be paid as other claims against the State are paid.

5. The Director of the Department of Wildlife may apply for and accept any gift, donation, bequest, grant or other source of money for use by the Fund. Any money so received must be deposited in the State Treasury for credit to the Fund. If the Director of the Department of Wildlife receives any matching federal money which is credited to the Fund pursuant to this subsection, the amount of money credited may be transferred to the Energy Planning and Conservation Fund created by section 9 of this act.

6. The Director of the Department of Wildlife shall administer the Fund. The money in the Fund must be used by the Department of Wildlife solely:

(a) To provide to the Federal Government, the Public Utilities Commission of Nevada or any person any information relating to wildlife or wildlife habitat based on the location of an energy development project; or

(b) To match any federal money for a project or program for the conservation of any species of wildlife.

Sec. 10. NRS 701.020 is hereby amended to read as follows:

701.020 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 701.025 to 701.090, inclusive, *and section 5 of this act* have the meanings ascribed to them in those sections.

Sec. 11. NRS 701.180 is hereby amended to read as follows:

701.180 The Director shall:

1. Acquire and analyze information relating to energy and to the supply, demand and conservation of its sources, including, without limitation:

(a) Information relating to the Solar Energy Systems Incentive Program created pursuant to NRS 701B.240 including, without limitation, information relating to:

(1) The development of distributed generation systems in this State pursuant to participation in the Solar Energy Systems Incentive Program;

(2) The use of carbon-based energy in residential and commercial applications due to participation in the Program; and

(3) The average cost of generation on a kilowatt-hour basis for residential and commercial applications due to participation in the Program; and

(b) Information relating to any money distributed pursuant to NRS 702.270.

2. Review and evaluate information which identifies trends and permits forecasting of the energy available to the State. Such forecasts must include estimates on:

(a) The level of demand for energy in the State for 5-, 10- and 20-year periods;

(b) The amount of energy available to meet each level of demand;

(c) The probable implications of the forecast on the demand and supply of energy; and

(d) The sources of renewable energy and other alternative sources of energy which are available and their possible effects.

3. Study means of reducing wasteful, inefficient, unnecessary or uneconomical uses of energy and encourage the maximum utilization of existing sources of energy in the State.

4. Solicit and serve as the point of contact for grants and other money from the Federal Government, including, without limitation, any grants and other money available pursuant to any program administered by the United States Department of Energy, and other sources to cooperate with the Commissioner and the Authority:

(a) To promote energy projects that enhance the economic development of the State;

(b) To promote the use of renewable energy in this State;

(c) To promote the use of measures which conserve or reduce the demand for energy or which result in more efficient use of energy;

(d) To develop a comprehensive program for retrofitting public buildings in this State with energy efficiency measures; and

(e) If the Commissioner determines that it is feasible and cost-effective, to enter into contracts with researchers from the Nevada System of Higher Education for the design of energy efficiency and retrofit projects to carry out the comprehensive program for retrofitting public buildings in this State developed pursuant to paragraph (d).

5. Coordinate the activities and programs of the Office of Energy with the activities and programs of the Authority, the Consumer's Advocate and the Public Utilities Commission of Nevada, and with other federal, state and local officers and agencies that promote, fund, administer or operate activities and programs related to the use of renewable energy and the use of measures which conserve or reduce the demand for energy or which result in more efficient use of energy.

6. If requested to make a determination pursuant to NRS 111.239 or 278.0208, make the determination within 30 days after receiving the request. If the Director needs additional information to make the determination, the Director may request the information from the person making the request for a determination. Within 15 days after receiving the additional information, the Director shall make a determination on the request.

7. *Cooperate with the Department of Wildlife in carrying out the provisions of sections 6 to 9.5, inclusive, of this act.*

8. *Upon request by a developer of an energy development project or a local government in a county in which an energy development project is proposed to be located, coordinate discussions, not otherwise required by any existing regulatory agency, with interested parties concerning any potential effect of the energy development project.*

9. Carry out all other directives concerning energy that are prescribed by the Governor.

Sec. 12. The Department of Wildlife shall, before October 1, 2011, adopt any regulations which are required by or necessary to carry out the provisions of this act.

Sec. 13. This act becomes effective:

1. Upon passage and approval for the purposes of adopting regulations and performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act; and

2. On October 1, 2011, for all other purposes.

Assemblywoman Smith moved that the Assembly concur in the Senate Amendment No. 902 to Assembly Bill No. 307.

Remarks by Assemblywoman Smith.

Motion carried by a constitutional majority.

Bill ordered enrolled.

Assembly Bill No. 167.

The following Senate amendment was read:

Amendment No. 879.

AN ACT relating to aquatic species; prohibiting a person from introducing certain aquatic species into the waters of this State; providing for the inspection of vessels for aquatic invasive species; requiring vessels to be inspected for the presence of aquatic invasive species before being operated on the waters of this State; requiring decontamination of any vessels where an aquatic invasive species is present; authorizing the impoundment or quarantine of certain vessels; requiring an aquatic invasive species fee to be paid by all operators of vessels; providing a civil penalty; providing penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law makes it a misdemeanor for any person to introduce any aquatic life into this State without the permission of the Department of Wildlife. Existing law also authorizes the Board of Wildlife Commissioners to prohibit the importation, transportation or possession of any species of wildlife that the Commission deems detrimental to the wildlife or the habitat of the wildlife in this State. (NRS 503.597) **Section 2** of this bill makes it a misdemeanor for a first offense and a category E felony for any subsequent offense to knowingly or intentionally introduce any aquatic species which may be detrimental to the aquatic resources, aquatic species or water resources of this State. **Section 2** also provides for an additional civil penalty of not less than \$25,000 and not more than \$250,000 for anyone convicted of such introduction.

Section 4 of this bill authorizes the Department to set up inspection stations for vessels operating on the waters of this State to inspect such vessels for aquatic invasive species and prohibits any person from operating a vessel without first complying with the inspection program. **Section 4** also prohibits any person operating a vessel from leaving an impaired body of water and entering another body of water in this State without first having the vessel decontaminated. In addition, **section 4** allows a peace officer to inspect a vessel at any point if the peace officer has a reasonable belief based on articulable facts that an aquatic invasive species may be present on the vessel. Finally, if a person refuses to comply with a peace officer or the requirements of an inspection station, **section 4** allows the person's vessel to be impounded or quarantined. **Section 5** of this bill authorizes a peace officer to keep a vessel in impound or quarantine until it has been decontaminated or shown to be in compliance with the requirements of the Department.

Section 6 of this bill requires the Commission to establish an annual aquatic invasive species fee ~~of~~ which must not exceed \$10 ~~and~~ for a motorboat owned or operated by a resident of this State and \$5 for any

other vessel owned or operated by a resident of this State. The fee must be \$20 for a motorboat owned or operated by a nonresident of this State and \$10 for any other vessel owned or operated by a nonresident of this State. Section 6 also requires the Department to issue an aquatic invasive species decal as evidence of payment ~~of~~ **of the aquatic invasive species fee.** **Section 6** prohibits any person from operating a vessel on the waters of this State without first paying the fee and attaching the decal to his or her vessel as proof of payment.

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

Section 1. 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 or in the Trout Management Account pursuant to NRS 502.327,
↪ 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 ~~and~~ **and NRS 503.597**, 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. 2. NRS 503.597 is hereby amended to read as follows:

503.597 1. Except as otherwise provided in this section, it is unlawful, except by the written consent and approval of the Department, for any person

at anytime to receive, bring or have brought or shipped into this State, or remove from one stream or body of water in this State to any other, or from one portion of the State to any other, or to any other state, any aquatic life or wildlife, or any spawn, eggs or young of any of them.

2. The Department shall require an applicant to conduct an investigation to confirm that such an introduction or removal will not be detrimental to the wildlife or the habitat of wildlife in this State. Written consent and approval of the Department may be given only if the results of the investigation prove that the introduction, removal or importation will not be detrimental to existing aquatic life or wildlife, or any spawn, eggs or young of any of them.

3. The Commission may through appropriate regulation provide for the inspection of such introduced or removed creatures and the inspection fees therefor.

4. The Commission may adopt regulations to prohibit the importation, transportation or possession of any species of wildlife which the Commission deems to be detrimental to the wildlife or the habitat of the wildlife in this State.

5. *A person who knowingly or intentionally introduces, causes to be introduced or attempts to introduce an aquatic invasive species or injurious aquatic species into any waters of this State is guilty of:*

(a) For a first offense, a misdemeanor; and

(b) For any subsequent offense, a category E felony and shall be punished as provided in NRS 193.130.

6. *A court before whom a defendant is convicted of a violation of subsection 5 shall, for each violation, order the defendant to pay a civil penalty of at least \$25,000 but not more than \$250,000. The money must be deposited into the Wildlife Account in the State General Fund and used to:*

(a) Remove the aquatic invasive species or injurious aquatic species;

(b) Reintroduce any game fish or other aquatic wildlife destroyed by the aquatic invasive species or injurious aquatic species;

(c) Restore any habitat destroyed by the aquatic invasive species or injurious aquatic species;

(d) Repair any other damage done to the waters of this State by the introduction of the aquatic invasive species or injurious aquatic species; and

(e) Defray any other costs incurred by the Department because of the introduction of the aquatic invasive species or injurious aquatic species.

7. The provisions of this section do not apply to ~~alternative~~ :

(a) Alternative livestock and products made therefrom [-]; or

(b) The introduction of any species by the Department for sport fishing or other wildlife management programs.

8. *As used in this section:*

(a) *“Aquatic invasive species” means an aquatic species which is exotic or not native to this State and which the Commission has determined to be detrimental to aquatic life, water resources or infrastructure for providing water in this State.*

(b) *“Injurious aquatic species” means an aquatic species which the Commission has determined to be a threat to sensitive, threatened or endangered aquatic species or game fish or to the habitat of sensitive, threatened or endangered aquatic species or game fish by any means, including, without limitation:*

- (1) Predation;*
- (2) Parasitism;*
- (3) Interbreeding; or*
- (4) The transmission of disease.*

Sec. 3. Chapter 488 of NRS is hereby amended by adding thereto the provisions set forth as sections 4, 5 and 6 of this act.

Sec. 4. 1. *It is unlawful for any person at any time to:*

(a) *Launch a vessel into any body of water in this State for which the Department has approved an inspection program without first complying with that program;*

(b) *Refuse to comply with any requirements of the Department or any requirements of an inspection program approved by the Department; or*

(c) *Leave an impaired body of water in this State or any other state after operating a vessel on that impaired body of water and launch the vessel on any other body of water in this State without first decontaminating the vessel and any conveyance used on the impaired body of water.*

2. *In addition to any inspection conducted pursuant to NRS 488.900, each owner, operator or person in control of a vessel or conveyance shall stop at any mandatory inspection station for aquatic invasive species authorized by the Department. If a peace officer reasonably believes, based on articulable facts, that an aquatic invasive species or aquatic plant material may be present on the vessel or conveyance, the peace officer may:*

(a) *Require the owner, operator or person in control of the vessel or conveyance to decontaminate the vessel or conveyance; or*

(b) *In addition to any seizure required pursuant to NRS 488.910, impound or quarantine the vessel or conveyance.*

3. *A peace officer may stop and inspect a vessel or conveyance for the presence of aquatic invasive species or aquatic plant material, or for proof of a required inspection:*

(a) *Before a vessel is launched into a body of water in this State;*

(b) *Before a vessel or conveyance departs from a body of water in this State, a launch ramp or a vessel staging area;*

(c) If the vessel or conveyance is visibly transporting any aquatic invasive species or aquatic plant material; or

(d) If the peace officer reasonably believes, based on articulable facts, that an aquatic invasive species or aquatic plant material is present.

4. If a peace officer conducts an inspection of a vessel or conveyance pursuant to this section and determines that an aquatic invasive species or aquatic plant material is present on the vessel or conveyance, the peace officer may order the vessel or conveyance to be decontaminated.

5. A peace officer may impound or quarantine a vessel if:

(a) An inspection conducted pursuant to this section indicates the presence of an aquatic invasive species or aquatic plant material on the vessel or conveyance; or

(b) The owner, operator or person in control of the vessel or conveyance refuses to:

(1) Submit to an inspection authorized pursuant to this section; or

(2) Comply with an order issued pursuant to this section to decontaminate his or her vessel or conveyance.

6. As used in this section, "impaired body of water" means any body of water in this State or any other state which the Commission or another governmental entity has identified as containing an aquatic invasive species.

Sec. 5. 1. If a peace officer orders a vessel or conveyance to be impounded or quarantined pursuant to section 4 of this act, the vessel or conveyance may be impounded or quarantined for a reasonable period to ensure that the vessel or conveyance is inspected and decontaminated and that any aquatic invasive species or aquatic plant material is completely removed.

2. The owner of a vessel or conveyance which is impounded or quarantined is responsible for all costs associated with the impoundment or quarantine.

3. The Department may suspend the certificate of number or validation decal of an impounded or quarantined vessel until:

(a) The operator or owner of the vessel has completed the decontamination of the vessel; and

(b) The Department has inspected the vessel and determined that it is in compliance with section 4 of this act.

Sec. 6. 1. A person shall not operate a vessel on the waters of this State unless the person has:

(a) Paid to the Department the aquatic invasive species fee established pursuant to subsection 4; and

(b) Attached the aquatic invasive species decal issued pursuant to subsection 2 to the port side transom of the vessel so that the decal is distinctly visible.

2. The Department shall issue to a person who pays the fee established pursuant to subsection 4 an aquatic invasive species decal as evidence of the payment of the aquatic invasive species fee.

3. Aquatic invasive species decals expire at the end of each calendar year. Only the decal for the current year may be displayed on a vessel.

4. The Commission shall establish by regulation an aquatic invasive species fee, which :

(a) For a motorboat which is owned or operated by a person who is a resident of this State, must not exceed \$10 ~~+~~;

(b) For a vessel, other than a motorboat, which is owned or operated by a person who is a resident of this State, must not exceed \$5;

(c) For a motorboat which is owned or operated by a nonresident of this State, must be \$20; and

(d) For a vessel, other than a motorboat, which is owned or operated by a nonresident of this State, must be \$10.

5. The aquatic invasive species fee established pursuant to subsection 4 must be paid annually for the issuance of an aquatic invasive species decal. The fee must be deposited in the Wildlife Account in the State General Fund and used by the Department for enforcement of this section, NRS 503.597 and sections 4 and 5 of this act and for education about and management of aquatic invasive species.

Sec. 7. NRS 488.035 is hereby amended to read as follows:

488.035 As used in this chapter, unless the context otherwise requires:

1. “Aquatic invasive species” means an aquatic species which is exotic or not native to this State and which the Commission has determined to be detrimental to aquatic life, water resources or infrastructure for providing water in this State.

2. “Aquatic plant material” means aquatic plants or parts of plants that are dependent on an aquatic environment to survive.

3. “Commission” means the Board of Wildlife Commissioners.

~~{2}~~ 4. “Conveyance” means a motor vehicle, trailer or any other equipment used to transport a vessel or containers or devices used to haul water on a vessel that may contain or carry an aquatic invasive species or aquatic plant material.

5. “Decontaminate” means eliminate any aquatic invasive species on a vessel or conveyance in a manner specified by the Commission which may include, without limitation, washing the vessel or conveyance, draining the water in the vessel or conveyance, drying the vessel or conveyance or chemically, thermally or otherwise treating the vessel or conveyance.

6. “Department” means the Department of Wildlife.

~~{3-}~~ 7. “Flat wake” means the condition of the water close astern a moving vessel that results in a flat wave disturbance.

~~{4-}~~ 8. “Interstate waters of this State” means waters forming the boundary between the State of Nevada and an adjoining state.

~~{5-}~~ 9. “Legal owner” means a secured party under a security agreement relating to a vessel or a renter or lessor of a vessel to the State or any political subdivision of the State under a lease or an agreement to lease and sell or to rent and purchase which grants possession of the vessel to the lessee for a period of 30 consecutive days or more.

~~{6-}~~ 10. “Motorboat” means any vessel propelled by machinery, whether or not the machinery is the principal source of propulsion.

~~{7-}~~ 11. “Operate” means to navigate or otherwise use a motorboat or a vessel.

~~{8-}~~ 12. “Owner” means:

(a) A person having all the incidents of ownership, including the legal title of a vessel, whether or not he or she lends, rents or pledges the vessel; and

(b) A debtor under a security agreement relating to a vessel.

↪ “Owner” does not include a person defined as a “legal owner” under subsection ~~{5-}~~ 9.

~~{9-}~~ 13. “Prohibited substance” has the meaning ascribed to it in NRS 484C.080.

~~{10-}~~ 14. “Registered owner” means the person registered by the Commission as the owner of a vessel.

~~{11-}~~ 15. A vessel is “under way” if it is adrift, making way or being propelled, and is not aground, made fast to the shore, or tied or made fast to a dock or mooring.

~~{12-}~~ 16. “Vessel” means every description of watercraft, other than a seaplane on the water, used or capable of being used as a means of transportation on water.

~~{13-}~~ 17. “Waters of this State” means any waters within the territorial limits of this State.

Sec. 8. NRS 488.075 is hereby amended to read as follows:

488.075 1. The owner of each motorboat requiring numbering by this State shall file an application for a number and for a certificate of ownership with the Department on forms approved by it accompanied by:

(a) Proof of payment of Nevada sales or use tax as evidenced by proof of sale by a Nevada dealer or by a certificate of use tax paid issued by the Department of Taxation, or by proof of exemption from those taxes as provided in NRS 372.320.

(b) Such evidence of ownership as the Department may require.

↪ The Department shall not issue a number, a certificate of number or a certificate of ownership until this evidence is presented to it.

2. The application must be signed by the owner of the motorboat and must be accompanied by a fee of \$20 for the certificate of ownership and a fee according to the following schedule as determined by the straight line length which is measured from the tip of the bow to the back of the transom of the motorboat:

Less than 13 feet	\$20
13 feet or more but less than 18 feet	25
18 feet or more but less than 22 feet	40
22 feet or more but less than 26 feet	55
26 feet or more but less than 31 feet	75
31 feet or more	100

Except as otherwise provided in this subsection, all fees received by the Department under the provisions of this chapter must be deposited in the Wildlife Account in the State General Fund and , *except as otherwise provided in section 6 of this act*, may be expended only for the administration and enforcement of the provisions of this chapter. On or before December 31 of each year, the Department shall deposit with the respective county school districts 50 percent of each fee collected according to the motorboat’s length for every motorboat registered from their respective counties. Upon receipt of the application in approved form, the Department shall enter the application upon the records of its office and issue to the applicant a certificate of number stating the number awarded to the motorboat, a certificate of ownership stating the same information and the name and address of the registered owner and the legal owner.

3. A certificate of number may be renewed each year by the purchase of a validation decal. The fee for a validation decal is determined by the straight line length of the motorboat and is equivalent to the fee set forth in the schedule provided in subsection 2. The amount of the fee for issuing a duplicate validation decal is \$20.

4. The owner shall paint on or attach to each side of the bow of the motorboat the identification number in such manner as may be prescribed by regulations of the Commission in order that the number may be clearly visible. The number must be maintained in legible condition.

5. The certificate of number must be available at all times for inspection on the motorboat for which issued, whenever the motorboat is in operation.

6. The Commission shall provide by regulation for the issuance of numbers to manufacturers and dealers which may be used interchangeably upon motorboats operated by the manufacturers and dealers in connection with the demonstration, sale or exchange of those motorboats. The amount of the fee for each such a number is \$20.

Sec. 9. 1. This section becomes effective upon passage and approval.

2. Sections 1 and 2 of this act become effective on July 1, 2011.

3. Sections 3 to 8, inclusive, of this act become effective:

(a) Upon passage and approval for the purpose of adopting regulations and performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act; and

(b) On January 1, 2012 for all other purposes.

Assemblywoman Smith moved that the Assembly concur in the Senate amendment to Assembly Bill No. 167.

Remarks by Assemblywoman Smith.

Motion carried by a constitutional majority.

Bill ordered enrolled.

REPORTS OF CONFERENCE COMMITTEES

Mr. Speaker:

The Conference Committee concerning Assembly Bill No. 136, consisting of the undersigned members, has met and reports that:

It has agreed to recommend that Amendment No. 693 of the Senate be concurred in.

It has agreed to recommend that the bill be further amended as set forth in Conference Amendment No. 5, which is attached to and hereby made a part of this report.

WILLIAM HORNE
JASON FRIERSON
SCOTT HAMMOND

Assembly Conference Committee

VALERIE WIENER
SHIRLEY BREEDEN
MIKE MCGINNESS

Senate Conference Committee

Conference Amendment No. CA5.

SUMMARY—Revises provisions governing ~~credits for offenders sentenced for certain crimes.~~ **criminal laws.** (BDR 16-634)

AN ACT relating to ~~offenders;~~ **criminal laws;** revising provisions governing credits for offenders sentenced for certain crimes; **revising provisions governing the sealing and removal of certain records;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides that certain credits to the sentence of an offender convicted of certain category C, D or E felonies must be deducted from the minimum term imposed by the sentence until the offender becomes eligible for parole and from the maximum term imposed by the sentence, except in certain circumstances. (NRS 209.4465) ~~[This]~~ **Section 1 of this** bill adds to the exceptions that an offender who has been convicted of being a habitual criminal or a habitual felon may not have credits applied to both the minimum and maximum term imposed by the sentence. ~~[This bill]~~ **Section 1** further provides that an offender convicted of a category B felony also qualifies to have certain credits deducted from the minimum term imposed

by the sentence until the offender becomes eligible for parole and from the maximum term imposed by the sentence, except in certain circumstances.

Existing law authorizes a person arrested for alleged criminal conduct to petition for the sealing of all records relating to the arrest if the charges were dismissed or the person was acquitted of the charges. (NRS 179.255) Section 1.3 of this bill authorizes such a person to petition for the sealing of all records relating to an arrest if the prosecuting attorney declines to prosecute the charges.

Existing law also provides that a person arrested, or issued a citation or a warrant, for alleged criminal conduct may apply to the Central Repository for Nevada Records of Criminal History to remove the record of criminal history if the charge was dismissed, acquittal was entered or the disposition of the charge was favorable to the accused. (NRS 179A.160) Section 1.7 of this bill authorizes such a person to apply to have the record of criminal history removed if the prosecuting attorney declined to prosecute the charges.

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

Section 1. NRS 209.4465 is hereby amended to read as follows:

209.4465 1. An offender who is sentenced to prison for a crime committed on or after July 17, 1997, who has no serious infraction of the regulations of the Department, the terms and conditions of his or her residential confinement or the laws of the State recorded against the offender, and who performs in a faithful, orderly and peaceable manner the duties assigned to the offender, must be allowed:

(a) For the period the offender is actually incarcerated pursuant to his or her sentence;

(b) For the period the offender is in residential confinement; and

(c) For the period the offender is in the custody of the Division of Parole and Probation of the Department of Public Safety pursuant to NRS 209.4886 or 209.4888,

↪ a deduction of 20 days from his or her sentence for each month the offender serves.

2. In addition to the credits allowed pursuant to subsection 1, the Director may allow not more than 10 days of credit each month for an offender whose diligence in labor and study merits such credits. In addition to the credits allowed pursuant to this subsection, an offender is entitled to the following credits for educational achievement:

(a) For earning a general educational development certificate, 60 days.

(b) For earning a high school diploma, 90 days.

(c) For earning his or her first associate degree, 120 days.

3. The Director may, in his or her discretion, authorize an offender to receive a maximum of 90 days of credit for each additional degree of higher education earned by the offender.

4. The Director may allow not more than 10 days of credit each month for an offender who participates in a diligent and responsible manner in a center for the purpose of making restitution, program for reentry of offenders and parolees into the community, conservation camp, program of work release or another program conducted outside of the prison. An offender who earns credit pursuant to this subsection is eligible to earn the entire 30 days of credit each month that is allowed pursuant to subsections 1 and 2.

5. The Director may allow not more than 90 days of credit each year for an offender who engages in exceptional meritorious service.

6. The Board shall adopt regulations governing the award, forfeiture and restoration of credits pursuant to this section.

7. Except as otherwise provided in subsection 8, credits earned pursuant to this section:

(a) Must be deducted from the maximum term imposed by the sentence; and

(b) Apply to eligibility for parole unless the offender was sentenced pursuant to a statute which specifies a minimum sentence that must be served before a person becomes eligible for parole.

8. Credits earned pursuant to this section by an offender who has not been convicted of:

(a) Any crime that is punishable as a felony involving the use or threatened use of force or violence against the victim;

(b) A sexual offense that is punishable as a felony;

(c) A violation of NRS 484C.110, 484C.120, 484C.130 or 484C.430 that is punishable as a felony; ~~or~~

(d) ***Being a habitual criminal pursuant to NRS 207.010, a habitual felon pursuant to NRS 207.012 or a habitually fraudulent felon pursuant to NRS 207.014; or***

(e) ~~[A]~~ ***Except as otherwise provided in subsection 9, a category A or B felony,***

↪ apply to eligibility for parole and must be deducted from the minimum term imposed by the sentence until the offender becomes eligible for parole and must be deducted from the maximum term imposed by the sentence.

9. Credits earned by an offender who has been convicted of a category B felony apply to eligibility for parole, must be deducted from the minimum term imposed by the sentence until the offender becomes eligible for parole and must be deducted from the maximum term imposed by the sentence if the offender:

(a) *Has not been convicted of an offense listed in paragraphs (a) to (d), inclusive, of subsection 8;*

(b) *Has not served three or more separate terms of imprisonment for three separate felony convictions in this State;*

(c) *Has not served five or more separate terms of imprisonment for five separate felony convictions, regardless of the jurisdiction in which the offender was convicted;*

(d) *Is not serving a sentence for which an additional penalty was imposed for the use of a firearm pursuant to NRS 193.165; and*

~~((d))~~ (e) *Is not serving a sentence for violating the provisions of NRS 202.360.*

Sec. 1.3. NRS 179.255 is hereby amended to read as follows:

179.255 1. If a person has been arrested for alleged criminal conduct and the charges are dismissed, the prosecuting attorney having jurisdiction declined prosecution of the charges or such person is acquitted of the charges, the person may petition:

(a) The court in which the charges were dismissed, at any time after the date the charges were dismissed; ~~for~~

(b) The court having jurisdiction in which the charges were declined for prosecution, at any time after 180 days after the date of the declination; or

(c) The court in which the acquittal was entered, at any time after the date of the acquittal,

↪ for the sealing of all records relating to the arrest and the proceedings leading to the dismissal, declination or acquittal.

2. If the conviction of a person is set aside pursuant to NRS 458A.240, the person may petition the court that set aside the conviction, at any time after the conviction has been set aside, for the sealing of all records relating to the setting aside of the conviction.

3. A petition filed pursuant to subsection 1 or 2 must:

(a) Be accompanied by a current, verified record of the criminal history of the petitioner received from the local law enforcement agency of the city or county in which the petitioner appeared in court;

(b) Include a list of any other public or private agency, company, official and other custodian of records that is reasonably known to the petitioner to have possession of records of the arrest and of the proceedings leading to the dismissal, declination or acquittal and to whom the order to seal records, if issued, will be directed; and

(c) Include information that, to the best knowledge and belief of the petitioner, accurately and completely identifies the records to be sealed.

4. Upon receiving a petition pursuant to subsection 1, the court shall notify the law enforcement agency that arrested the petitioner for the crime and:

(a) If the charges were dismissed , *declined for prosecution* or the acquittal was entered in a district court or justice court, the prosecuting attorney for the county; or

(b) If the charges were dismissed , *declined for prosecution* or the acquittal was entered in a municipal court, the prosecuting attorney for the city.

↪ The prosecuting attorney and any person having relevant evidence may testify and present evidence at the hearing on the petition.

5. Upon receiving a petition pursuant to subsection 2, the court shall notify:

(a) If the conviction was set aside in a district court or justice court, the prosecuting attorney for the county; or

(b) If the conviction was set aside in a municipal court, the prosecuting attorney for the city.

↪ The prosecuting attorney and any person having relevant evidence may testify and present evidence at the hearing on the petition.

6. If, after the hearing on a petition submitted pursuant to subsection 1, the court finds that there has been an acquittal , *that the prosecution was declined* or that the charges were dismissed and there is no evidence that further action will be brought against the person, the court may order sealed all records of the arrest and of the proceedings leading to the acquittal , *declination* or dismissal which are in the custody of the court, of another court in the State of Nevada or of a public or private company, agency or official in the State of Nevada.

7. If, after the hearing on a petition submitted pursuant to subsection 2, the court finds that the conviction of the petitioner was set aside pursuant to NRS 458A.240, the court may order sealed all records relating to the setting aside of the conviction which are in the custody of the court, of another court in the State of Nevada or of a public or private company, agency or official in the State of Nevada.

8. If the prosecuting attorney having jurisdiction previously declined prosecution of the charges and the records of the arrest have been sealed, the prosecuting attorney may subsequently file the charges at any time before the running of the statute of limitations for those charges. If such charges are filed with the court, the court shall order the inspection of the records without the prosecuting attorney having to petition the court pursuant to NRS 179.295.

Sec. 1.5. NRS 179.295 is hereby amended to read as follows:

179.295 1. The person who is the subject of the records that are sealed pursuant to NRS 176A.265, 176A.295, 179.245, 179.255, 179.259, 453.3365 or 458.330 may petition the court that ordered the records sealed to permit inspection of the records by a person named in the petition, and the court

may order such inspection. Except as otherwise provided in this section, subsection 8 of NRS 179.255 and NRS 179.259 and 179.301, the court may not order the inspection of the records under any other circumstances.

2. If a person has been arrested, the charges have been dismissed and the records of the arrest have been sealed, the court may order the inspection of the records by a prosecuting attorney upon a showing that as a result of newly discovered evidence, the person has been arrested for the same or a similar offense and that there is sufficient evidence reasonably to conclude that the person will stand trial for the offense.

3. The court may, upon the application of a prosecuting attorney or an attorney representing a defendant in a criminal action, order an inspection of such records for the purpose of obtaining information relating to persons who were involved in the incident recorded.

4. This section does not prohibit a court from considering a conviction for which records have been sealed pursuant to NRS 176A.265, 176A.295, 179.245, 179.255, 179.259, 453.3365 or 458.330 in determining whether to grant a petition pursuant to NRS 176A.265, 176A.295, 179.245, 179.255, 179.259, 453.3365 or 458.330 for a conviction of another offense.

Sec. 1.7. NRS 179A.160 is hereby amended to read as follows:

179A.160 1. If a person has been arrested or issued a citation, or has been the subject of a warrant for alleged criminal conduct and the person is acquitted of the charge or the disposition of the charge is favorable to the person, at any time after the charge is dismissed, acquittal is entered or disposition of the charge in favor of the person is final, the person who is the subject of a record of criminal history relating to the arrest, citation or warrant may apply in writing to the Central Repository and the agency which maintains the record to have it removed from the files which are available and generally searched for the purpose of responding to inquiries concerning the criminal history of a person.

2. *If a person has been arrested or issued a citation, or has been the subject of a warrant for alleged criminal conduct and the prosecuting attorney having jurisdiction declined prosecution, at any time after 180 days after the declination, the person who is the subject of a record of criminal history relating to the arrest, citation or warrant may apply in writing to the Central Repository and the agency which maintains the record to have it removed from the files which are available and generally searched for the purpose of responding to inquiries concerning the criminal history of a person.*

3. The Central Repository and the agency shall remove the record unless:

- (a) The defendant is a fugitive;
- (b) The case is under active prosecution according to a current certificate of a prosecuting attorney;

(c) The disposition of the case was a deferred prosecution, plea bargain or other similar disposition;

(d) The person who is the subject of the record has a prior conviction for a felony or gross misdemeanor in any jurisdiction in the United States; or

(e) The person who is the subject of the record has been arrested for or charged with another crime, other than a minor traffic violation, since the arrest, citation or warrant which the person seeks to have removed from the record.

~~§ 4.~~ **4.** This section does not restrict the authority of a court to order the deletion or modification of a record in a particular cause or concerning a particular person or event.

Sec. 2. For the purpose of calculating the credits earned by an offender pursuant to NRS 209.4465, the amendatory provisions of section 1 of this act must be applied:

1. Retroactively to January 1, 2005, to reduce the minimum term of imprisonment of an offender described in subsections 8 and 9 of NRS 209.4465, as amended by section 1 of this act, who was placed in the custody of the Department of Corrections before January 1, 2012, and who remains in such custody on January 1, 2012.

2. Retroactively to January 1, 2011, to reduce the maximum term of imprisonment of an offender who was placed on parole before January 1, 2012.

3. In the manner set forth in NRS 209.4465 for all offenders in the custody of the Department of Corrections commencing on January 1, 2012, and for all offenders who are on parole commencing on January 1, 2012.

Sec. 3. This act becomes effective on January 1, 2012.

Assemblyman Horne moved that the Assembly adopt the report of the Conference Committee concerning Assembly Bill No. 136.

Motion carried by a constitutional majority.

Mr. Speaker:

The Conference Committee concerning Assembly Bill No. 282, consisting of the undersigned members, has met and reports that:

It has agreed to recommend that Amendment No. 780 of the Senate be concurred in.

It has agreed to recommend that the bill be further amended as set forth in Conference Amendment No. 4, which is attached to and hereby made a part of this report.

JOHN OCEGUERA
WILLIAM HORNE
PETE GOICOECHEA

Assembly Conference Committee

RUBEN KIHUEN
MIKE MCGINNESS
ALLISON COPENING

Senate Conference Committee

Conference Amendment No. CA4.

AN ACT relating to firearms; revising provisions concerning permits to carry concealed semiautomatic firearms; revising provisions governing the

renewal of a permit to carry a concealed firearm; revising provisions concerning the confidentiality of information relating to permits to carry concealed firearms; revising provisions governing the possession of firearms in state parks; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, a person who wishes to carry a concealed firearm must obtain a permit to carry the firearm. (NRS 202.3657) As part of the application process to obtain a permit, an applicant must undergo an investigation by a sheriff to determine if the applicant is eligible for a permit. Such an investigation must include a report from the Federal Bureau of Investigation. (NRS 202.366) **Section 2** of this bill additionally requires an applicant for the renewal of a permit to undergo an investigation by the sheriff. **Section 2** also specifies that an investigation conducted by the sheriff for an initial application or a renewal application must include a report from the National Instant Criminal Background Check System.

Existing law also provides that a qualified applicant for a permit to carry a concealed firearm may obtain a permit for revolvers, for one or more specific semiautomatic firearms, or for revolvers and one or more specific semiautomatic firearms. (NRS 202.3657) If the application for a permit involves semiautomatic firearms, the applicant must state the make, model and caliber of each semiautomatic firearm for which the applicant is seeking to obtain a permit. (NRS 202.366) Additionally, to receive and renew a permit involving semiautomatic firearms, an applicant or permittee must demonstrate competence with each semiautomatic firearm to which the application pertains. (NRS 202.3657, 202.3677) **Section 1** of this bill provides that: (1) a qualified applicant for a permit to carry a concealed firearm may obtain one permit for all semiautomatic firearms that the applicant seeks to carry instead of being required to obtain a permit for each specific semiautomatic firearm; and (2) an applicant or permittee may demonstrate competence with semiautomatic firearms in general rather than with each specific semiautomatic firearm.

Existing law further provides that information in an application for a permit to carry a concealed firearm and all information relating to the investigation of an applicant for such a permit is confidential. (NRS 202.3662) However, the Nevada Supreme Court recently held in *Reno Newspapers, Inc. v. Haley*, 126 Nev. Adv. Op. 23, 234 P.3d 922 (2010), that the identity of a holder of a permit to carry a concealed firearm and any postpermit records of investigation, suspension or revocation are not confidential and are therefore public records. **Section 3** of this bill provides that the identity and any information acquired during the investigation of a holder of a permit to carry a concealed firearm are confidential, as are any records regarding the suspension, restoration or revocation of such a permit.

Existing law also allows the Administrator of the Division of State Parks of the State Department of Conservation and Natural Resources to adopt regulations, including, without limitation, prohibitions and restrictions on activities within parks or recreational facilities within the jurisdiction of the Division. (NRS 407.0475) Existing administrative regulations allow a person to carry a concealed firearm in a state park if the person complies with existing laws concerning the carrying of concealed weapons but prohibit a person from discharging a firearm in a state park. (NAC 407.105) Any person who violates a regulation adopted by the Administrator is guilty of a misdemeanor. (NRS 407.0475) While existing law prohibits the discharge of a firearm under various circumstances, it also provides certain defenses for violating such provisions by allowing a person to make sufficient resistance to prevent the occurrence of certain offenses. (NRS 202.280-202.290, 193.230-193.250)

Section 5 of this bill prohibits the Administrator from adopting any regulation concerning the possession of firearms in state parks or recreational facilities which is more restrictive than the laws of this State relating to: (1) the possession of firearms; and (2) engaging in lawful resistance to prevent an offense against a person or property. **Section 5** also voids any regulation which conflicts with such laws.

Existing law requires an applicant for the issuance or renewal of a permit to carry a concealed firearm to pay: (1) a nonrefundable fee in a specific amount; and (2) a nonrefundable fee in the amount necessary to obtain certain reports concerning the criminal history of the applicant. (NRS 202.3657, 202.3677) Sections 1 and 4 of this bill provide that the fee to obtain the reports concerning the applicant's criminal history must be equal to the rate charged by the Central Repository for Nevada Records of Criminal History and the Federal Bureau of Investigation to obtain such reports for a person who is not a volunteer.

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

Section 1. NRS 202.3657 is hereby amended to read as follows:

202.3657 1. Any person who is a resident of this State may apply to the sheriff of the county in which he or she resides for a permit on a form prescribed by regulation of the Department. Any person who is not a resident of this State may apply to the sheriff of any county in this State for a permit on a form prescribed by regulation of the Department. Application forms for permits must be furnished by the sheriff of each county upon request.

2. Except as otherwise provided in this section, the sheriff shall issue a permit for revolvers, ~~one or more specific~~ **for** semiautomatic firearms, or for revolvers and ~~one or more specific~~ semiautomatic firearms, as

applicable, to any person who is qualified to possess the firearm or firearms to which the application pertains under state and federal law, who submits an application in accordance with the provisions of this section and who:

(a) Is 21 years of age or older;

(b) Is not prohibited from possessing a firearm pursuant to NRS 202.360; and

(c) Demonstrates competence with revolvers, ~~each specific~~ semiautomatic ~~firearm to which the application pertains,~~ **firearms**, or revolvers and ~~each such~~ semiautomatic ~~firearm,~~ **firearms**, as applicable, by presenting a certificate or other documentation to the sheriff which shows that the applicant:

(1) Successfully completed a course in firearm safety approved by a sheriff in this State; or

(2) Successfully completed a course in firearm safety offered by a federal, state or local law enforcement agency, community college, university or national organization that certifies instructors in firearm safety.

↪ Such a course must include instruction in the use of revolvers, ~~each~~ semiautomatic ~~firearm to which the application pertains,~~ **firearms**, or revolvers and ~~each such~~ semiautomatic ~~firearm,~~ **firearms** and in the laws of this State relating to the use of a firearm. A sheriff may not approve a course in firearm safety pursuant to subparagraph (1) unless the sheriff determines that the course meets any standards that are established by the Nevada Sheriffs' and Chiefs' Association or, if the Nevada Sheriffs' and Chiefs' Association ceases to exist, its legal successor.

3. The sheriff shall deny an application or revoke a permit if the sheriff determines that the applicant or permittee:

(a) Has an outstanding warrant for his or her arrest.

(b) Has been judicially declared incompetent or insane.

(c) Has been voluntarily or involuntarily admitted to a mental health facility during the immediately preceding 5 years.

(d) Has habitually used intoxicating liquor or a controlled substance to the extent that his or her normal faculties are impaired. For the purposes of this paragraph, it is presumed that a person has so used intoxicating liquor or a controlled substance if, during the immediately preceding 5 years, the person has been:

(1) Convicted of violating the provisions of NRS 484C.110; or

(2) Committed for treatment pursuant to NRS 458.290 to 458.350, inclusive.

(e) Has been convicted of a crime involving the use or threatened use of force or violence punishable as a misdemeanor under the laws of this or any other state, or a territory or possession of the United States at any time during the immediately preceding 3 years.

(f) Has been convicted of a felony in this State or under the laws of any state, territory or possession of the United States.

(g) Has been convicted of a crime involving domestic violence or stalking, or is currently subject to a restraining order, injunction or other order for protection against domestic violence.

(h) Is currently on parole or probation from a conviction obtained in this State or in any other state or territory or possession of the United States.

(i) Has, within the immediately preceding 5 years, been subject to any requirements imposed by a court of this State or of any other state or territory or possession of the United States, as a condition to the court's:

(1) Withholding of the entry of judgment for a conviction of a felony; or

(2) Suspension of sentence for the conviction of a felony.

(j) Has made a false statement on any application for a permit or for the renewal of a permit.

4. The sheriff may deny an application or revoke a permit if the sheriff receives a sworn affidavit stating articulable facts based upon personal knowledge from any natural person who is 18 years of age or older that the applicant or permittee has or may have committed an offense or engaged in any other activity specified in subsection 3 which would preclude the issuance of a permit to the applicant or require the revocation of a permit pursuant to this section.

5. If the sheriff receives notification submitted by a court or law enforcement agency of this or any other state, the United States or a territory or possession of the United States that a permittee or an applicant for a permit has been charged with a crime involving the use or threatened use of force or violence, the conviction for which would require the revocation of a permit or preclude the issuance of a permit to the applicant pursuant to this section, the sheriff shall suspend the person's permit or the processing of the person's application until the final disposition of the charges against the person. If a permittee is acquitted of the charges, or if the charges are dropped, the sheriff shall restore his or her permit without imposing a fee.

6. An application submitted pursuant to this section must be completed and signed under oath by the applicant. The applicant's signature must be witnessed by an employee of the sheriff or notarized by a notary public. The application must include:

(a) The name, address, place and date of birth, social security number, occupation and employer of the applicant and any other names used by the applicant;

(b) A complete set of the applicant's fingerprints taken by the sheriff or his or her agent;

(c) A front-view colored photograph of the applicant taken by the sheriff or his or her agent;

(d) If the applicant is a resident of this State, the driver's license number or identification card number of the applicant issued by the Department of Motor Vehicles;

(e) If the applicant is not a resident of this State, the driver's license number or identification card number of the applicant issued by another state or jurisdiction;

(f) ~~The make, model and caliber of each semiautomatic firearm to which the application pertains, if any;~~

~~(g)~~ **Whether the application pertains to semiautomatic firearms;**

(g) Whether the application pertains to revolvers;

(h) A nonrefundable fee ~~in the amount necessary~~ **equal to the nonvolunteer rate charged by the Central Repository for Nevada Records of Criminal History and the Federal Bureau of Investigation** to obtain the ~~report~~ **reports** required pursuant to subsection 1 of NRS 202.366; and

(i) A nonrefundable fee set by the sheriff not to exceed \$60.

Sec. 2. NRS 202.366 is hereby amended to read as follows:

202.366 1. Upon receipt by a sheriff of an application for a permit, **including an application for the renewal of a permit pursuant to NRS 202.3677**, the sheriff shall conduct an investigation of the applicant to determine if the applicant is eligible for a permit. In conducting the investigation, the sheriff shall forward a complete set of the applicant's fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report concerning the criminal history of the applicant. **The investigation also must include a report from the National Instant Criminal Background Check System.** The sheriff shall issue a permit to the applicant unless the applicant is not qualified to possess a handgun pursuant to state or federal law or is not otherwise qualified to obtain a permit pursuant to NRS 202.3653 to 202.369, inclusive, or the regulations adopted pursuant thereto.

2. To assist the sheriff in conducting the investigation, any local law enforcement agency, including the sheriff of any county, may voluntarily submit to the sheriff a report or other information concerning the criminal history of an applicant.

3. Within 120 days after a complete application for a permit is submitted, the sheriff to whom the application is submitted shall grant or deny the application. If the application is denied, the sheriff shall send the applicant written notification setting forth the reasons for the denial. If the application is granted, the sheriff shall provide the applicant with a permit containing a colored photograph of the applicant and containing such other information as may be prescribed by the Department. The permit must be in substantially the following form:

NEVADA CONCEALED FIREARM PERMIT

County.....Permit Number.....
 Expires..... Date of Birth.....
 Height..... Weight.....
 Name..... Address.....
 City..... Zip.....

Photograph

Signature.....

Issued by.....

Date of Issue.....

~~Make, model and caliber of each authorized semiautomatic firearm, if any..... }~~

Semiautomatic firearms authorized..... Yes..... No

Revolvers authorized..... Yes..... No

4. Unless suspended or revoked by the sheriff who issued the permit, a permit expires 5 years after the date on which it is issued.

5. *As used in this section, "National Instant Criminal Background Check System" means the national system created by the federal Brady Handgun Violence Prevention Act, Public Law 103-159.*

Sec. 3. NRS 202.3662 is hereby amended to read as follows:

202.3662 1. Except as otherwise provided in this section and NRS 202.3665 and 239.0115:

(a) An application for a permit, and all information contained within that application; ~~and~~

(b) All information provided to a sheriff or obtained by a sheriff in the course of the investigation of an applicant ~~and~~ *or permittee;*

(c) The identity of the permittee; and

(d) Any records regarding the suspension, restoration or revocation of a permit,

~~are confidential.~~

2. Any records regarding an applicant or permittee may be released to a law enforcement agency for the purpose of conducting an investigation or prosecution.

3. Statistical abstracts of data compiled by a sheriff regarding permits applied for or issued pursuant to NRS 202.3653 to 202.369, inclusive, including, but not limited to, the number of applications received and permits issued, may be released to any person.

Sec. 4. NRS 202.3677 is hereby amended to read as follows:

202.3677 1. If a permittee wishes to renew his or her permit, the permittee must ~~complete~~ :

(a) *Complete* and submit to the sheriff who issued the permit an application for renewal of the permit ~~[]~~; *and*

(b) *Undergo an investigation by the sheriff pursuant to NRS 202.366 to determine if the permittee is eligible for a permit.*

2. An application for the renewal of a permit must:

(a) Be completed and signed under oath by the applicant;

(b) Contain a statement that the applicant is eligible to receive a permit pursuant to NRS 202.3657; ~~and~~

(c) *Be accompanied by a nonrefundable fee equal to the nonvolunteer rate charged by the Central Repository for Nevada Records of Criminal History and the Federal Bureau of Investigation to obtain the reports required pursuant to subsection 1 of NRS 202.366; and*

(d) Be accompanied by a nonrefundable fee of \$25.

↪ If a permittee fails to renew his or her permit on or before the date of expiration of the permit, the application for renewal must include an additional nonrefundable late fee of \$15.

3. No permit may be renewed pursuant to this section unless the permittee has demonstrated continued competence with revolvers, with ~~[each]~~ semiautomatic ~~[firearm to which the application pertains,]~~ *firearms*, or with revolvers and ~~[each—such]~~ semiautomatic ~~[firearm,]~~ *firearms*, as applicable, by successfully completing a course prescribed by the sheriff renewing the permit.

Sec. 5. NRS 407.0475 is hereby amended to read as follows:

407.0475 1. The Administrator shall adopt such regulations as he or she finds necessary for carrying out the provisions of this chapter and other provisions of law governing the operation of the Division. ~~[The]~~ *Except as otherwise provided in subsection 2, the* regulations may include prohibitions and restrictions relating to activities within any of the park or recreational facilities within the jurisdiction of the Division.

2. Any regulations relating to the conduct of persons within the park or recreational facilities must:

(a) Be directed toward one or both of the following:

(1) Prevention of damage to or misuse of the facility.

(2) Promotion of the inspiration, use and enjoyment of the people of this State through the preservation and use of the facility.

(b) Apply separately to each park, monument or recreational area and be designed to fit the conditions existing at that park, monument or recreational area.

(c) *Not establish restrictions on the possession of firearms within the park or recreational facility which are more restrictive than the laws of this State relating to:*

(1) *The possession of firearms; or*

(2) *Engaging in lawful resistance to prevent an offense against a person or property.*

↳ *Any regulation which violates the provisions of this paragraph is void.*

3. Any person whose conduct violates any regulation adopted pursuant to subsection 1, and who refuses to comply with the regulation upon request by any ranger or employee of the Division who has the powers of a peace officer pursuant to NRS 289.260, is guilty of a misdemeanor.

~~Sec. 5.5. The provisions of NRS 354.599 do not apply to any additional expenses of a local government that are related to the provisions of this act.~~
(Deleted by amendment.)

Sec. 6. This act becomes effective on July 1, 2011.

Assemblyman Horne moved that the Assembly adopt the report of the Conference Committee concerning Assembly Bill No. 282.

Motion carried by a constitutional majority.

Mr. Speaker announced if there were no objections, the Assembly would recess subject to the call of the Chair.

Assembly in recess at 11:33 p.m.

ASSEMBLY IN SESSION

At 11:36 p.m.

Mr. Speaker presiding.

Quorum present.

RECEDE FROM ASSEMBLY AMENDMENTS

Assemblyman Horne moved that the Assembly recede from its action on Senate Bill No. 348.

Remarks by Assemblyman Horne.

Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 219.

Bill read third time.

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

Amendment No. 866.

SUMMARY—~~Provides that unredeemed~~ Revises provisions governing the expiration of slot machine wagering vouchers ; [escheat to the State.]
(BDR 10-811)

AN ACT relating to ~~[unclaimed property;]~~ **gaming; [providing that unredeemed] revising the provisions governing the expiration of** slot machine wagering vouchers **;** ~~[escheat to the State;]~~ requiring the Nevada

Gaming Commission to adopt regulations relating to ~~unredeemed~~ **expired** slot machine wagering vouchers; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

~~Existing law prescribes the process of the disposition of unclaimed personal property. (Chapter 120A of NRS) Existing law also provides that such provisions of law do not apply to unredeemed gaming chips or tokens. (NRS 120A.135) Section 1.3 of this bill specifies that with regard to unclaimed property, a gaming chip or token does not include a slot machine wagering voucher. Section 1.3 defines "slot machine wagering voucher" as a printed wagering instrument that has a fixed dollar wagering value that can only be used to acquire an equivalent value of cashable credits or cash. Section 1.7 of this bill provides that unless the Nevada Gaming Commission specifies a shorter period of time in which a slot machine wagering voucher must be redeemed, upon the expiration date printed on a slot machine wagering voucher or 30 days after the slot machine wagering voucher is issued, whichever period is less, any value remaining on an unredeemed slot machine wagering voucher is presumed to be abandoned and subject to the provisions of law regarding the disposition of unclaimed personal property. Section 1.7 also provides that all slot machine wagering vouchers that are presumed abandoned must be reported to and escheat to the State on a quarterly basis, and that the State of Nevada may retain 75 percent of the value of any such slot machine wagering voucher and the gaming establishment which issued the slot machine wagering voucher may retain 25 percent of the value of the slot machine wagering voucher.~~

~~Section 6 of this~~ **This** bill requires the **Nevada Gaming** Commission to adopt regulations that prescribe the procedures which ~~gaming~~ **nonrestricted** licensees must follow regarding the retention and tracking of slot machine wagering vouchers and the payment of the respective percentage of the value of such ~~unredeemed~~ **expired** slot machine wagering vouchers to this State and to gaming establishments.

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

Section 1. ~~[Chapter 120A of NRS is hereby amended by adding thereto the provisions set forth as sections 1.3 and 1.7 of this act.] (Deleted by amendment.)~~

Sec. 1.3. ~~["Slot machine wagering voucher" means a printed wagering instrument that has a fixed dollar wagering value that can only be used to acquire an equivalent value of cashable credits or cash. As used in this section, "wagering instrument" has the meaning ascribed to it in NRS 463.01967.] (Deleted by amendment.)~~

Sec. 1.7. ~~1. Unless the Nevada Gaming Commission specifies by regulation a shorter period of time in which a slot machine wagering voucher must be redeemed, upon the expiration date printed on a slot machine wagering voucher issued in this State or 30 days after a wager is placed, whichever period is less, any value remaining on an unredeemed slot machine wagering voucher is presumed abandoned and subject to the provisions of this chapter.~~

~~2. If a slot machine wagering voucher is issued in this State and the gaming establishment which issued the slot machine wagering voucher does not obtain and maintain in its records the name and address of the owner of the slot machine wagering voucher, the address of the owner of the slot machine wagering voucher shall be deemed to be the address of the Office of the State Treasurer in Carson City.~~

~~3. All slot machine wagering vouchers presumed abandoned under this section must be reported to and escheat to this State on a quarterly basis.~~

~~4. This State may retain 75 percent of the value of any slot machine wagering voucher presumed abandoned under this section, and the gaming establishment which issued the slot machine wagering voucher may retain 25 percent of the value of the slot machine wagering voucher. (Deleted by amendment.)~~

Sec. 2. ~~NRS 120A.020 is hereby amended to read as follows:~~

~~120A.020 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 120A.025 to 120A.120, inclusive, and section 1.3 of this act have the meanings ascribed to them in those sections. (Deleted by amendment.)~~

Sec. 3. NRS 120A.135 is hereby amended to read as follows:

120A.135 1. The provisions of this chapter do not apply to gaming chips or tokens which are not redeemed at an establishment.

2. As used in this section:

(a) "Establishment" has the meaning ascribed to it in NRS 463.0148.

(b) "Gaming chip or token" means any object which may be redeemed at an establishment for cash or any other representative of value ~~[-]~~ other than a slot machine wagering voucher ~~[-]~~ as defined in section 6 of this act.

Sec. 4. (Deleted by amendment.)

Sec. 5. (Deleted by amendment.)

Sec. 6. Chapter 463 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Whenever a nonrestricted licensee owes a patron a specific amount of money as the result of a slot machine wagering voucher which remains unpaid because of the failure of the patron to claim the value, regardless of whether the identity of the patron is known, the nonrestricted licensee shall

maintain a record of the obligation in accordance with the regulations adopted by the Commission.

2. Unless the Commission specifies by regulation a shorter period in which a slot machine wagering voucher must be redeemed, upon the expiration date printed on a slot machine wagering voucher issued in this State or 180 days after a wager is placed, whichever period is less, the obligation of the nonrestricted licensee to pay the patron any value remaining on a slot machine wagering voucher expires.

3. Each nonrestricted licensee shall, for the previous calendar quarter, report to the Commission on or before the 24th day of the month following that calendar quarter any slot machine wagering voucher that expires pursuant to this section. The licensee shall remit to the Commission with each report payment equal to 75 percent of the value of the expired slot machine wagering vouchers included on the report.

4. The Commission shall pay over all money collected pursuant to this section to the State Treasurer to be deposited for credit to the State General Fund.

5. The Commission shall adopt regulations prescribing procedures which nonrestricted licensees must follow ~~for the retention and tracking of slot machine wagering vouchers and for the payment of the respective percentage of the value of unredeemed slot machine wagering vouchers to this State and to such licensees as required by chapter 120A of NRS regarding the disposition of unclaimed property.~~ to comply with the provisions of this section.

6. As used in this section, “slot machine wagering voucher” means a printed wagering instrument, issued by a gaming establishment operating under a nonrestricted license, that has a fixed dollar wagering value which can only be used to acquire an equivalent value of cashable credits or cash.

Sec. 6.3. All provisions, procedures, rights and remedies not otherwise inconsistent with section 6 of this act, and as set forth in chapter 463 of NRS and any regulations adopted pursuant thereto, that apply to the payment, auditing or collection of fees, taxes, penalties and interest, as well as all appeal and review rights, shall apply to the payment, auditing and collection of any expired slot machine wagering voucher as defined in section 6 of this act.

Sec. 6.5. The Nevada Gaming Commission shall adopt the regulations required to be adopted pursuant to the amendatory provisions of this act on or before ~~October 1, 2011.~~ January 31, 2012.

Sec. 6.7. This act applies to any slot machine wagering voucher as defined in section 6 of this act issued on or after July 1, 2011.

Sec. 7. This act becomes effective ~~upon passage and approval.~~ on July 1, 2011.

Assemblyman Hickey moved the adoption of the amendment.

Amendment adopted.

Bill ordered to third reading.

Assembly Bill No. 405.

Bill read third time.

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

Amendment No. 955.

SUMMARY—Revises provisions governing the Public Employees' Retirement System. (BDR ~~{23-964}~~ **S-964**)

~~AN ACT relating to public employees' retirement; ~~eliminating the inclusion of call-back pay in the compensation reported for each member of the Public Employees' Retirement System whose effective date of membership in the System is on or after January 1, 2012; limiting the increases in reportable compensation each fiscal year for such a member; pledging that the Legislature will not modify retirement benefits for a certain period and will not increase subsequent benefits except in certain circumstances;~~ **setting forth a legislative declaration; directing the Interim Retirement and Benefits Committee of the Legislature to conduct a study; setting forth the requirements for the study and directing the Committee to submit a report to the Legislative Commission; making an appropriation;** and providing other matters properly relating thereto.~~

Legislative Counsel's Digest:

~~{A member's monthly retirement allowance from the Public Employees' Retirement System is based on the member's compensation while employed, subject to certain limitations. (NRS 286.025, 286.410, 286.535, 286.537, 286.551)} **Section {2} 1** of this bill ~~eliminates the inclusion of call-back pay in the compensation reported for each member whose effective date of membership in the System is on or after January 1, 2012.~~ **sets forth the Legislature's findings and declaration concerning the nature of the Public Employees' Retirement System and its mission. Section {3} 2** of this bill ~~limits the increases in reportable compensation for such a member to not more than 10 percent from one fiscal year to the next fiscal year, excluding compensation attributable to a promotion and assignment-related compensation.~~ **: (1) directs the Interim Retirement and Benefits Committee of the Legislature to conduct a study of the retirement and disability benefits for public employees in this State; (2) sets forth the analyses which must be included within the study; (3) requires the Public Employees' Retirement Board to provide staff assistance to the**~~

Committee; and (4) directs the Committee to submit a report of the results of the study to the Legislative Commission.

~~Section ~~[1]~~ 3 of this bill sets forth the pledge of the Legislature that for a 10-year period after the implementation of the modifications to the System set forth in sections 2 and 3 of this bill, the Legislature will not enact any law that has the effect of modifying any benefit payable under the System unless such a modification is necessary to maintain the fiscal integrity of the System. After that 10-year period, the Legislature pledges to not enact any law that has the effect of increasing any benefit payable under the System unless the actuarial value of the assets of the retirement fund from which the benefit will be paid is equal to or greater than 85 percent of the actuarial accrued liabilities of that retirement fund and the increase in the benefit is included in the contribution rate.] provides an appropriation of \$250,000 to pay the cost of the study required to be conducted by the Interim Retirement and Benefits Committee of the Legislature pursuant to section 2.~~

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

Delete existing sections 1 through 4 of this bill and replace with the following new sections 1 through 4:

Section 1. The Legislature hereby finds and declares:

1. It is the mission of the Public Employees' Retirement System as declared in NRS 286.015 to provide:

(a) A reasonable base income to qualified employees who have been employed by a public employer and whose earning capacity has been removed or has been substantially reduced by age or disability.

(b) An orderly method of promoting and maintaining a high level of service to the public through an equitable separation procedure, which is available to employees at retirement or upon becoming disabled.

(c) A system which will make government employment attractive to qualified employees in various categories of service and which will encourage these employees to remain in government service for such periods of time as to give the public employer full benefit of the training and experience gained by these employees while employed by public employers.

2. The Public Employees' Retirement System is a defined benefit pension plan that covers all eligible public employees in this State in lieu of coverage under the federal Social Security Act.

3. The short-term volatility in the investment markets has caused an increase in the costs to public employers and public employees for contributions to the Public Employees' Retirement System to retire the

unfunded liability of the System in compliance with the requirements prescribed by the Governmental Accounting Standards Board. Such increased costs could also result from losses in the System's holdings caused by fraud or misrepresentation in the investment markets.

4. Many different approaches to workforce incentives, including retirement and disability benefits, have evolved in the public and private sectors and warrant study to ensure that this State provides the most appropriate retirement benefits for its public workforce, as part of the overall human resources policy of this State.

5. Because of the long-term financial and policy impacts of any changes to retirement and disability benefits provided by the Public Employees' Retirement System, careful and thorough consideration of the alternatives is required.

6. Section 2 of Article 9 of the Nevada Constitution requires that any changes proposed to the retirement and disability benefits provided by the Public Employees' Retirement System be based upon actuarial assumptions recommended by the independent actuary employed by the Public Employees' Retirement Board to ensure the insulation of the retirement future of the public workforce of this State from any political pressures.

Sec. 2. 1. The Interim Retirement and Benefits Committee of the Legislature created by NRS 218E.420 shall conduct a study of the retirement and disability benefits for public employees in this State.

2. The study conducted pursuant to subsection 1 must include:

(a) An analysis of alternatives to the existing retirement plan, including, without limitation, consideration of other models of retirement plans, such as defined benefit plans, defined contribution plans, cash balance plans and hybrid retirement plans, and retirement and disability benefits under the federal Social Security Act. Such analysis must address the implications of implementing each alternative, including, without limitation:

(1) A comparison of the design, costs, portability and income security of each alternative; and

(2) The actuarial, financial, workforce and public policy impacts of each alternative on current and future public employers, current and future public employees and beneficiaries in the Public Employees' Retirement System.

(b) An analysis of the measures implemented by the Public Employees' Retirement Board to monitor losses caused by fraud or misrepresentation in the investment markets and to institute legal action to recover such losses.

3. The Public Employees' Retirement Board shall provide such assistance to the Interim Retirement and Benefits Committee of the Legislature as requested by the Committee, including, without limitation, the assistance of the independent actuary employed by the Board to make the necessary actuarial assumptions.

4. On or before October 1, 2012, the Interim Retirement and Benefits Committee of the Legislature shall submit a report of the results of the study conducted pursuant to subsection 1 to the Legislative Commission.

5. On or before December 31, 2012, the Legislative Commission shall submit the report of the results of the study and any recommendations for legislation to the 77th Session of the Nevada Legislature.

Sec. 3. 1. There is hereby appropriated from the State General Fund to the Legislative Fund the sum of \$250,000 to conduct the study required pursuant to section 2 of this act.

2. The money appropriated by subsection 1 may be used only if matching money is received in the Legislative Fund for the study from sources other than the appropriation made by subsection 1, including, without limitation, gifts, grants and donations.

3. The State Controller shall not distribute any money from the appropriation made pursuant to subsection 1 until the matching money required by subsection 2 has been committed for the study.

4. Any remaining balance of the appropriation made by subsection 1 to the Legislative Fund 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. 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. 484.

Bill read third time.

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

Amendment No. 918.

SUMMARY—Makes ~~[an appropriation to the Interim Finance Committee for allocation to the State Treasurer for interest payments due the Federal Government for the loan that was made available to the State upon depletion of Nevada's Unemployment Compensation Fund.]~~ **various changes relating to unemployment compensation.** (BDR ~~[S-1245])~~ **53-1245)**

AN ACT **relating to unemployment compensation; revising provisions relating to extended unemployment compensation;** making ~~[an appropriation]~~ **appropriations** to the Interim Finance Committee for allocation to the State Treasurer for interest payments due the Federal Government for the loan that was made available to the State upon depletion of Nevada's Unemployment Compensation Fund; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

An amendment to federal law provides an alternative method for determining eligibility for extended unemployment compensation. To qualify, certain provisions must be included in state law. (Section 502 of Pub. L. No. 111-312) Sections 1 and 2 of this bill revise provisions to correspond to the change to the federal law, allowing the Employment Security Division of the Department of Employment, Training and Rehabilitation to provide extended unemployment benefits for a longer period. Section 6 of this bill provides that the amendatory provisions of sections 1 and 2 expire upon expiration of the changes to federal law. Sections 3 and 4 of this bill make appropriations to the Interim Finance Committee for interest payments due the Federal Government for a loan made available to the State upon depletion of Nevada's Unemployment Compensation Fund. Section 5 of this bill provides that, if the Federal Government does not require interest payments in the full amount of the appropriations provided in sections 3 and 4, the Interim Finance Committee may allocate the money for a different purpose under the requirements for allocation from the Contingency Fund. (NRS 353.268, 353.269)

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

Section 1. NRS 612.377 is hereby amended to read as follows:

612.377 As used in NRS 612.377 to 612.3786, inclusive, unless the context clearly requires otherwise:

1. "Extended benefit period" means a period which begins with the third week after a week for which there is a Nevada "on" indicator and ends with the third week after the first week for which there is a Nevada "off" indicator or the 13th consecutive week after it began, except that no extended benefit period may begin by reason of a Nevada "on" indicator before the 14th week

following the end of a prior extended benefit period which was in effect for Nevada.

2. There is a “Nevada ‘on’ indicator” for a week if the Administrator determines, in accordance with the regulations of the Secretary of Labor, that:

(a) For the period consisting of that week and the immediately preceding 12 weeks, the rate of insured unemployment in Nevada (not seasonally adjusted) under NRS 612.377 to 612.3786, inclusive:

(1) Equaled or exceeded 120 percent of the average of those rates for the corresponding 13-week period ending in each of the preceding 2 calendar years and equaled or exceeded 5 percent; or

(2) Equaled or exceeded 6 percent; or

(b) For weeks of unemployment beginning on or after February 1, 2009, and ending on or before December 12, 2009, or the week ending ~~3~~ 4 weeks before the last week for which federal sharing is authorized by section 2005(a) of Public Law No. 111-5, whichever is later, the average rate of total seasonally adjusted unemployment in Nevada, as determined by the Secretary of Labor, for the period consisting of the most recent 3 months for which data for all states are published before the close of such week:

(1) Equaled or exceeded 6.5 percent; and

(2) Equaled or exceeded 110 percent of the average rate for the corresponding 3-month period ending in either of the ~~2~~ 3 preceding calendar years.

3. There is a “Nevada ‘off’ indicator” for a week if the Administrator determines, in accordance with the regulations of the Secretary of Labor, that for the period consisting of that week and the immediately preceding 12 weeks, the rate of insured unemployment in Nevada (not seasonally adjusted):

(a) Was less than 120 percent of the average of those rates for the corresponding 13-week period ending in each of the preceding 2 calendar years; or

(b) Was less than 5 percent.

4. “Rate of insured unemployment,” for purposes of subsections 2 and 3, means the percentage derived by dividing the average weekly number of persons filing claims in this State for the weeks of unemployment for the most recent period of 13 consecutive weeks, as determined by the Administrator on the basis of the Administrator’s reports to the Secretary of Labor using the average monthly employment covered under this chapter as determined by the Administrator and recorded in the records of the Division for the first four of the most recent six completed calendar quarters ending before the end of the 13-week period.

5. "Regular benefits" means benefits payable to a person under this chapter or under any other state law (including benefits payable to federal civilian employees and to ex-servicemen pursuant to 5 U.S.C. §§ 8501 et seq.) other than extended benefits.

6. "Extended benefits" means benefits (including benefits payable to federal civilian employees and to ex-servicemen pursuant to 5 U.S.C. §§ 8501 et seq.) payable to a person under the provisions of NRS 612.377 to 612.3786, inclusive, for the weeks of unemployment in the person's eligibility period.

7. "Additional benefits" means benefits payable to exhaustees by reason of conditions of high unemployment or by reason of other special factors under the provisions of any state law. Any person who is entitled to both additional and extended benefits for the same week must be given the choice of electing which type of benefit to claim regardless of whether his or her rights to additional and extended benefits arise under the law of the same state or different states.

8. "Eligibility period" of a person means the period consisting of the weeks in the person's benefit year under this chapter which begin in an extended benefit period and, if that benefit year ends within the extended benefit period, any weeks thereafter which begin in that period.

9. "Exhaustee" means a person who, with respect to any week of unemployment in the person's eligibility period:

(a) Has received, before that week, all of the regular, seasonal or nonseasonal benefits that were available to him or her under this chapter or any other state law (including augmented weekly benefits for dependents and benefits payable to federal civilian employees and ex-servicemen under 5 U.S.C. §§ 8501 et seq.) in the person's current benefit year which includes that week, except that, for the purposes of this paragraph, a person shall be deemed to have received all of the regular benefits that were available to him or her, although as a result of a pending appeal with respect to wages that were not considered in the original monetary determination in that benefit year, the person may subsequently be determined to be entitled to added regular benefits; or

(b) His or her benefit year having expired before that week, has no, or insufficient, wages on the basis of which the person could establish a new benefit year which would include that week,

↳ and has no right to unemployment benefits or allowances, as the case may be, under the Railroad Unemployment Insurance Act, 45 U.S.C. §§ 351 et seq., the Trade Expansion Act of 1962, 19 U.S.C. §§ 1801 et seq., the Automotive Products Trade Act of 1965, 19 U.S.C. §§ 2001 et seq. and such other federal laws as are specified in regulations issued by the Secretary of Labor, and has not received and is not seeking unemployment benefits under

the unemployment compensation law of Canada. If the person is seeking such benefits and the appropriate agency finally determines that the person is not entitled to benefits under that law the person is considered an exhaustee.

10. “State law” means the unemployment insurance law of any state, approved by the Secretary of Labor under Section 3304 of the Internal Revenue Code of 1954.

Sec. 2. NRS 612.378 is hereby amended to read as follows:

612.378 1. Except as otherwise provided in subsection 2, the total extended benefit amount payable to any eligible person for the person’s applicable benefit year is the lesser of the following amounts:

(a) Fifty percent of the basic benefits which were payable to him or her in the benefit year. If the amount computed is not a multiple of \$1, it must be computed to the next lower multiple of \$1.

(b) Thirteen times the person’s average weekly benefit amount which was payable to him or her under this chapter for a week of total unemployment in the applicable benefit year. If the amount computed is not a multiple of \$1, it must be computed to the next lower multiple of \$1.

2. In weeks beginning in a high unemployment period on or after February 1, 2009, and ending on or before December 12, 2009, or the week ending ~~the~~ 4 weeks before the last week for which federal sharing is authorized by section 2005(a) of Public Law No. 111-5, whichever is later, the total extended benefit amount payable to any eligible person for the person’s applicable benefit year is the lesser of the following amounts:

(a) Eighty percent of the basic benefits which were payable to him or her in the benefit year. If the amount computed is not a multiple of \$1, it must be computed to the next lower multiple of \$1.

(b) Twenty times the person’s average weekly benefit amount which was payable to him or her under this chapter for a week of total unemployment in the applicable benefit year. If the amount computed is not a multiple of \$1, it must be computed to the next lower multiple of \$1.

3. If the benefit year of any person ends within an extended benefit period, the remaining balance of extended benefits that the person would, but for this subsection, be entitled to receive in that period, with respect to weeks of unemployment beginning after the end of the benefit year, must be reduced by the product of the number of weeks for which the person received any amounts as trade readjustment allowances pursuant to 19 U.S.C. § 2291 within that benefit year, multiplied by the weekly benefit amount of extended benefits, but the balance must not be reduced below zero.

4. As used in this section, “high unemployment period” means any period during which the average rate of total seasonally adjusted unemployment in Nevada, as determined by the Secretary of Labor, for the

period consisting of the most recent 3 months for which data for all states are published before the close of such week:

- (a) Equaled or exceeded 8 percent; and
- (b) Equaled or exceeded 110 percent of the average rate for the corresponding 3-month period ending in either of the ~~two~~ 3 preceding calendar years.

~~Section 1.~~ **Sec. 3. 1.** There is hereby appropriated from the State General Fund to the Interim Finance Committee the sum of ~~(\$66,355,000)~~ **\$23,900,000** for allocation to the State Treasurer for interest payments due the Federal Government for the loan that was made available to the State upon depletion of Nevada's Unemployment Compensation Fund.

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. 2.~~ **Sec. 4. 1.** **There is hereby appropriated from the State General Fund to the Interim Finance Committee the sum of \$40,100,000 for allocation to the State Treasurer for interest payments due the Federal Government for the loan that was made available to the State upon depletion of Nevada's Unemployment Compensation Fund.**

2. Any remaining balance of the appropriation made by ~~section~~ **subsection 1** ~~of this act~~ 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. 5. The sums appropriated by sections 3 and 4 of this act may be allocated for a purpose other than the purpose described in those sections if the Interim Finance Committee determines that the Federal Government will not require the payment of interest in the amounts appropriated by those sections. Any allocation made pursuant to this section must be recommended by the State Board of Examiners pursuant to NRS 353.268 and approved by the Interim Finance Committee pursuant to NRS 353.269.

~~[Sec. 3.]~~ **Sec. 6. 1. This act becomes effective on July 1, 2011, section and sections 3 and 5 of this act become effective upon passage and approval.**

2. Section 4 of this act becomes effective on July 1, 2012.

3. Sections 1 and 2 of this act become effective upon passage and approval and expire by limitation on:

(a) December 31, 2011; or

(b) The earlier of the date of the expiration of section 502 of Public Law No. 111-312 or the date that federal sharing is no longer authorized pursuant to section 2005(a) of Public Law No. 111-5,

↪ whichever is later.

Assemblyman Hickey moved the adoption of the amendment.

Amendment adopted.

Bill ordered to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Conklin moved that Assembly Bill No. 71 be taken from its position on the General File and placed at the top of General File.

Motion carried.

Assemblyman Conklin moved that Assembly Bill No. 561 be taken from its position on the General File and placed at the top of the General File.

Motion carried.

Assemblyman Conklin moved that Assembly Bills Nos. 219, 405, and 484 be taken from their position on the General File and placed on the General File immediately following Assembly Bill No. 71.

Remarks by Assemblyman Conklin.

Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 561.

Bill read third time.

Remarks by Assemblywoman Smith.

Roll call on Assembly Bill No. 561:

YEAS—36.

NAYS—Ellison, Goedhart, Hambrick, Hardy, Livermore, McArthur—6.

Assembly Bill No. 561 having received a two-thirds majority, Mr. Speaker declared it passed, as amended.

Bill ordered reprinted, engrossed, and transmitted to the Senate.

Assembly Bill No. 71.

Bill read third time.

Remarks by Assemblywoman Kirkpatrick.

Roll call on Assembly Bill No. 71:

YEAS—41.

NAYS—Ellison.

Assembly Bill No. 71 having received a constitutional majority,

Mr. Speaker declared it passed.

Bill ordered transmitted to the Senate.

Assembly Bill No. 219.

Bill read third time.

Remarks by Assemblyman Horne.

Roll call on Assembly Bill No. 219:

YEAS—40.

NAYS—Goedhart, McArthur—2.

Assembly Bill No. 219 having received a two-thirds majority, Mr. Speaker declared it passed, as amended.

Bill ordered reprinted, engrossed, and transmitted to the Senate.

Assembly Bill No. 405.

Bill read third time.

Remarks by Assemblywoman Smith.

Roll call on Assembly Bill No. 405:

YEAS—42.

NAYS—None.

Assembly Bill No. 405 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered reprinted, engrossed, and transmitted to the Senate.

Assembly Bill No. 484.

Bill read third time.

Remarks by Assemblywoman Smith.

Roll call on Assembly Bill No. 484:

YEAS—42.

NAYS—None.

Assembly Bill No. 484 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered reprinted, engrossed, and transmitted to the Senate.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Conklin moved that Senate Bills Nos. 159, 164, 211, 212, 320, 340, 421, and 437 be taken from the General File and placed on the General File for the next legislative day.

Motion carried.

UNFINISHED BUSINESS

SIGNING OF BILLS AND RESOLUTIONS

There being no objections, the Speaker and Chief Clerk signed Assembly Bills Nos. 40, 48, 80, 100, 148, 223, 224, 247, 255, 359, 432, 529, 531, 570, Assembly Concurrent Resolution 10; Senate Bills Nos. 18, 19, 30, 32, 34, 36, 55, 82, 101, 125, 140, 143, 150, 151, 191, 204, 215, 238, 254, 259, 264, 267, 289, 292, 307, 329, 381, 403, 414, 419, 426, 432, 472; Senate Joint Resolution No. 3.

Assemblyman Conklin moved that the Assembly adjourn until Monday, June 6, 2011, at 12:01 a.m.

Motion carried.

Assembly adjourned at 11:53 p.m.

Approved:

JOHN OCEGUERA
Speaker of the Assembly

Attest: SUSAN FURLONG

Chief Clerk of the Assembly