

THE SIXTY-SEVENTH DAY

CARSON CITY (Thursday), April 14, 2011

Senate called to order at 11:13 a.m.

President Krolicki presiding.

Roll called.

All present.

Prayer by the Chaplain, Pastor Louis Locke.

O God we give You thanks and we give You praise.

Psalm 147 tells us: God does not delight in the strength of a horse or in the speed of a runner.

The Lord delights in those who fear Him and worship Him, in those who put their hope in His steadfast, unfailing love.

Lord, help us not trust in our own strengths and abilities, but in the wisdom that comes from You, and in Your love and mercies that are new every morning — great is Your faithfulness.

I pray Your blessing on the members of this Senate body, their staff and families. We also ask for Your grace and protection on our service men and women serving around the world.

In the Name of the most high God.

AMEN.

Pledge of Allegiance to the Flag.

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

Motion carried.

REPORTS OF COMMITTEES

Mr. President:

Your Committee on Commerce, Labor and Energy, to which was referred Senate Bill No. 488, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

MICHAEL A. SCHNEIDER, *Chair*

Mr. President:

Your Committee on Government Affairs, to which were referred Senate Bills Nos. 271, 392, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

Also, your Committee on Government Affairs, to which were referred Senate Bills Nos. 40, 81, 110, 251, 262, 268, 361, 375, 393, 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 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: Do pass, and re-refer to the Committee on Finance.

Also, your Committee on Government Affairs, to which was referred Senate Bill No. 445, has had the same under consideration, and begs leave to report the same back with the recommendation: Re-refer to the Committee on Finance.

JOHN J. LEE, *Chair*

Mr. President:

Your Committee on Health and Human Services, to which was referred Senate Bill No. 256, 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 Health and Human Services, to which was referred Senate Bill No. 448, has had the same under consideration, and begs leave to report the same back with the recommendation: Re-refer to the Committee on Finance.

ALLISON COPENING, *Chair*

Mr. President:

Also, your Committee on Judiciary, to which were referred Senate Bills Nos. 26, 57, 194, 277, 376, 402, 403, 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 Judiciary, to which was referred Senate Bill No. 349, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass, and re-refer to the Committee on Finance.

VALERIE WIENER, *Chair*

Mr. President:

Your Committee on Legislative Operations and Elections, to which was referred Senate Bill No. 373, has had the same under consideration, and begs leave to report the same back with the recommendation: Without recommendation and re-refer to the Committee on Finance.

DAVID R. PARKS, *Chair*

Mr. President:

Your Committee on Natural Resources, to which were referred Senate Bills Nos. 309, 417, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

Also, your Committee on Natural Resources, to which was referred Senate Joint Resolution No. 8, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

MARK A. MANENDO, *Chair*

Mr. President:

Your Committee on Revenue, to which was referred Senate Bill No. 495, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

SHEILA LESLIE, *Chair*

MESSAGES FROM THE ASSEMBLY

ASSEMBLY CHAMBER, Carson City, April 11, 2011

To the Honorable the Senate:

I have the honor to inform your honorable body that the Assembly on this day adopted Senate Concurrent Resolution No. 6.

Also, I have the honor to inform your honorable body that the Assembly on this day passed Assembly Bills Nos. 97, 168, 262.

Also, I have the honor to inform your honorable body that the Assembly on this day passed, as amended, Assembly Bills Nos. 62, 83, 147, 203, 214, 225, 229, 280.

MATTHEW BAKER

Assistant Chief Clerk of the Assembly

WAIVERS AND EXEMPTIONS

NOTICE OF EXEMPTION

April 14, 2011

The Fiscal Analysis Division, pursuant to Joint Standing Rule 14.6, has determined the exemption of: Senate Bill No. 372.

Also, the Fiscal Analysis Division, pursuant to Joint Standing Rule 14.6, has determined the eligibility for exemption of: Senate Bills Nos. 197, 265, 271, 274, 276, 278, 285, 290, 294, 298, 308, 312, 313, 325, 326, 330, 333, 334, 336, 338, 340, 349, 352, 373, 413 and Senate Joint Resolution No. 7.

MARK KRMPOTIC

Fiscal Analysis Division

MOTIONS, RESOLUTIONS AND NOTICES

Senator Wiener moved that Senate Bill No. 349 be re-referred to the Committee on Finance.

Motion carried.

Senator Parks moved that Senate Bill No. 373 be re-referred to the Committee on Finance.

Motion carried.

Senator Lee moved that Senate Bills Nos. 439, 445 be re-referred to the Committee on Finance.

Motion carried.

Senator Copening moved that Senate Bill No. 448 be re-referred to the Committee on Finance.

Motion carried.

Senator Schneider moved that Senate Bill No. 213 be taken from the General File and placed on the General File for the next legislative day.

Motion carried.

INTRODUCTION, FIRST READING AND REFERENCE

Assembly Bill No. 62.

Senator Wiener moved that the bill be referred to the Committee on Commerce, Labor and Energy.

Motion carried.

Assembly Bill No. 83.

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

Motion carried.

Assembly Bill No. 97.

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

Motion carried.

Assembly Bill No. 147.

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

Motion carried.

Assembly Bill No. 168.

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

Motion carried.

Assembly Bill No. 203.

Senator Wiener moved that the bill be referred to the Committee on Commerce, Labor and Energy.

Motion carried.

Assembly Bill No. 214.

Senator Wiener moved that the bill be referred to the Committee on Commerce, Labor and Energy.

Motion carried.

Assembly Bill No. 225.

Senator Wiener moved that the bill be referred to the Committee on Education.

Motion carried.

Assembly Bill No. 229.

Senator Wiener moved that the bill be referred to the Committee on Education.

Motion carried.

Assembly Bill No. 262.

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

Motion carried.

Assembly Bill No. 280.

Senator Wiener moved that the bill be referred to the Committee on Health and Human Services.

Motion carried.

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

Senate in recess at 11:49 a.m.

SENATE IN SESSION

At 11:59 a.m.

President Krolicki presiding.

Quorum present.

SECOND READING AND AMENDMENT

Senate Bill No. 10.

Bill read second time.

The following amendment was proposed by the Committee on Health and Human Services:

Amendment No. 135.

~~"SUMMARY—Requires approval for the establishment of certain services by a health facility in larger counties."~~ **Revises the process for**

approving an amendment to the license of certain medical facilities to add certain services. (BDR 40-344)"

"AN ACT relating to health care; requiring the ~~approval of the Director of~~ **Health Division of** the Department of Health and Human Services ~~before undertaking an expenditure~~ **to apply certain standards in determining whether to approve an amendment to a license to operate certain medical facilities to provide add certain services relating to health care in certain larger counties; providing a penalty;** **to the license;** and providing other matters properly relating thereto."

Legislative Counsel's Digest:

~~Existing law requires a person in a county whose population is less than 100,000 (currently counties other than Clark and Washoe Counties) to obtain the approval of the Director of the Department of Health and Human Services before undertaking an expenditure for certain new construction by or on behalf of a health facility. (NRS 439A.100) Section 1 of this bill requires a person in a county whose population is 400,000 or more (currently Clark County) to obtain the approval of the Director before undertaking an expenditure for the establishment of the following new services: (1) a center for the treatment of trauma; (2) the transplant of organs; (3) the treatment of burns; (4) the performance of open heart surgery in the provision of cardiac care; and (5) the intensive care of newborn babies. Section 1 also revises the expenditures, projects and services which qualify for an exemption from the requirement of the approval of the Director.~~ **Under existing law, the State Board of Health is required to adopt regulations for the licensing standards governing certain medical facilities and other related facilities. (NRS 449.037) Existing law further provides for the Health Division of the Department of Health and Human Services to issue a license to an applicant who meets the requirements set forth in statute and regulation. (NRS 449.080) Existing law requires a licensee who has a license to operate a facility to obtain the approval of the Health Division to amend his or her license to add certain services to the license. (NRS 449.087) Section 4.5 of this bill requires the State Board of Health to adopt standards for determining whether there are an adequate number of cases in the community to be served to support approving an amendment to a license and requires the Health Division to apply those standards in making a determination of whether to approve amending the license to add any such service.**

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

Section 1. **(Deleted by amendment.)**

Sec. 2. **(Deleted by amendment.)**

Sec. 3. **(Deleted by amendment.)**

Sec. 4. **(Deleted by amendment.)**

Sec. 4.5. **NRS 449.087 is hereby amended to read as follows:**

449.087 1. A licensee must obtain the approval of the Health Division to amend his or her license to operate a facility before the addition of any of the following services:

- (a) The intensive care of newborn babies.
- (b) The treatment of burns.
- (c) The transplant of organs.
- (d) The performance of open-heart surgery.
- (e) A center for the treatment of trauma.

2. The Health Division shall approve an application to amend a license to allow a facility to provide any of the services described in subsection 1 if ~~the~~ :

~~(a) The~~ applicant satisfies the requirements contained in NRS 449.080 ~~;~~ ~~(b) The Health Division determines on the basis of the standards adopted by the Board pursuant to subsection 4 that there are an adequate number of cases in the community to be served to support amending the license to add the service; and~~

~~(c) The Health Division determines that the applicant satisfies any other standards adopted by the Board pursuant to subsection 4.~~

3. The Health Division may revoke its approval if the licensee fails to maintain substantial compliance with ~~the~~ standards ~~approved~~ **adopted** by the Board **pursuant to subsection 4** for the provision of such services, or with any conditions included in the written approval of the Director issued pursuant to the provisions of NRS 439A.100.

~~4.~~ 4. The Board shall ~~consider~~ :

~~(a) Adopt~~ standards **which have been** adopted by appropriate national organizations ~~as a guide for adopting standards for the approval of~~ **to be used by the Health Division in determining whether there are an adequate number of cases in the community to be served to support amending the license of a licensee to add a service pursuant to this section; and**

~~(b) Adopt such other standards as it deems necessary for determining whether to approve~~ the provision of services pursuant to this section.

Sec. 5. This act becomes effective on July 1, 2011.

Senator Copening moved the adoption of the amendment.

Remarks by Senator Copening.

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

Thank you, Mr. President. Amendment No. 135 revises Senate Bill No. 10 and requires the State Board of Health to adopt standards for determining whether there are an adequate number of cases in the community to be served to support approving an amendment to a license and requires the Health Division to apply these standards in making a determination of whether to approve amending the license to add such a service.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 24.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:
Amendment No. 6.

"SUMMARY—Revises provisions concerning writs of execution in justice courts. (BDR 6-321)"

"AN ACT relating to courts; revising provisions concerning writs of execution in justice courts; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law provides that a writ of execution in a justice court may be issued by the justice of the peace who entered the judgment or any successor in office. (NRS 70.010) A justice of the peace may also renew such a writ of execution. (NRS 70.030) Additionally, existing law requires that a writ of execution in a justice court must contain certain information. (NRS 70.020)

Sections 1 and 2 of this bill authorize a justice of the peace or the clerk of the justice court ~~[- rather than a justice of the peace -]~~ to issue writs of execution in the justice court. **Section 2** also revises the required information that such a writ of execution must contain. **Section 3** of this bill provides that in addition to issuing writs of execution, a justice of the peace or the clerk of the justice court may also renew writs of execution.

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

Section 1. NRS 70.010 is hereby amended to read as follows:

70.010 1. Execution for the enforcement of a judgment of a justice court may be issued by ~~the~~ a justice ~~who entered the judgment, or any successor in office,~~ or the clerk of the court on the application of the party entitled thereto, at any time within 6 years from the entry of judgment.

2. The court, or any justice thereof, may stay the execution of any judgment, including any judgment in a case of forcible or unlawful detainer, for a period not exceeding 10 days.

Sec. 2. NRS 70.020 is hereby amended to read as follows:

70.020 The execution must:

1. Be directed to a sheriff of any county in the State or to a constable of the county in which the justice court is located.

2. Be ~~subscribed by the justice,~~ *issued in the name of the State of Nevada, sealed with the seal of the court and subscribed by a justice or the clerk of the justice court.*

3. ~~Bear date the day of its delivery to the officer.~~

~~4.~~ Intelligibly refer to the judgment, by stating the ~~names~~ :

(a) *Justice court in which the judgment was entered;*

(b) *Date when the judgment was entered;*

(c) *Names of the parties* ~~[- and the name -]~~ ;

(d) *Name of the justice* ~~before whom, and of the county~~ *who entered the judgment; and*

(e) *County* and the township or city where ~~[- and the time when it was rendered.~~

~~5.] the judgment was entered.~~

4. State the ~~amount of~~ judgment, *and* if it ~~be~~ is for money, ~~and, if less than the whole is due,~~ the ~~true~~ amount *thereof, and the amount actually* due thereon.

~~6.]~~ 5. Contain, in like cases, similar directions to the sheriff or constable, as are required by the provisions of chapter 21 of NRS, in an execution to the sheriff.

Sec. 3. NRS 70.030 is hereby amended to read as follows:

70.030 An execution may, at the request of the judgment creditor, be renewed before the expiration of the time fixed for its return, by the word "renewed" written thereon, with the date thereof, and subscribed by ~~the~~ ~~justice.]~~ *a justice or the clerk of the justice court.* Such renewal has the effect of an original issue ~~it~~ and may be repeated as often as necessary. If an execution is returned unsatisfied, another may be afterwards issued.

Sec. 4. NRS 70.050 is hereby amended to read as follows:

70.050 ~~The~~ *Except as otherwise provided in this chapter, the* provisions of chapter 21 of NRS are applicable to justice courts, the word "justice" being inserted in lieu of the ~~words~~ *word* "judge" ~~and "clerk" whenever they occur,~~ *wherever the word appears* and the word "constable" being ~~substituted to that end for~~ *inserted in lieu of* the word ~~"sheriff."]~~ *"sheriff" wherever the word appears.*

Sec. 5. This act becomes effective upon passage and approval.

Senator Wiener moved the adoption of the amendment.

Remarks by Senator Wiener.

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

The amendment provides flexibility so that the writ of execution can be signed by a Justice of the Peace or the Court Clerk brings the issuance of a writ of execution in Justice Courts in line with District Courts.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 60.

Bill read second time.

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

Amendment No. 40.

"SUMMARY—Revises provisions relating to the Fund for Renewable Energy, Energy Efficiency and Energy Conservation Loans. (BDR 58-410)"

"AN ACT relating to energy; revising certain provisions governing the administration of the Fund for Renewable Energy, Energy Efficiency and Energy Conservation Loans; authorizing the Director of the Office of Energy to make loans from the Fund to qualified applicants for the construction of an energy efficiency project or an energy conservation project, ~~for~~ the construction, expansion or operation of a renewable energy system, ~~it~~ or the manufacturing of components of a renewable energy system;

authorizing the Director to use the interest earned from money in the Fund to defray certain costs and expenses; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law establishes the Fund for Renewable Energy, Energy Efficiency and Energy Conservation Loans and authorizes the Director of the Office of Energy to make loans from the Fund for the construction of certain renewable energy projects. (NRS 701.545-701.595) **Section 8** of this bill expands the scope of financial assistance available from the Fund to include loans to qualified applicants for the construction of energy conservation projects ~~and~~, **the construction of** energy efficiency projects ~~and~~ **and the manufacturing of components of a renewable energy system.** in addition to loans that are currently available to owners or operators of renewable energy systems for the construction of renewable energy projects. **Section 8 additionally excludes from participation in the loan program applicants who have received money for the energy efficiency or energy conservation project from another governmental entity and authorizes the Director to use the interest earned from money in the Fund to defray certain costs and expenses.** **Section 4** of this bill expands the scope of financial assistance available from the Fund to include loans to qualified governmental entities and other applicants for the construction, expansion or operation of renewable energy systems ~~and~~ **or for the manufacturing of components of a renewable energy system.**

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

Section 1. Chapter 701 of NRS is hereby amended by adding thereto the provisions set forth as sections 2, 3 and 4 of this act.

Sec. 2. *"Energy conservation project" means a project designed, intended or used to improve energy conservation or to reduce the wasteful, inefficient, unnecessary or uneconomical use of energy.*

Sec. 3. *"Energy efficiency project" means a project designed, intended or used to improve energy efficiency or to reduce the consumption of energy that is necessary to provide a certain product, function or service.*

Sec. 4. *"Qualified applicant" means a person or governmental entity engaged in:*

- 1. The construction or operation of an energy conservation project;*
- 2. The construction or operation of an energy efficiency project; ~~and~~*
- 3. The construction, expansion or operation of a renewable energy system ~~and~~; or*
- 4. The manufacturing of components of a renewable energy system.*

Sec. 5. NRS 701.545 is hereby amended to read as follows:

701.545 As used in NRS 701.545 to 701.595, inclusive, ***and sections 2, 3 and 4 of this act***, the words and terms defined in NRS 701.550 to 701.570, inclusive, ***and sections 2, 3 and 4 of this act*** have the meanings ascribed to them in those sections.

Sec. 6. NRS 701.580 is hereby amended to read as follows:

701.580 1. The interest and income earned on money in the Fund and the Account for Set-Aside Programs must be credited to the Fund and the Account for Set-Aside Programs, respectively.

2. All payments of principal and interest on all loans made to a ~~renewable energy system~~ **qualified applicant** and all proceeds from the sale, refunding or prepayment of obligations of a ~~renewable energy system~~ **qualified applicant** acquired or loans made in carrying out the purposes of the Fund must be deposited in the State Treasury for credit to the Fund.

3. The Director may accept gifts, contributions, grants and bequests of money from any public or private source. The money so accepted must be deposited in the State Treasury for credit to the Fund, or the Account for Set-Aside Programs, and can be used to provide money from the State to match the federal grant, as required by the American Recovery and Reinvestment Act.

4. Only federal money deposited in a separate subaccount of the Fund, including repayments of principal and interest on loans made solely from federal money, and interest and income earned on federal money in the Fund, may be used to benefit ~~renewable energy systems not governmentally owned~~ **a qualified applicant who is not a governmental entity.**

Sec. 7. NRS 701.585 is hereby amended to read as follows:

701.585 1. The Director shall:

(a) Use the money in the Fund and the Account for Set-Aside Programs for the purposes set forth in the American Recovery and Reinvestment Act.

(b) Determine whether ~~renewable energy systems which receive~~ **a qualified applicant who receives** money or other assistance from the Fund or the Account for Set-Aside Programs ~~comply~~ **complies** with the American Recovery and Reinvestment Act and regulations adopted pursuant thereto.

2. The Director may:

(a) Prepare and enter into required agreements with the Federal Government for the acceptance of grants of money for the Fund and the Account for Set-Aside Programs.

(b) Bind the Office of Energy to terms of the required agreements.

(c) Accept grants made pursuant to the American Recovery and Reinvestment Act.

(d) Manage the Fund and the Account for Set-Aside Programs in accordance with the requirements and objectives of the American Recovery and Reinvestment Act.

(e) Provide services relating to management and administration of the Fund and the Account for Set-Aside Programs, including the preparation of any agreement, plan or report.

(f) Perform, or cause to be performed by agencies or organizations through interagency agreement, contract or memorandum of understanding, set-aside programs pursuant to the American Recovery and Reinvestment Act.

3. The Director shall not commit any money in the Fund for expenditure for the purposes set forth in NRS 701.590 without obtaining the prior approval of the Legislature or the Interim Finance Committee if the Legislature is not in session.

Sec. 8. NRS 701.590 is hereby amended to read as follows:

701.590 1. Except as otherwise provided in subsection 6 and NRS 701.580, money in the Fund, including repayments of principal and interest on loans, and interest and income earned on money in the Fund, may be used only to make loans at a rate of not more than 3 percent to ~~renewable energy systems~~ **a qualified applicant** for ~~the~~ :

(a) **The construction of an energy conservation project;**

(b) **The construction of an energy efficiency project;** ~~for~~

(c) **The construction or expansion of a renewable energy** ~~projects~~ **system** ~~;~~ **or**

(d) The manufacturing of components of a renewable energy system.

2. Money in the Account for Set-Aside Programs may be used only to fund set-aside programs authorized by the American Recovery and Reinvestment Act. Money in the Account for Set-Aside Programs may be transferred to the Fund pursuant to the American Recovery and Reinvestment Act.

3. A ~~renewable energy system which~~ **qualified applicant who** requests a loan or other financial assistance must demonstrate that ~~it~~ **the qualified applicant** has:

(a) Complied with the American Recovery and Reinvestment Act and regulations adopted pursuant thereto; or

(b) Agreed to take actions that are needed to ensure that ~~it~~ **the qualified applicant** has the capability to comply with the American Recovery and Reinvestment Act and regulations adopted pursuant thereto.

4. Money from the Fund may not be given to **a qualified applicant for the expansion of** an existing renewable energy system unless ~~it~~ **the qualified applicant** has the technical, managerial and financial capability to ensure compliance with the American Recovery and Reinvestment Act and regulations adopted pursuant thereto. ~~A new renewable energy system, to~~ **To receive such funding** ~~it~~ **for the construction of a new renewable energy system, a qualified applicant** must demonstrate that ~~it~~ **the qualified applicant** has the technical, managerial and financial capability to ensure compliance with the American Recovery and Reinvestment Act and regulations adopted pursuant thereto.

5. The Director shall not loan any money from the Fund to an applicant who has received from any other governmental entity any money or other financial incentive, including, without limitation, any grant, loan, tax credit or abatement of any tax for the purpose of financing in whole or in part the energy efficiency or energy conservation project of the applicant.

6. The Director may use the interest earned on money in the Fund to defray, in whole or in part, the costs and expenses of administering the Fund and to carry out the purposes of NRS 701.545 to 701.595, inclusive, and sections 2, 3 and 4 of this act.

7. The Director shall give preference to qualified applicants seeking funding or assistance from the Fund for larger energy conservation projects, energy efficiency projects or renewable energy systems. The Director shall, by regulation, define "larger energy conservation projects, energy efficiency projects or renewable energy systems" for purposes of this section.

Sec. 9. NRS 701.595 is hereby amended to read as follows:

701.595 The Director may adopt such regulations as are necessary to carry out the provisions of NRS 701.545 to 701.595, inclusive ~~††~~ , **and sections 2, 3 and 4 of this act.**

Sec. 10. This act becomes effective on July 1, 2011.

Senator Settlemeyer moved the adoption of the amendment.

Remarks by Senator Settlemeyer.

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

Amendment No. 40 to Senate Bill No. 60 authorizes the Director of the Office of Energy to make loans from the Fund for Renewable Energy, Energy Efficiency and Energy Conservation Loans to qualified applicants for manufacturing components of renewable energy systems. It also authorizes the Director to use the interest earned on the Fund to defray the costs of administering the Fund.

The Director shall not loan money from the fund to an applicant who receives any financial incentive from any other governmental entity for the same project.

Finally, the amendment requires the Director to give preference to larger projects.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Horsford moved that Senate Bill No. 60 be re-referred to the Committee on Finance upon return from reprint.

Remarks by Senator Horsford.

Motion carried.

SECOND READING AND AMENDMENT

Senate Bill No. 112.

Bill read second time.

The following amendment was proposed by the Committee on Health and Human Services:

Amendment No. 207.

"SUMMARY—Revises provisions relating to the ~~release of certain records in the custody of an agency which provides child welfare services.~~

records that may be reviewed by a juvenile court in certain proceedings.
(BDR 38-199)"

"AN ACT relating to ~~children; requiring certain records made by an agency which provides child welfare services to be provided to~~ **juveniles; authorizing** a juvenile court ~~;~~ **limiting the use and disclosure of records provided to a juvenile court by an agency which provides child welfare services;** **to review certain records relating to the custody of a child or the involvement of a child with an agency which provides child welfare services for certain purposes;** and providing other matters properly relating thereto."

Legislative Counsel's Digest:

~~Sections 1 and 4 of this bill require an agency which provides child welfare services to provide to a juvenile court any record, report, recommendation, order or file of an investigation that the agency made pursuant to chapters 432 and 432B of NRS. Further, sections 1 and 4:~~

~~(1) limit the use of the records by the juvenile court to the development of a plan for the care, treatment, supervision, commitment or placement of the child; (2) provide that the records may only be used as evidence against the child to prove the child committed a delinquent act or a criminal offense if otherwise authorized by a statute or procedural rule relating to evidence; and (3) prohibit the disclosure of the records by the juvenile court beyond the purposes or proceedings for which the records were provided.~~

~~Sections 2, 3 and 5-9 of this bill amend existing law which provides for the confidentiality or use of certain records to include an exception for the records provided to the juvenile court pursuant to sections 1 and 4 of this bill.~~ **Existing law establishes the types of evidence that a juvenile court may receive during a proceeding. (NRS 62D.420) Section 8 of this bill allows the juvenile court to review certain records relating to the custody of a child or the involvement of a child with an agency which provides child welfare services when it has access to those records. Section 8 limits the use of such records by the juvenile court to assisting the court in determining the appropriate placement or plan of treatment for the child.**

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

Section 1. (Deleted by amendment.)

Sec. 2. (Deleted by amendment.)

Sec. 3. (Deleted by amendment.)

Sec. 4. (Deleted by amendment.)

Sec. 5. (Deleted by amendment.)

Sec. 6. (Deleted by amendment.)

Sec. 7. (Deleted by amendment.)

Sec. 8. NRS 62D.420 is hereby amended to read as follows:

62D.420 1. In each proceeding conducted pursuant to the provisions of this title, the juvenile court may:

(a) Receive all competent, material and relevant evidence that may be helpful in determining the issues presented, including, but not limited to, oral and written reports; and

(b) ~~Rely~~ ~~Except as otherwise provided in sections 1 and 4 of this act,~~ ~~rely~~ on such evidence to the extent of its probative value.

2. The juvenile court shall afford the parties and their attorneys an opportunity to examine and controvert each written report that is received into evidence and to cross-examine each person who made the written report, when reasonably available.

3. In any proceeding involving a child for which the court has access to records relating to the custody of the child or the involvement of the child with an agency which provides child welfare services, the juvenile court may review those records to assist the court in determining the appropriate placement or plan of treatment for the child.

4. Except when a record described in subsection 3 would otherwise be admissible as evidence in the proceeding, the juvenile court shall not use a record reviewed pursuant to subsection 3 to prove that the child committed a delinquent act or is in need of supervision or for any purpose other than a purpose set forth in subsection 3. Except as otherwise provided in subsection 5, such records must not be disclosed or otherwise made open to inspection unless the records are admitted as evidence and used to determine the disposition of the case.

5. The juvenile court shall afford the parties and their attorneys an opportunity to examine and address any record reviewed by the juvenile court pursuant to subsection 3.

6. As used in this section, "agency which provides child welfare services" has the meaning ascribed to it in NRS 432B.030.

Sec. 9. (Deleted by amendment.)

Sec. 10. This act becomes effective on July 1, 2011.

Senator Copening moved the adoption of the amendment.

Remarks by Senator Copening.

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

Amendment No. 207 revises Senate Bill No. 112 and allows the juvenile court to review certain records relating to the custody of a child or the involvement of a child with an agency that provides child welfare services when it has access to those records. The amendment also limits the use of such records by the juvenile court to assisting the court in determining the appropriate placement or plan of treatment for the child.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 127.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 34.

"SUMMARY—Revises provisions concerning guardianships for certain veterans and their dependents. (BDR 13-160)"

"AN ACT relating to guardianships; requiring, under certain circumstances, a guardian who is appointed for a ward who is a beneficiary of the Department of Veterans Affairs to handle certain other money payable to the ward in the same manner as money payable by the Department of Veterans Affairs; **revising the limitation on the number of such wards for whom a guardian may serve;** revising provisions relating to the compensation of a guardian of such a ward; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law sets forth the general procedures for the appointment of a guardian for a ward, the powers and duties of a guardian and the allowable compensation for a guardian's services. (Chapter 159 of NRS) Existing law, the Uniform Veterans' Guardianship Act, sets forth specific procedures for the appointment of a guardian for a ward who is a beneficiary of the Department of Veterans Affairs, the powers and duties of such a guardian and the allowable compensation for such a guardian's services. (Chapter 160 of NRS)

Section 1 of this bill requires a guardian for a ward who is a beneficiary of the Department of Veterans Affairs to handle any money payable to the ward from a source other than the Department of Veterans Affairs in the same manner as money payable to the ward by the Department of Veterans Affairs unless doing so would be inconsistent with federal law.

Under existing law it is unlawful, with certain exceptions, for a person to accept appointment as a guardian of a ward who is a beneficiary of the Department of Veterans Affairs if the person is at the time serving as guardian for five such wards. (NRS 160.040) Section 2 of this bill:

(1) increases from 5 to 10 the number of wards who are beneficiaries of the Department of Veterans Affairs for whom a guardian may serve;

(2) deletes the existing exception which allows a guardian to serve more than five such wards if the wards are all members of the same family;

and (3) provides an exception which allows a guardian to serve more than 10 such wards if the Department of Veterans Affairs authorizes the person to do so.

Section ~~1~~ 3 of this bill decreases the allowable compensation for a guardian of a ward who is a beneficiary of the Department of Veterans Affairs from 5 percent to 4 percent of the income of the ward during any year. **Section ~~1~~ 3** also removes the authority of the court to authorize the payment of additional compensation to such guardians for extraordinary services.

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

Section 1. Chapter 159 of NRS is hereby amended by adding thereto a new section to read as follows:

1. *To the extent consistent with federal law, a guardian of a ward who is a beneficiary of the Department of Veterans Affairs shall handle any money payable to the ward by a source other than the Department of Veterans Affairs in the same manner as money payable to the ward by the United States through the Department of Veterans Affairs. In handling the money pursuant to this section, the guardian shall comply with the provisions of chapter 160 of NRS and any relevant federal law, including, without limitation, the requirements concerning filing an account as set forth in NRS 160.100 and compensating the guardian as set forth in NRS 160.120.*

2. *As used in this section, "Department of Veterans Affairs" has the meaning ascribed to it in NRS 160.020.*

Sec. 2. NRS 160.040 is hereby amended to read as follows:

160.040 1. Except as otherwise provided in this section, it is unlawful for any person to accept appointment as guardian of any ward if the proposed guardian is at that time acting as guardian for ~~five~~ **10** wards. In any case, upon presentation of a petition by an attorney of the Department of Veterans Affairs pursuant to this section alleging that a guardian is acting in a fiduciary capacity for more than ~~five~~ **10** wards and requesting his or her discharge for that reason, the court, upon proof substantiating the petition, shall require a final accounting from the guardian and shall discharge the guardian in the case.

2. The limitations of this section do not apply where the guardian is a bank or trust company acting for the wards' estates only.

3. ~~{An individual}~~ **A person** may be guardian of more than ~~five~~ **10** wards if ~~{they are all members of the same family.}~~ **the Department of Veterans Affairs authorizes the person to do so.**

4. The limitations of this section do not apply to the Executive Director for Veterans' Services or to a public guardian.

~~{Sec. 2.}~~ **Sec. 3.** NRS 160.120 is hereby amended to read as follows:

160.120 Compensation payable to a guardian must not exceed ~~{5}~~ **4** percent of the income of the ward during any year. ~~{In the event of extraordinary services rendered by any guardian, the court may, upon petition and after hearing thereon, authorize additional compensation therefor payable from the estate of the ward. Notice of such petition and hearing must be given to the proper office of the Department of Veterans Affairs in the manner provided in NRS 160.100.}~~ No compensation may be allowed on the corpus of an estate received from a preceding guardian. The guardian may be allowed from the estate of the ward of the guardian reasonable premiums paid by him or her to any corporate surety upon his or her bond.

Senator Wiener moved the adoption of the amendment.

Remarks by Senator Wiener.

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

Amendment No. 34 to Senate Bill No. 127 increases from five to ten the number of veterans a guardian may have as wards at any one time, and allows for a higher number if the Department of Veteran's Affairs grants an exception.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 159.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 87.

"SUMMARY—Makes various changes governing offenders. (BDR 16-74)"

"AN ACT relating to offenders; requiring the Director of the Department of Corrections to provide **certain information** to an offender upon his or her release , including information regarding employment assistance; authorizing a court to require the earnings of a probationer to be held in trust for certain purposes; authorizing a court to require certain offenders to complete an alternative program, treatment or activity as a condition of probation; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law requires the Director of the Department of Corrections to provide certain information to an offender upon the offender's release from prison. (NRS 209.511) **Section 1** of this bill requires the Director to provide such an offender with : (1) information relating to assistance for obtaining employment, including information regarding obtaining bonding for employment ~~and~~ : and (2) information and reasonable assistance relating to acquiring a valid driver's license or identification card to enable the offender to obtain employment if the offender requests such information and assistance and is eligible to acquire a driver's license or identification card.

Existing law authorizes a court to set terms and conditions for placing an offender on probation. (NRS 176A.400) **Section 2** of this bill specifies that such terms and conditions may include the requirement that any earnings of the offender while on probation be placed in trust for certain purposes. **Section 2** also authorizes a court to require certain persons, found guilty of certain felonies which do not involve the use or threatened use of force or violence, to complete an alternative program, treatment or activity as a condition of probation.

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

Section 1. NRS 209.511 is hereby amended to read as follows:

209.511 1. When an offender is released from prison by expiration of his or her term of sentence, by pardon or by parole, the Director:

(a) May furnish the offender with a sum of money not to exceed \$100, the amount to be based upon the offender's economic need as determined by the Director;

(b) Shall give the offender notice of the provisions of chapter 179C of NRS and NRS 202.357 and 202.360;

(c) Shall require the offender to sign an acknowledgment of the notice required in paragraph (b);

(d) Shall give the offender notice of the provisions of NRS 179.245 and the provisions of NRS 213.090, 213.155 or 213.157, as applicable;

(e) *Shall provide the offender with information relating to obtaining employment, including, without limitation, any programs which may provide bonding for an offender entering the workplace and any organizations which may provide employment or bonding assistance to such a person;*

(f) Shall provide the offender with information and reasonable assistance relating to acquiring a valid driver's license or identification card to enable the offender to obtain employment, if the offender:

(1) Requests such information and assistance; and

(2) Is eligible to acquire a valid driver's license or identification card from the Department of Motor Vehicles;

~~(g)~~ May provide the offender with clothing suitable for reentering society;

~~(f)~~ ~~(g)~~ (h) May provide the offender with the cost of transportation to his or her place of residence anywhere within the continental United States, or to the place of his or her conviction;

~~(g)~~ ~~(h)~~ (i) May, but is not required to, release the offender to a facility for transitional living for released offenders that is licensed pursuant to chapter 449 of NRS; and

~~(h)~~ ~~(i)~~ (j) Shall require the offender to submit to at least one test for exposure to the human immunodeficiency virus.

2. The costs authorized in paragraphs (a) ~~and (c)~~, ~~(d)~~, ~~(g)~~ ~~and (h)~~ ~~(i)~~, (h) and (j) of subsection 1 must be paid out of the appropriate account within the State General Fund for the use of the Department as other claims against the State are paid to the extent that the costs have not been paid in accordance with subsection 5 of NRS 209.221 and NRS 209.246.

3. As used in this section, "facility for transitional living for released offenders" has the meaning ascribed to it in NRS 449.0055.

Sec. 2. NRS 176A.400 is hereby amended to read as follows:

176A.400 1. In issuing an order granting probation, the court may fix the terms and conditions thereof, including, without limitation:

(a) A requirement for restitution;

(b) *A requirement that any earnings of the probationer be held in a trust:*

(1) Which is administered by a trustee designated by the court; and

(2) From which a portion of the earnings is designated to pay for restitution, child support or any other obligation of the probationer specified by the court;

(c) An order that the probationer dispose of all the weapons the probationer possesses; or

~~(e)~~ (d) Any reasonable conditions to protect the health, safety or welfare of the community or to ensure that the probationer will appear at all times and places ordered by the court, including, without limitation:

(1) Requiring the probationer to remain in this State or a certain county within this State;

(2) Prohibiting the probationer from contacting or attempting to contact a specific person or from causing or attempting to cause another person to contact that person on the probationer's behalf;

(3) Prohibiting the probationer from entering a certain geographic area; or

(4) Prohibiting the probationer from engaging in specific conduct that may be harmful to the probationer's own health, safety or welfare, or the health, safety or welfare of another person.

2. In issuing an order granting probation to a person who is found guilty of a category C, D or E felony, **or who is found guilty of a category B felony which does not involve the use or threatened use of force or violence**, the court may require the person as a condition of probation to participate in and complete to the satisfaction of the court any alternative program, treatment or activity deemed appropriate by the court.

3. The court shall not suspend the execution of a sentence of imprisonment after the defendant has begun to serve it.

4. In placing any defendant on probation or in granting a defendant a suspended sentence, the court shall direct that the defendant be placed under the supervision of the Chief Parole and Probation Officer.

Senator Wiener moved the adoption of the amendment.

Remarks by Senator Wiener.

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

Amendment No. 87 to Senate Bill No. 159 requires the Department of Corrections, upon an inmate's release from prison, to provide information and reasonable assistance regarding how to obtain identification that the inmate will need to seek employment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 180.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 77.

"SUMMARY—Expands provisions governing criminal and civil liability for certain crimes to include crimes motivated by the victim's gender identity or expression. (BDR 15-414)"

"AN ACT relating to crimes; providing an additional penalty for certain crimes motivated by the victim's gender identity or expression; ~~expanding the aggravating circumstances for murder of the first degree to include murder which was motivated by the victim's gender identity or expression;~~ providing certain civil liability for a person who commits certain crimes motivated by the victim's gender identity or expression; revising provisions concerning the reporting of certain crimes; providing penalties; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law provides that if a person commits certain crimes because of the victim's actual or perceived race, color, religion, national origin, physical or mental disability or sexual orientation: (1) the person who committed the crime is subject to an additional penalty; (2) ~~in charge of murder of the first degree may be aggravated based on the crime committed;~~ (3) unless a greater penalty is provided by law, the person who committed the crime is guilty of a gross misdemeanor; and ~~(4)~~ (3) a person injured by the crime may bring a civil action against the person who committed the crime. (NRS 41.690, 193.1675, ~~200.033,~~ 207.185) Further, existing law requires the Director of the Department of Public Safety to establish a Program for Reporting Crimes that is designed to collect, compile and analyze statistical data about crimes that manifest evidence of prejudice based on race, color, religion, national origin, physical or mental disability or sexual orientation. (NRS 179A.175) This bill expands those provisions to include cases in which a person commits a crime because of the victim's actual or perceived gender identity or expression.

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

Section 1. Chapter 193 of NRS is hereby amended by adding thereto a new section to read as follows:

"Gender identity or expression" means a gender-related identity, appearance, expression or behavior of a person, regardless of the person's assigned sex at birth.

Sec. 2. NRS 193.010 is hereby amended to read as follows:

193.010 As used in this title, unless the context otherwise requires, the words and terms defined in NRS 193.011 to 193.0245, inclusive, **and** **section 1 of this act** have the meanings ascribed to them in those sections.

Sec. 3. NRS 193.1675 is hereby amended to read as follows:

193.1675 1. Except as otherwise provided in NRS 193.169, any person who willfully violates any provision of NRS 200.280, 200.310, 200.366, 200.380, 200.400, 200.460 to 200.465, inclusive, paragraph (b) of subsection 2 of NRS 200.471, NRS 200.508, 200.5099 or subsection 2 of NRS 200.575 because the actual or perceived race, color, religion, national origin, physical or mental disability, ~~or~~ sexual orientation **or gender identity or expression** of the victim was different from that characteristic of the perpetrator may, in addition to the term of imprisonment prescribed by

statute for the crime, be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 20 years. In determining the length of any additional penalty imposed, the court shall consider the following information:

- (a) The facts and circumstances of the crime;
- (b) The criminal history of the person;
- (c) The impact of the crime on any victim;
- (d) Any mitigating factors presented by the person; and
- (e) Any other relevant information.

↪ The court shall state on the record that it has considered the information described in paragraphs (a) to (e), inclusive, in determining the length of any additional penalty imposed.

2. A sentence imposed pursuant to this section:

- (a) Must not exceed the sentence imposed for the crime; and
- (b) Runs consecutively with the sentence prescribed by statute for the crime.

3. This section does not create a separate offense but provides an additional penalty for the primary offense, whose imposition is contingent upon the finding of the prescribed fact.

Sec. 4. ~~NRS 200.033 is hereby amended to read as follows:~~

~~200.033 The only circumstances by which murder of the first degree may be aggravated are:~~

~~1. The murder was committed by a person under sentence of imprisonment.~~

~~2. The murder was committed by a person who, at any time before a penalty hearing is conducted for the murder pursuant to NRS 175.552, is or has been convicted of:~~

~~(a) Another murder and the provisions of subsection 12 do not otherwise apply to that other murder; or~~

~~(b) A felony involving the use or threat of violence to the person of another and the provisions of subsection 4 do not otherwise apply to that felony.~~

~~↪ For the purposes of this subsection, a person shall be deemed to have been convicted at the time the jury verdict of guilt is rendered or upon pronouncement of guilt by a judge or judges sitting without a jury.~~

~~3. The murder was committed by a person who knowingly created a great risk of death to more than one person by means of a weapon, device or course of action which would normally be hazardous to the lives of more than one person.~~

~~4. The murder was committed while the person was engaged, alone or with others, in the commission of, or an attempt to commit or flight after committing or attempting to commit, any robbery, arson in the first degree, burglary, invasion of the home or kidnapping in the first degree, and the person charged:~~

~~(a) Killed or attempted to kill the person murdered; or~~

~~—(b) Knew or had reason to know that life would be taken or lethal force used.~~

~~—5. The murder was committed to avoid or prevent a lawful arrest or to effect an escape from custody.~~

~~—6. The murder was committed by a person, for himself or herself or another, to receive money or any other thing of monetary value.~~

~~—7. The murder was committed upon a peace officer or firefighter who was killed while engaged in the performance of his or her official duty or because of an act performed in his or her official capacity, and the defendant knew or reasonably should have known that the victim was a peace officer or firefighter. For the purposes of this subsection, "peace officer" means:~~

~~—(a) An employee of the Department of Corrections who does not exercise general control over offenders imprisoned within the institutions and facilities of the Department, but whose normal duties require the employee to come into contact with those offenders when carrying out the duties prescribed by the Director of the Department.~~

~~—(b) Any person upon whom some or all of the powers of a peace officer are conferred pursuant to NRS 289.150 to 289.360, inclusive, when carrying out those powers.~~

~~—8. The murder involved torture or the mutilation of the victim.~~

~~—9. The murder was committed upon one or more persons at random and without apparent motive.~~

~~—10. The murder was committed upon a person less than 14 years of age.~~

~~—11. The murder was committed upon a person because of the actual or perceived race, color, religion, national origin, physical or mental disability, [or] sexual orientation or gender identity or expression of that person.~~

~~—12. The defendant has, in the immediate proceeding, been convicted of more than one offense of murder in the first or second degree. For the purposes of this subsection, a person shall be deemed to have been convicted of a murder at the time the jury verdict of guilt is rendered or upon pronouncement of guilt by a judge or judges sitting without a jury.~~

~~—13. The person, alone or with others, subjected or attempted to subject the victim of the murder to nonconsensual sexual penetration immediately before, during or immediately after the commission of the murder. For the purposes of this subsection:~~

~~—(a) "Nonconsensual" means against the victim's will or under conditions in which the person knows or reasonably should know that the victim is mentally or physically incapable of resisting, consenting or understanding the nature of his or her conduct, including, but not limited to, conditions in which the person knows or reasonably should know that the victim is dead.~~

~~—(b) "Sexual penetration" means cunnilingus, fellatio or any intrusion, however slight, of any part of the victim's body or any object manipulated or inserted by a person, alone or with others, into the genital or anal openings of the body of the victim, whether or not the victim is alive. The term includes,~~

~~but is not limited to, anal intercourse and sexual intercourse in what would be its ordinary meaning.~~

~~14. The murder was committed on the property of a public or private school, at an activity sponsored by a public or private school or on a school bus while the bus was engaged in its official duties by a person who intended to create a great risk of death or substantial bodily harm to more than one person by means of a weapon, device or course of action that would normally be hazardous to the lives of more than one person. For the purposes of this subsection, "school bus" has the meaning ascribed to it in NRS 483.160.~~

~~15. The murder was committed with the intent to commit, cause, aid, further or conceal an act of terrorism. For the purposes of this subsection, "act of terrorism" has the meaning ascribed to it in NRS 202.4415. **(Deleted by amendment.)**~~

Sec. 5. NRS 207.185 is hereby amended to read as follows:

207.185 Unless a greater penalty is provided by law, a person who, by reason of the actual or perceived race, color, religion, national origin, physical or mental disability, ~~for~~ sexual orientation **or gender identity or expression** of another person or group of persons, willfully violates any provision of NRS 200.471, 200.481, 200.5099, 200.571, 200.575, 203.010, 203.020, 203.030, 203.060, 203.080, 203.090, 203.100, 203.110, 203.119, 206.010, 206.040, 206.140, 206.200, 206.310, 207.180, 207.200 or 207.210 is guilty of a gross misdemeanor.

Sec. 6. NRS 41.690 is hereby amended to read as follows:

41.690 1. A person who has suffered injury as the proximate result of the willful violation of the provisions of NRS 200.280, 200.310, 200.366, 200.380, 200.400, 200.460, 200.463, 200.464, 200.465, 200.467, 200.468, 200.471, 200.481, 200.508, 200.5099, 200.571, 200.575, 203.010, 203.020, 203.030, 203.060, 203.080, 203.090, 203.100, 203.110, 203.119, 206.010, 206.040, 206.140, 206.200, 206.310, 207.180, 207.200 or 207.210 by a perpetrator who was motivated by the injured person's actual or perceived race, color, religion, national origin, physical or mental disability, ~~for~~ sexual orientation **or gender identity or expression** may bring an action for the recovery of his or her actual damages and any punitive damages which the facts may warrant. If the person who has suffered injury prevails in an action brought pursuant to this subsection, the court shall award the person costs and reasonable attorney's fees.

2. The liability imposed by this section is in addition to any other liability imposed by law.

3. **As used in this section, "gender identity or expression" has the meaning ascribed to it in section 1 of this act.**

Sec. 7. NRS 179A.175 is hereby amended to read as follows:

179A.175 1. The Director of the Department shall establish within the Central Repository a Program for Reporting Crimes that manifest evidence of prejudice based on race, color, religion, national origin, physical or mental disability, ~~for~~ sexual orientation ~~for~~ **or gender identity or expression.**

2. The Program must be designed to collect, compile and analyze statistical data about crimes that manifest evidence of prejudice based on race, color, religion, national origin, physical or mental disability, ~~or~~ sexual orientation ~~or~~ **gender identity or expression**. The Director shall adopt guidelines for the collection of the statistical data, including, but not limited to, the criteria to establish the presence of prejudice.

3. The Central Repository shall include in its annual report to the Governor pursuant to subsection 6 of NRS 179A.075, and in any other appropriate report, an independent section relating solely to the analysis of crimes that manifest evidence of prejudice based on race, color, religion, national origin, physical or mental disability, ~~or~~ sexual orientation ~~or~~ **gender identity or expression**.

4. Data acquired pursuant to this section must be used only for research or statistical purposes and must not contain any information that may reveal the identity of an individual victim of a crime.

5. As used in this section, "gender identity or expression" has the meaning ascribed to it in section 1 of this act.

Senator Wiener moved the adoption of the amendment.

Remarks by Senators Wiener and Lee.

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

SENATOR WIENER:

Amendment No. 77 to Senate Bill No. 180 deletes Section 4 of the bill that would add crimes committed on the basis of gender identity or expression to the list of aggravating circumstances for which a defendant can be charged with capital murder and subject to the death penalty.

SENATOR LEE:

Do we not already have hate crimes that already cover something of that nature?

SENATOR WIENER:

We do have hate crimes that address certain populations. Senate Bill No. 180 includes certain persons who are not included under current laws. The only major concerns of the original bill involved whether or not this inclusion should be used as an aggravator when considering capital punishment and the death penalty.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 196.

Bill read second time.

The following amendment was proposed by the Committee on Education:

Amendment No. 159.

"SUMMARY—Revises provisions governing empowerment schools. (BDR 34-86)"

"AN ACT relating to education; removing the restriction on the number of empowerment schools that may be established statewide; ~~providing that an empowerment school is not required to revert certain grants of money made by the Legislature;~~ removing the prospective expiration of the Program of

Empowerment Schools; ~~requiring a plan for each public school of a school district to convert to an empowerment school;~~ and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law establishes the Program of Empowerment Schools and imposes a cap on the number of empowerment schools that may be established statewide of 100 schools. (NRS 386.700-386.780) **Section 1** of this bill removes the cap.

~~Existing law sets forth provisions governing the sources of money which constitute the budget for an empowerment school and the discretion each empowerment school has over its budget. (NRS 386.740) Section 2 of this bill provides that if the Legislature appropriates money for grants to empowerment schools, each empowerment school awarded a grant may carry forward any money remaining from that grant to the next fiscal year and is not required to revert the money to the school district or the State.~~

Existing law provides for the prospective expiration of the Program of Empowerment Schools on June 30, 2011. (Section 20 of chapter 530, Statutes of Nevada 2007, p. 3285) **Section 3** of this bill removes the prospective expiration of the Program.

~~Under existing law, the boards of trustees of school districts in counties whose population is 100,000 or more (currently Clark and Washoe Counties) are required to approve not less than 5 percent of the schools within the school district to operate as empowerment schools, and the boards of trustees in all other counties are authorized to approve public schools within the school district to operate as empowerment schools. (NRS 386.720) Section 4 of this bill requires each school district to submit a report to the Superintendent of Public Instruction setting forth a timetable and process to convert each public school within the school district to an empowerment school not later than July 1, 2013. Section 4 also requires the Superintendent to compile the reports and prepare a written report of the compilation for submission to the Nevada Legislature.~~

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

Section 1. NRS 386.720 is hereby amended to read as follows:

386.720 1. There is hereby established a Program of Empowerment Schools for public schools within this State. The Program does not include a university school for profoundly gifted pupils.

2. ~~Except as otherwise provided in this subsection, the~~ **The** board of trustees of a school district which is located:

(a) In a county whose population is less than 100,000 may approve public schools located within the school district to operate as empowerment schools.

(b) In a county whose population is 100,000 or more shall approve not less than 5 percent of the schools located within the school district to operate as empowerment schools.

~~1. The total number of schools which operate as empowerment schools in this State must not exceed 100 schools. The Department shall adopt procedures to ensure compliance with the provisions of this subsection.~~

3. The board of trustees of a school district which participates in the Program of Empowerment Schools shall, on or before September 1 of each year, provide notice to the Department of the number of schools within the school district that are approved to operate as empowerment schools for that school year.

4. The board of trustees of a school district that participates in the Program of Empowerment Schools may create a design team for the school district. If such a design team is created, the membership of the design team must consist of the following persons appointed by the board of trustees:

- (a) At least one representative of the board of trustees;
- (b) The superintendent of the school district, or the superintendent's designee;
- (c) Parents and legal guardians of pupils enrolled in public schools in the school district;
- (d) Teachers and other educational personnel employed by the school district, including, without limitation, school administrators;
- (e) Representatives of organizations that represent teachers and other educational personnel;
- (f) Representatives of the community in which the school district is located and representatives of businesses within the community; and
- (g) Such other members as the board of trustees determines are necessary.

5. If a design team is created for a school district, the design team shall:

- (a) Recommend policies and procedures relating to empowerment schools to the board of trustees of the school district; and
- (b) Advise the board of trustees on issues relating to empowerment schools.

6. The board of trustees of a school district may accept gifts, grants and donations from any source for the support of the empowerment schools within the school district.

~~Sec. 2. NRS 386.740 is hereby amended to read as follows:
 386.740 1. Each empowerment plan for a school must:
 (a) Set forth the manner by which the school will be governed;
 (b) Set forth the proposed budget for the school, including, without limitation, the cost of carrying out the empowerment plan, and the manner by which the money apportioned to the school will be administered;
 (c) If a school support team has been established for the school in accordance with the regulations of the State Board adopted pursuant to NRS 385.361, require the principal and the empowerment team for the school to work in consultation with the school support team;
 (d) Prescribe the academic plan for the school, including, without limitation, the manner by which courses of study will be provided to the~~

pupils enrolled in the school and any special programs that will be offered for pupils;

~~—(e) Prescribe the manner by which the achievement of pupils will be measured and reported for the school, including, without limitation, the results of the pupils on the examinations administered pursuant to NRS 389.015 and 389.550;~~

~~—(f) Prescribe the manner by which teachers and other licensed educational personnel will be selected and hired for the school, which must be determined and negotiated pursuant to chapter 288 of NRS;~~

~~—(g) Prescribe the manner by which all other staff for the school will be selected and hired, which must be determined and negotiated pursuant to chapter 288 of NRS;~~

~~—(h) Indicate whether the empowerment plan will offer an incentive pay structure for staff and a description of that pay structure, if applicable;~~

~~—(i) Indicate the intended ratio of pupils to teachers at the school, designated by grade level, which must comply with NRS 388.700 or 388.720, as applicable;~~

~~—(j) Provide a description of the professional development that will be offered to the teachers and other licensed educational personnel employed at the school;~~

~~—(k) Prescribe the manner by which the empowerment plan will increase the involvement of parents and legal guardians of pupils enrolled in the school;~~

~~—(l) Comply with the plan to improve the achievement of the pupils enrolled in the school prepared pursuant to NRS 385.357, the turnaround plan for the school implemented pursuant to NRS 385.37603 or the plan for restructuring the school implemented pursuant to NRS 385.37607, whichever is applicable for the school;~~

~~—(m) Address the specific educational needs and concerns of the pupils who are enrolled in the school; and~~

~~—(n) Set forth the calendar and schedule for the school.~~

~~—2. If the empowerment plan includes an incentive pay structure, that pay structure must:~~

~~—(a) Provide an incentive for all staff employed at the school;~~

~~—(b) Set forth the standards that must be achieved by the pupils enrolled in the school and any other measurable objectives that must be met to be eligible for incentive pay; and~~

~~—(c) Be in addition to the salary or hourly rate of pay negotiated pursuant to chapter 288 of NRS that is otherwise payable to the employee.~~

~~—3. An empowerment plan may:~~

~~—(a) Request a waiver from a statute contained in this title or a regulation of the State Board or the Department.~~

~~—(b) Identify the services of the school district which the school wishes to receive, including, without limitation, professional development, transportation, food services and discretionary services. Upon approval of the~~

~~empowerment plan, the school district may deduct from the total apportionment to the empowerment school the costs of such services:~~

~~4. For purposes of determining the budget pursuant to paragraph (b) of subsection 1, if a public school which converts to an empowerment school is a:~~

~~(a) Charter school, the amount of the budget is the amount equal to the apportionments and allowances from the State Distributive School Account pursuant to NRS 387.121 to 387.126, inclusive, and its proportionate share of any other money available from federal, state or local sources that the school or the pupils enrolled in the school are eligible to receive.~~

~~(b) Public school, other than a charter school, the empowerment team for the school shall have discretion of 90 percent of the amount of money from the state financial aid and local funds that the school district apportions for the school, without regard to any line item specifications or specific uses determined advisable by the school district, unless the empowerment team determines that a lesser amount is necessary to carry out the empowerment plan.~~

~~5. If money is appropriated by the Legislature for awarding grants to empowerment schools to develop or carry out an empowerment plan, each empowerment school that is awarded such a grant may carry forward any money remaining from that grant at the end of a fiscal year to the next fiscal year and is not required to revert the money to the school district in which the empowerment school is located or to the State. (Deleted by amendment.)~~

Sec. 3. Section 20 of chapter 530, Statutes of Nevada 2007, at page 3285, is hereby amended to read as follows:

Sec. 20. This act becomes effective on July 1, 2007 . ~~It and expires by limitation on June 30, 2011.~~

Sec. 4. ~~1. On or before December 1, 2012, the board of trustees of each school district shall submit a written report to the Superintendent of Public Instruction which includes a timetable and process for each public school of the school district to convert to an empowerment school pursuant to the provisions of NRS 386.700 to 386.780, inclusive, not later than July 1, 2013.~~

~~2. The Superintendent of Public Instruction shall compile the written reports prepared pursuant to subsection 1 and submit a written report of the compilation and any recommendations for legislation to the Director of the Legislative Counsel Bureau for submission to the 77th Session of the Nevada Legislature. (Deleted by amendment.)~~

Sec. 5. This act becomes effective upon passage and approval.

Senator Denis moved the adoption of the amendment.

Remarks by Senator Denis.

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

Thank you, Mr. President. Amendment No. 159 deletes sections of the Senate Bill No. 196 that would have required a timetable and plan from each school district to convert all of its schools to empowerment schools. The amendment also deletes provisions that would have exempted empowerment schools from reverting certain grants of money made by the Legislature.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 198.

Bill read second time.

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

Amendment No. 144.

"SUMMARY—Revises certain provisions governing financial institutions. (BDR 55-822)"

"AN ACT relating to financial institutions; removing provisions requiring a bank annually to charge off a certain percentage of the value of real property held by the bank and acquired as a result of a debt owed to the bank; revising provisions governing the review of certain applications for licensure by the Commissioner of Financial Institutions; revising provisions relating to the control of a retail trust company; revising provisions governing the assets which certain trust companies are required to maintain; revising provisions governing applications for a license to operate a retail trust company; authorizing certain persons to appeal certain decisions of the Commissioner; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law regulates the activities of and establishes the licensure requirements for various financial institutions, including banks and trust companies, that operate in this State. (Title 55 of NRS) Existing law authorizes a bank to hold real property that the bank acquires through the collection of debts owed to it for not more than 10 years. ~~FA~~, and **section 1 of this bill reduces that period to 5 years, except that a bank may request an extension of that period from the Commissioner of Financial Institutions of not more than 5 years. Existing law also requires a** bank ~~is required~~ to charge off the real property on a schedule of not less than 10 percent per year, or at a greater percentage if so required by the Commissioner ~~of Financial Institutions. (NRS 662.015)~~ **Section 1 of this bill additionally** removes the requirement that a bank annually charge off a certain percentage of the value of such real property. **(NRS 662.015)**

Existing law also charges the Commissioner of Financial Institutions with certain duties and responsibilities related to retail trust companies, including investigating companies that apply for licensure as a retail trust company, issuing licenses to qualified companies to operate as a retail trust company and removing from office an officer, director, manager or employee of a retail trust company for certain conduct. (NRS 657.180, 669.085, 669.090,

669.130, 669.150, 669.160, 669.281) **Section 3** of this bill requires the Commissioner to consider certain criteria related to the potential long-term success of a trust company before approving the company's application for licensure to operate as a retail trust company. **Section 4** of this bill requires a person who ~~acquires~~ **intends to obtain** control of a retail trust company to submit an application for licensure to the Commissioner, ~~within 5 days after acquiring control of the company.~~ **Section 7** of this bill requires the Commissioner to provide to an applicant for licensure as a retail trust company written notice of any grounds for denial of an application and authorizes the applicant to cure any defect or deficiency in the application and resubmit the application within a certain period. **Section 8** of this bill provides that a person who is removed from office by the Commissioner may appeal his or her removal from office within a certain period.

Existing law requires a retail trust company to maintain at least 50 percent of its required stockholders' equity in cash, unless the Commissioner approves a different amount, with the remaining amount to be held in the form of readily marketable securities or certain other assets that may be approved by the Commissioner. Existing law also requires a noncustodial trust company to maintain 50 percent of its required minimum capital in cash. (NRS 669.100) **Section 6** of this bill ~~authorizes~~ **requires** a retail trust company to maintain ~~all of the~~ **a certain amount of its** required stockholders' equity in the form of cash, ~~or~~ **or certain cash equivalents and authorizes a retail trust company to hold the remaining amount of the required stockholders' equity in the form of** readily marketable securities or certain other assets upon the approval of the Commissioner. **Section 6 further requires that bonds or other evidence of indebtedness held by a retail trust company as part of its required stockholders' equity meet certain investment standards.** **Section 6** also ~~authorizes~~ **requires** a noncustodial trust company to maintain ~~50~~ **25** percent of its required minimum capital in the form of cash, ~~for readily marketable securities.~~

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

Section 1. NRS 662.015 is hereby amended to read as follows:

662.015 1. In addition to the powers conferred by law upon private corporations and limited-liability companies, a bank may:

(a) Exercise by its board of directors, managers or authorized officers and agents, subject to law, all powers necessary to carry on the business of banking by:

(1) Discounting and negotiating promissory notes, drafts, bills of exchange and other evidences of indebtedness;

(2) Receiving deposits;

(3) Buying and selling exchange, coin and bullion; and

(4) Loaning money on personal security or real and personal property.

↪ At the time of making loans, banks may take and receive interest or discounts in advance.

(b) Adopt regulations for its own government not inconsistent with the Constitution and laws of this State.

(c) Issue, advise and confirm letters of credit authorizing the beneficiaries to draw upon the bank or its correspondents.

(d) Receive money for transmission.

(e) Establish and become a member of a clearinghouse association and pledge assets required for its qualification.

(f) Exercise any authority and perform all acts that a national bank may exercise or perform, with the consent and written approval of the Commissioner. The Commissioner may, by regulation, waive or modify a requirement of Nevada law if the corresponding requirement for national banks is eliminated or modified.

(g) Provide for the performance of the services of a bank service corporation, such as data processing and bookkeeping, subject to any regulations adopted by the Commissioner.

(h) Unless otherwise specifically prohibited by federal law, sell annuities if licensed by the Commissioner of Insurance.

2. A bank may purchase, hold and convey real property:

(a) As is necessary for the convenient transaction of its business, including furniture and fixtures, with its banking offices and for future site expansion. This investment must not exceed, except as otherwise provided in this section, 60 percent of its stockholders' or members' equity, plus subordinated capital notes and debentures. The Commissioner may authorize any bank located in a city whose population is more than 10,000 to invest more than 60 percent of its stockholders' or members' equity, plus subordinated capital notes and debentures, in its banking offices, furniture and fixtures.

(b) As is mortgaged to it in good faith by way of security for loans made or money due to the bank.

(c) As is permitted by NRS 662.103.

3. This section does not prohibit any bank from holding, developing or disposing of any real property it may acquire through the collection of debts due it. ~~Any~~ **Except as otherwise provided in subsection 4,** real property acquired through the collection of debts due it may not be held for longer than ~~10~~ **5** years. It must be sold at private or public sale within 30 days thereafter. ~~During the time that the bank holds the real property, the bank shall charge off the real property on a schedule of not less than 10 percent per year, or at a greater percentage per year as the Commissioner may require.~~

4. A bank may request and the Commissioner may grant an extension of the period described in subsection 3 of not more than 5 years. The Commissioner shall not grant a bank more than one extension of the period prescribed in subsection 3 for any real property held by the bank.

Sec. 2. NRS 669.083 is hereby amended to read as follows:

669.083 1. A retail trust company licensed in this State shall maintain its principal office in this State.

2. The conditions for a retail trust company to fulfill the requirements of subsection 1 include, but are not limited to:

(a) A verifiable physical office in this State that conducts such business operations in this State as are necessary to administer trusts in this State;

(b) The presence of an employee that is a resident of Nevada in the principal office who has experience that is satisfactory to the Commissioner in accepting and administering trusts;

(c) Maintenance of originals or true copies of all material business records and accounts of the retail trust company which may be accessed and are readily available for examination by the Division of Financial Institutions;

(d) Maintenance of **any cash as a portion of** the required ~~cash portion of the~~ stockholders' equity pursuant to NRS 669.100 in accounts with one or more banks or other financial institutions located in this State;

(e) The provision of services to residents of this State consistent with the business plan provided by the trust company with its license application; and

(f) Such other conditions that the Commissioner may **reasonably** require to protect the public interest.

Sec. 3. NRS 669.085 is hereby amended to read as follows:

669.085 1. ~~{The Commissioner may conduct a pre opening examination of a retail trust company and, in}~~ **In** rendering a decision on an application for a license as a retail trust company, **the Commissioner shall** consider:

(a) The proposed market or markets to be served and, if they extend outside of this State, any exceptional risk, examination or supervision concerns associated with such markets;

(b) Whether the proposed organizational and capital structure and the amount of initial capital appear adequate in relation to the proposed business and market or markets, including, without limitation, the average level of assets under management and administration projected for each of the first 3 years of operation;

(c) ~~{Whether the anticipated volume and nature of business indicate a reasonable probability of success and profitability based on the market or markets proposed to be served;~~

~~{(d)}~~ (d) Whether the proposed officers and directors or managers of the proposed retail trust company, as a group, have sufficient experience, ability, standing and competence and whether each individually has sufficient trustworthiness and integrity to justify a belief that the proposed retail trust company will be free from improper or unlawful influence and otherwise will operate in compliance with the law and applicable fiduciary duties and that success of the proposed retail trust company is reasonably probable;

~~{(e)}~~ (d) Whether any investment services to trusts, estates, charities, employee benefit plans and other fiduciary accounts or to natural persons, partnerships, limited-liability companies and other entities, including, without limitation, providing investment advice with or without discretion or selling investments in or investment products of affiliated or nonaffiliated

persons, will be conducted in compliance with all applicable fiduciary standards, including, without limitation, NRS 164.700 to 164.775, inclusive, the duty of loyalty and disclosure of material information;

~~{(f)}~~ (e) Whether the proposed retail trust company will be exempt from registration under the Investment Advisers Act of 1940, 15 U.S.C. § 80b-1 et seq., and any similar state laws in each state where it would otherwise be required to register and, if not, whether it will comply with such registration requirements before commencing business and thereafter will comply with all federal and state laws and regulations applicable to it, its employees and representatives as a registrant under such laws;

~~{(g)}~~ (f) Whether the proposed retail trust company will obtain suitable annual audits by qualified outside auditors of its books and records and its fiduciary activities under applicable account rules and standards as well as suitable internal audits; and

~~{(h)}~~ (g) Any other factors that the Commissioner may *reasonably* require.

2. The Commissioner may require a retail trust company to maintain capital in excess of the minimum required either initially or at any subsequent time based on the Commissioner's assessment of the risks associated with the retail trust company's business plan or any other circumstances revealed in the application, the Commissioner's investigation of the application or any examination of or filing by the retail trust company thereafter, including any examination before the opening of the retail trust company for business. In making such a determination, the Commissioner may consider:

(a) The nature and type of business proposed to be conducted by the retail trust company;

(b) The nature and liquidity of assets proposed to be held in its own account;

(c) The amount of fiduciary assets projected to be under management or under administration of the retail trust company;

(d) The type of fiduciary assets proposed to be held and any proposed depository of such assets;

(e) The complexity of fiduciary duties and degree of discretion proposed to be undertaken by the retail trust company;

(f) The competence and experience of proposed management of the retail trust company;

(g) The extent and adequacy of proposed internal controls;

(h) The proposed presence or absence of annual audits by an independent certified public accountant, and the scope and frequency of such audits, whether they result in an opinion of the accountant and any qualifications to the opinion;

(i) The reasonableness of business plans for retaining or acquiring additional equity capital;

- (j) The existence and adequacy of insurance proposed to be obtained by the retail trust company for the purpose of protecting its fiduciary assets;
- (k) The success of the retail trust company in achieving the financial projections submitted with its licensing application;
- (l) The fulfillment by the retail trust company of its representations and its descriptions of its business structures and methods and management set forth in its licensing application; and
- (m) Any other factor that the Commissioner may require.

Sec. 4. NRS 669.087 is hereby amended to read as follows:

669.087 1. A license issued pursuant to this chapter is not transferable or assignable ~~[- Upon]~~, **but upon** approval of the Commissioner, a licensee may merge or consolidate with, or transfer its assets and control to, another entity that has been issued a license under this chapter. In making a determination regarding whether to grant such approval, the Commissioner may consider the factors set forth in paragraphs (a) to (m), inclusive, of subsection 2 of NRS 669.085.

2. If there is a change in control of any retail trust company, the chief executive officer or managing member of the retail trust company shall report the fact and the person obtaining control to the Commissioner within 5 business days after obtaining knowledge of the change.

3. A retail trust company shall, within 5 business days after there is a change in the chief executive officer, managing member or a majority of the directors or managing directors of the retail trust company, report the change to the Commissioner. The retail trust company shall include in its report a statement of the past and current business and professional affiliations of each new chief executive officer, managing member, director or managing director. A new chief executive officer, managing member, director or managing director shall furnish to the Commissioner a complete financial statement on a form prescribed by the Commissioner.

4. A person who ~~acquires~~ **intends to acquire** control ~~as a result of a change of control~~ of a retail trust company shall submit an application to the Commissioner ~~within 5 business days after obtaining control of the retail trust company.~~ The application must be submitted on a form prescribed by the Commissioner. The Commissioner shall conduct an investigation **pursuant to NRS 669.160** to determine whether the person has a good reputation for honesty, trustworthiness and integrity and is competent to ~~transact the business of a~~ **control the** trust company in a manner which protects the interests of the general public.

5. The retail trust company with which the applicant described in subsection 4 is affiliated shall pay the nonrefundable cost of the investigation as the Commissioner requires. If the Commissioner denies the application, the Commissioner may forbid or limit the applicant's participation in the business of the trust company.

6. As used in this section, "control" means the possession, directly or indirectly, of the power to direct or cause the direction of the management

and policy of a retail trust company, or a change in the ownership of at least 25 percent of the outstanding voting stock of, or participating members' interest in, a retail trust company.

Sec. 5. NRS 669.092 is hereby amended to read as follows:

669.092 1. It is unlawful for any retail trust company licensed in this State to engage in trust company business at any office outside this State without the prior approval of the Commissioner.

2. Before the Commissioner will approve a branch to be located in another state, the retail trust company must ~~†~~

(a) ~~Obtain from that state a license as a trust company; or~~

(b) ~~Meet†~~ **provide proof satisfactory to the Commissioner that the retail trust company has met all the requirements to do business as a trust company at an office in that state ††, including, without limitation, written documentation from the appropriate state agency that the retail trust company is authorized to do business in that state.**

Sec. 6. NRS 669.100 is hereby amended to read as follows:

669.100 1. No retail trust company may be organized or operated with a stockholders' equity of less than \$1,000,000, or in such greater amount as may be required by the Commissioner. The full amount of the initial stockholders' equity must be paid in cash, exclusive of all organization expenses, before the trust company is authorized to commence business.

2. A retail trust company shall maintain at least †50† 25 percent of its ~~†the†~~ required stockholders' equity in cash †unless the Commissioner approves a smaller amount.† and at least an additional 25 percent of its required stockholders' equity in cash or cash equivalents comprising certificates of deposit, money market funds or other insured deposits. Cash equivalents held by a retail trust company pursuant to this subsection may, upon prior approval by the Commissioner, comprise investments in treasury bills, government obligations or commercial paper which, if acquired after October 1, 2011, must mature not later than 3 months after the date of acquisition by the retail trust company. Any certificate of deposit, money market fund, insured deposit, commercial paper, treasury bill or government obligation, other than an obligation of the United States or an obligation guaranteed by the United States, that is held as a cash equivalent by a retail trust company pursuant to this subsection must not exceed 10 percent of the total required stockholders' equity at the time the cash equivalent is purchased. The remaining †50 percent† amount of ††† the retail trust company's required stockholders' equity may be a different ~~†or in the†~~ form of readily marketable securities, or with prior approval by the Commissioner, other liquid, secure asset, bond, surety or insurance, or some combination of the foregoing. Any bond or other evidence of indebtedness held by a retail trust company pursuant to this subsection must have an investment grade credit rating and must have received a rating within one of the top three rating categories of Moody's Investors Service, Inc. or Standard and Poor's Ratings Services.

3. Any grandfathered trust company other than a noncustodial trust company that does not have the minimum capital required by this section as of October 1, 2009, shall:

(a) Except as otherwise determined by the Commissioner, increase its capital to a minimum of:

- (1) By October 1, 2010, \$500,000;
- (2) By October 1, 2011, \$750,000; and
- (3) By October 1, 2012, \$1,000,000; and

(b) Maintain ~~150~~ 25 percent of such minimum capital in cash on and after October 1, 2010.

4. Any noncustodial trust company that does not have the minimum capital required by this section as of October 1, 2009, shall:

(a) Except as otherwise determined by the Commissioner, increase its capital to a minimum of:

- (1) By October 1, 2010, \$350,000;
- (2) By October 1, 2011, \$400,000; and
- (3) By October 1, 2012, \$500,000; and

(b) Maintain ~~150~~ 25 percent of such minimum capital in cash ~~for in the form of readily marketable securities~~ on and after October 1, ~~2010~~ 2011.

5. As used in this section, "in cash" means in depository accounts with one or more banks in this State.

Sec. 7. NRS 669.160 is hereby amended to read as follows:

669.160 1. Within 90 days after the application for a license is filed, the Commissioner shall investigate the facts of the application and the other requirements of this chapter to determine:

(a) That the persons who will serve as directors or officers of the corporation, or the managers or members acting in a managerial capacity of the limited-liability company, as applicable:

(1) Have a good reputation for honesty, trustworthiness and integrity and display competence to transact the business of a trust company in a manner which safeguards the interests of the general public. The applicant must submit satisfactory proof of these qualifications to the Commissioner.

(2) Have not been convicted of, or entered a plea of nolo contendere to, a felony or any crime involving fraud, misrepresentation or moral turpitude.

(3) Have not made a false statement of material fact on the application.

(4) Have not been an officer or member of the board of directors for an entity which had a license issued pursuant to the provisions of this chapter that was suspended or revoked within the 10 years immediately preceding the date of the application, and in the reasonable judgment of the Commissioner, there is evidence that the officer or member of the board of directors materially contributed to the actions resulting in the license suspension or revocation.

(5) Have not been an officer or member of the board of directors for a company which had a license as a trust company which was issued in any other state, district or territory of the United States or any foreign country

suspended or revoked within the 10 years immediately preceding the date of the application, and in the reasonable judgment of the Commissioner, there is evidence that the officer or member of the board of directors materially contributed to the actions resulting in the license suspension or revocation.

(6) Have not violated any of the provisions of this chapter or any regulation adopted pursuant to the provisions of this chapter.

(b) That the financial status of the directors and officers of the corporation or the managers or members acting in a managerial capacity of the limited-liability company is consistent with their responsibilities and duties.

(c) That the name of the proposed company complies with the provisions of NRS 657.200.

(d) That the initial stockholders' equity is not less than the required minimum.

(e) That the applicant has retained the employee required by paragraph (b) of subsection 2 of NRS 669.083.

2. ~~Notice~~ *After an investigation by the Commissioner pursuant to subsection 1, if the Commissioner finds any defect or deficiency in an application for licensure which would constitute grounds for denial of the application, written notice of such grounds for denial must be served personally or sent by certified mail to the applicant. The Commissioner shall allow the applicant ~~the~~ an opportunity to cure any defect or deficiency in the application and, not later than 30 days after receipt of the notice of denial, to resubmit the application for approval.*

3. *If a defect or deficiency in an application is not cured pursuant to subsection 2, written notice of the entry of an order refusing a license to a trust company must be ~~given in writing,~~ served personally or sent by certified mail to the company affected. The company, upon application, is entitled to a hearing before the Commissioner, but if no such application is made within 30 days after the entry of an order refusing a license to any company, the Commissioner shall enter a final order.*

~~4.~~ 4. The order of the Commissioner is final for the purposes of judicial review.

Sec. 8. NRS 669.281 is hereby amended to read as follows:

669.281 1. The Commissioner may require the immediate removal from office of any officer, director, manager or employee of any retail trust company doing business under this chapter who is found to be dishonest, incompetent or reckless in the management of the affairs of the retail trust company, or who persistently violates the laws of this State or the lawful orders, instructions and regulations issued by the Commissioner.

2. *An officer, director, manager or employee of a retail trust company who is removed from office pursuant to subsection 1 may appeal his or her removal by filing a written request for a hearing with the Commissioner within 10 days after the effective date of his or her removal. The Commissioner shall conduct the hearing after providing at least 5 days' written notice to ~~all interested parties,~~ the retail trust company and the*

officer, director, manager or employee who is removed from office. Within 5 days after the hearing, the Commissioner shall enter an order affirming or disaffirming the removal of the person from office. An order of the Commissioner entered pursuant to this subsection is final for the purposes of judicial review.

Sec. 9. This act becomes effective upon passage and approval.

Senator Settlemeyer moved the adoption of the amendment.

Remarks by Senator Settlemeyer.

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

Amendment No. 144 to Senate Bill No. 198 prohibits a bank that acquires real property through debt collection from holding the property for longer than five years. A bank may request the Commissioner of Financial Institutions to grant an extension of not more than five additional years. However, only one such extension may be granted.

A person who intends to acquire control of a retail trust company must submit an application to the Commissioner.

The Commissioner may approve locating a branch of a retail trust company in another state if the company provides written documentation from an appropriate state agency that the company is authorized to do business in that state.

The amendment makes certain changes in the allowable investments of stockholders' equity and the minimum capital requirements. It also makes the bill effective upon passage and approval.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 284.

Bill read second time and ordered to third reading.

Senate Bill No. 368.

Bill read second time and ordered to third reading.

Senate Bill No. 413.

Bill read second time and ordered to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Horsford moved that Senate Bill No. 413 be re-referred to the Committee on Finance.

Motion carried.

SECOND READING AND AMENDMENT

Senate Bill No. 477.

Bill read second time and ordered to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Horsford moved that Senate Bill No. 477 be re-referred to the Committee on Finance.

Motion carried.

SECOND READING AND AMENDMENT

Assembly Bill No. 30.

Bill read second time.

The following amendment was proposed by the Committee on Transportation:

Amendment No. 76.

"SUMMARY—Revises provisions relating to the authorization of certain emergency vehicles. (BDR 43-457)"

"AN ACT relating to motor vehicles; revising provisions relating to the authorization of certain emergency vehicles; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under existing law, the Nevada Highway Patrol Division is the only division of the Department of Public Safety expressly authorized to obtain permits from the Department of Motor Vehicles to own and operate authorized emergency vehicles. (NRS 484A.480, 484A.490) This bill expressly authorizes the issuance of such permits for vehicles owned and operated by: **(1) the Capitol Police Division, the Investigation Division, the State Fire Marshal Division, the Training Division and the Office of the Director of the Department of Public Safety, ~~and~~; and (2) the Section for the Control of Emissions From Vehicles and the Enforcement of Matters Related to the Use of Special Fuel in the Department of Motor Vehicles. This bill also transfers from the Department of Motor Vehicles to the Department of Public Safety the statutory authority to establish standards for certain equipment for emergency vehicles and to issue permits for authorized emergency vehicles.**

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

Section 1. NRS 484A.480 is hereby amended to read as follows:

484A.480 1. Except as otherwise provided in NRS 484A.490, authorized emergency vehicles are vehicles publicly owned and operated in the performance of the duty of:

- (a) A police or fire department.
- (b) A sheriff's office.

(c) ~~The Nevada Highway Patrol~~ *The Capitol Police Division, the Investigation Division, the Nevada Highway Patrol Division, the State Fire Marshal Division, the Training Division and the Office of the Director of the Department of Public Safety.*

(d) The Division of Forestry of the State Department of Conservation and Natural Resources in responding to a fire.

(e) *The Section for the Control of Emissions From Vehicles and the Enforcement of Matters Related to the Use of Special Fuel in the Department of Motor Vehicles.*

~~(f)~~ (f) A public ambulance agency.

~~(g)~~ (g) A public lifeguard or lifesaving agency.

2. A vehicle publicly maintained in whole or in part by the State, or by a city or county, and privately owned and operated by a regularly salaried

member of a police department, sheriff's office or traffic law enforcement department, is an authorized emergency vehicle if:

(a) The vehicle has a permit, pursuant to NRS 484A.490, from the Department ~~of~~ **of Public Safety**;

(b) The person operates the vehicle in responding to emergency calls or fire alarms, or at the request of the Nevada Highway Patrol or in the pursuit of actual or suspected violators of the law; and

(c) The State, county or city does not furnish a publicly owned vehicle for the purposes stated in paragraph (b).

3. Every authorized emergency vehicle must be equipped with at least one flashing red warning lamp visible from the front and a siren for use as provided in chapters 484A to 484E, inclusive, of NRS, which lamp and siren must be in compliance with standards approved by the Department ~~of~~ **of Public Safety**. In addition, an authorized emergency vehicle may display revolving, flashing or steady red or blue warning lights to the front, sides or rear of the vehicle.

4. An authorized emergency vehicle may be equipped with a system or device that causes the upper-beam headlamps of the vehicle to continue to flash alternately while the system or device is activated. The driver of a vehicle that is so equipped may use the system or device when responding to an emergency call or fire alarm, while escorting a funeral procession, or when in pursuit of an actual or suspected violator of the law. As used in this subsection, "upper-beam headlamp" means a headlamp or that part of a headlamp which projects a distribution of light or composite beam meeting the requirements of subsection 1 of NRS 484D.210.

5. Except as otherwise provided in subsection 4, a person shall not operate a motor vehicle with any system or device that causes the headlamps of the vehicle to continue to flash alternately or simultaneously while the system or device is activated. This subsection does not prohibit the operation of a motorcycle equipped with any system or device that modulates the intensity of light produced by the headlamp of the motorcycle, if the system or device is used only during daylight hours and conforms to the requirements of 49 C.F.R. § 571.108.

6. A person shall not operate a vehicle with any lamp or device displaying a red light visible from directly in front of the center of the vehicle except an authorized emergency vehicle, a school bus or an official vehicle of a regulatory agency.

7. A person shall not operate a vehicle with any lamp or device displaying a blue light, except a motorcycle pursuant to NRS 486.261 or an authorized emergency vehicle.

Sec. 2. NRS 484A.490 is hereby amended to read as follows:

484A.490 1. The Department **of Public Safety** may issue permits for authorized emergency vehicles to vehicles required to be operated primarily for the immediate preservation of life or property or for the apprehension of violators of the law. The permits must not be issued to vehicles when there

are available comparable services provided by agencies referred to in NRS 484A.480.

2. The issuance of the permits to vehicles under this section must be limited to:

- (a) Agencies designated in NRS 484A.480;
- (b) Vehicles owned or operated by an agency of the United States engaged primarily in law enforcement work;
- (c) Ambulances designed and operated exclusively as such; and
- (d) Supervisory vehicles which are:
 - (1) Marked and used to coordinate and direct the response of ambulances to emergencies;
 - (2) Privately owned by a person licensed to operate an ambulance; and
 - (3) Operated under contract with a local governmental agency and at the request of its law enforcement agency or fire department.

3. The following are not emergency vehicles and must not be permitted to operate as such:

- (a) Tow cars;
- (b) Vehicles used by public utilities;
- (c) Vehicles used in merchant patrols;
- (d) Vehicles used in private escort service;
- (e) Privately owned vehicles of volunteer firefighters;
- (f) Privately owned vehicles of reserve members of a police department or a sheriff's office; and
- (g) Vehicles of private detectives.

~~§Sec. 2.~~ *Sec. 3.* This act becomes effective upon passage and approval.

Senator Breedon moved the adoption of the amendment.

Remarks by Senator Breedon.

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

Amendment No. 76 to Assembly Bill No. 30 designates vehicles used by the Department of Motor Vehicles for enforcement as emergency vehicles. The amendment also transfers the authority to establish standards and permitting for emergency vehicles from the Department of Motor Vehicles to the Department of Public Safety.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 144.

Bill read second time.

The following amendment was proposed by the Select Committee on Economic Growth and Employment:

Amendment No. 51.

"SUMMARY—Makes various changes relating to bidder preferences on state and local public works projects. (BDR 28-64)"

"AN ACT relating to public works; revising provisions relating to preferences in bidding for contracts for certain public works projects;

requiring the inclusion in a contract for a public work of certain conditions that must be satisfied to obtain such a preference in bidding; providing for the investigation of a failure to satisfy the conditions for such a preference in bidding; providing for the recovery of damages for a failure to satisfy the provisions in a contract relating to preferences in bidding; prohibiting the use of a certificate of eligibility to receive a preference in bidding in certain circumstances; prohibiting a person from bidding on a public work in certain circumstances; revising provisions relating to the keeping, by certain persons, of records relating to public works; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under existing law, a contract for a public work is awarded to the contractor who submits the best bid. A contractor may qualify for a preference in bidding on a contract for a public work if the contractor has submitted proof to the State Contractors' Board that the contractor has paid certain taxes to the State for the past 5 years. (NRS 338.1389, 338.147)

Sections 2, 9-11, 13 and 16 of this bill require that a contractor, an applicant or a design-build team, respectively, must meet five additional criteria to receive a preference in bidding on a contract for a public work. Specifically, **section 2** requires that, in addition to the existing requirements for a preference in bidding on a contract for a public work, the contractor, applicant or design-build team must ensure that: (1) at least 50 percent of the workers on the public work have a Nevada driver's license or identification card; (2) all of the non-apportioned vehicles primarily used on the public work are registered in Nevada; (3) at least 50 percent of the design professionals who work on the public work have a Nevada driver's license or identification card; (4) at least 25 percent of the **suppliers of the** materials used in the public work are ~~purchased~~ **located** in Nevada; and (5) certain payroll records related to the public work are maintained and available within this State.

Section 2 also requires that, if a contractor, applicant or design-build team who receives a preference in bidding is awarded a contract for a public work, the contract must include those five requirements for a preference in bidding on a contract for a public work and provide that failure to comply with any of those five requirements is a material breach of the contract that entitles the public body to damages in the amount of 10 percent of the cost of the contract. **Additionally, section 2 requires each contract between a contractor, applicant or design-build team who receives a preference in bidding and a subcontractor to include a provision that apportions the liability for damages for a material breach of the contract for a public work between the contractor and subcontractor in proportion to each party's liability.** **Sections 9 and 10** of this bill provide that a contractor who breaches any of those five requirements for a contract for a public work the cost of which exceeds \$5,000,000 loses his or her certification for a preference in bidding for 5 years. **Sections 3, 6-8 and 14** of this bill provide

that a contractor, applicant or design-build team who breaches any of those five requirements for a contract for a public work the cost of which exceeds \$25,000,000 loses his or her ability to bid on any contracts for public works for one year.

Section 17 of this bill provides that those five requirements for a preference in bidding on a contract for a public work apply to any public work that is first advertised for bid after the effective date of this bill.

Section 17 also declares that any contract for such a public work that fails to comply with this bill is void.

Section 5 of this bill revises the records that a contractor or subcontractor engaged on a public work must keep relating to their workers.

WHEREAS, The State of Nevada has been disproportionately affected by the Great Recession, suffering from the nation's highest unemployment rate at 14.5 percent as of December 2010, which is also the highest unemployment rate in state history; and

WHEREAS, According to the current employment statistics compiled by the Research and Analysis Bureau of the Department of Employment, Training and Rehabilitation, the construction sector in the State has been particularly hard-hit, with over 60 percent of all construction jobs in the State eliminated from June 2006 through December 2010, accounting for a loss of about 91,700 jobs; and

WHEREAS, Investment in the State's public works and infrastructure is both crucial to the economic recovery of the State today and essential to investing in Nevada's future; and

WHEREAS, Giving priority in bidding on state and local public works projects to Nevada businesses that employ Nevada workers is critically important in addressing both the historically high state unemployment rate in general and the incredible damage done to the construction sector in particular by the Great Recession; and

WHEREAS, The Nevada Legislature has determined that the extreme shortage of jobs for Nevada workers poses a serious threat to the economy of the State which necessitates a reasonable yet immediately effective response to put Nevadans back to work; now, therefore,

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

Section 1. Chapter 338 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.

Sec. 2. 1. *To qualify to receive a preference in bidding pursuant to subsection 2 of NRS 338.1389, subsection 2 of NRS 338.147, subsection 3 of NRS 338.1693, subsection 3 of NRS 338.1727 or subsection 2 of NRS 408.3886, a contractor, an applicant or a design-build team, respectively, must submit to the public body sponsoring or financing a public work a signed affidavit which certifies that, for the duration of the project:*

(a) *At least 50 percent of all workers employed on the public work, including, without limitation, any employees of the contractor, applicant or design-build team and of any subcontractor engaged on the public work, will hold a valid driver's license or identification card issued by the Department of Motor Vehicles;*

(b) *All vehicles used primarily for the public work will be:*

(1) *Registered and partially apportioned to Nevada pursuant to the International Registration Plan, as adopted by the Department of Motor Vehicles pursuant to NRS 706.826; or*

(2) *Registered in this State;*

(c) *At least 50 percent of the design professionals working on the public work, including, without limitation, any employees of the contractor, applicant or design-build team and of any subcontractor engaged on the public work, will have a valid driver's license or identification card issued by the Department of Motor Vehicles;*

(d) *At least 25 percent of the suppliers of the materials used for the public work will be ~~purchase~~ located in this State;* and

(e) *The contractor, applicant or design-build team and any subcontractor engaged on the public work will maintain and make available for inspection within this State his or her records concerning payroll relating to the public work.*

2. *Any contract for a public work awarded to a contractor, applicant or design-build team who submits the affidavit described in subsection 1 and who receives a preference in bidding described in subsection 1 must:*

(a) *Include a provision in the contract that substantially incorporates the requirements of paragraphs (a) to (e), inclusive, of subsection 1; and*

(b) *Provide that a failure to comply with any requirement of paragraphs (a) to (e), inclusive, of subsection 1 is a material breach of the contract and entitles the public body to liquidated damages in the amount of 10 percent of the cost of the contract.*

3. *A person or entity who believes that a contractor, applicant or design-build team has obtained a preference in bidding as described in subsection 1 but has failed to comply with a requirement of paragraphs (a) to (e), inclusive, of subsection 1 may file a written objection with the public body for which the contractor, applicant or design-build team is performing the public work. A written objection authorized pursuant to this subsection must set forth proof or substantiating evidence to support the belief of the person or entity that the contractor, applicant or design-build team has failed to comply with a requirement of paragraphs (a) to (e), inclusive, of subsection 1.*

4. *If a public body receives a written objection pursuant to subsection 3, the public body shall determine whether the objection is accompanied by the proof or substantiating evidence required pursuant to that subsection. If the public body determines that the objection is not accompanied by the required proof or substantiating evidence, the public*

body shall dismiss the objection. If the public body determines that the objection is accompanied by the required proof or substantiating evidence or if the public body determines on its own initiative that proof or substantiating evidence of a failure to comply with a requirement of paragraphs (a) to (e), inclusive, of subsection 1 exists, the public body shall determine whether the contractor, applicant or design-build team has failed to comply with a requirement of paragraphs (a) to (e), inclusive, of subsection 1 and the public body or its authorized representative may proceed to award the contract accordingly or, if the contract has already been awarded, seek the remedy authorized in subsection 5.

5. A public body may recover by civil action liquidated damages as described in paragraph (b) of subsection 2 for a breach of a contract for a public work caused by a failure to comply with a requirement of paragraphs (a) to (e), inclusive, of subsection 1. If a public body recovers liquidated damages pursuant to this subsection for a breach of a contract for a public work, the public body shall report to the State Contractors' Board the date of the breach, the name of each entity which breached the contract and the cost of the contract. The Board shall maintain this information for not less than 6 years. Upon request, the Board shall provide this information to any public body or its authorized representative.

6. If a contractor, applicant or design-build team submits the affidavit described in subsection 1, receives a preference in bidding described in subsection 1 and is awarded the contract, each contract between the contractor, applicant or design-build team and a subcontractor must provide for the apportionment of liquidated damages assessed pursuant to subsection 5 if a person other than the contractor was responsible for the breach of a contract for a public work caused by a failure to comply with a requirement of paragraphs (a) to (e), inclusive, of subsection 1. The apportionment of liquidated damages must be in proportion to the responsibility of each party for the breach.

7. A public body that awards a contract for a public work to a contractor, applicant or design-build team who submits the affidavit described in subsection 1 and who receives a preference in bidding described in subsection 1 shall, on or before July 31 of each year, submit a written report to the Director of the Legislative Counsel Bureau for transmittal to the Legislative Commission. The report must include information on each contract for a public work awarded to a contractor, applicant or design-build team who submits the affidavit described in subsection 1 and who receives a preference in bidding described in subsection 1 including, without limitation, the name of the contractor, applicant or design-build team who was awarded the contract, the cost of the contract, a brief description of the public work and a description of the degree to which the contractor, applicant or design-build team and each subcontractor complied with the requirements of paragraphs (a) to (e), inclusive, of subsection 1.

Sec. 3. *A local government or its authorized representative shall not accept a bid on a contract for a public work if the contractor who submits the bid has, within the preceding year, breached a contract for a public work for which the cost exceeds \$25,000,000 by failing to comply with a requirement of paragraphs (a) to (e), inclusive, of subsection 1 of section 2 of this act.*

Sec. 4. NRS 338.0115 is hereby amended to read as follows:

338.0115 1. Except as otherwise provided in subsection 2, the provisions of this chapter and chapters 332 and 339 of NRS do not apply to a contract under which a private developer, for the benefit of a private development, constructs a water or sewer line extension and any related appurtenances:

(a) Which qualify as a public work pursuant to NRS 338.010; and

(b) For which the developer will receive a monetary contribution or refund from a public body as reimbursement for a portion of the costs of the project.

2. If, pursuant to the provisions of such a contract, the developer is not responsible for paying all of the initial construction costs of the project, the provisions of NRS 338.013 to 338.090, inclusive, and 338.1373 to 338.148, inclusive, **and sections 2 and 3 of this act** apply to the contract.

Sec. 5. NRS 338.070 is hereby amended to read as follows:

338.070 1. Any public body awarding a contract shall:

(a) Investigate possible violations of the provisions of NRS 338.010 to 338.090, inclusive, committed in the course of the execution of the contract, and determine whether a violation has been committed and inform the Labor Commissioner of any such violations; and

(b) When making payments to the contractor engaged on the public work of money becoming due under the contract, withhold and retain all sums forfeited pursuant to the provisions of NRS 338.010 to 338.090, inclusive.

2. No sum may be withheld, retained or forfeited, except from the final payment, without a full investigation being made by the awarding public body.

3. Except as otherwise provided in subsection 6, it is lawful for any contractor engaged on a public work to withhold from any subcontractor engaged on the public work sufficient sums to cover any penalties withheld from the contractor by the awarding public body on account of the failure of the subcontractor to comply with the terms of NRS 338.010 to 338.090, inclusive. If payment has already been made to the subcontractor, the contractor may recover from the subcontractor the amount of the penalty or forfeiture in a suit at law.

4. A contractor engaged on a public work and each subcontractor engaged on the public work shall keep or cause to be kept ~~the~~ :

(a) An accurate record showing ~~the~~ , **for each worker employed by the contractor or subcontractor in connection with the public work:**

~~the~~ **(1) The name** ~~of~~ **of the worker;**

~~the~~ **(2) The occupation of the worker;**

~~[(c)]~~ **(3) If ~~[any, the driver's license number or identification card number of] the worker ~~[, including, without limitation,]~~ has a driver's license or identification card, an indication of the state or other jurisdiction that issued the license or card; and ~~[the]~~~~**

~~[(d)]~~ **(4) The actual per diem, wages and benefits paid to ~~[each] the worker ~~[,]~~ employed by the contractor and subcontractor in connection with the public work.]; and~~**

(b) An additional accurate record showing, for each worker employed by the contractor or subcontractor in connection with the public work who has a driver's license or identification card:

(1) The name of the worker;

(2) The driver's license number or identification card number of the worker; and

(3) The state or other jurisdiction that issued the license or card.

5. The ~~record]~~ **records** maintained pursuant to subsection 4 must be open at all reasonable hours to the inspection of the public body awarding the contract. The contractor engaged on the public work or subcontractor engaged on the public work shall ensure that a copy of ~~the] each~~ record for each calendar month is received by the public body awarding the contract no later than 15 days after the end of the month. The copy **of the record maintained pursuant to paragraph (a) of subsection 4** must be open to public inspection as provided in NRS 239.010. **The copy of the record maintained pursuant to paragraph (b) of subsection 4 is confidential and not open to public inspection.** The ~~record]~~ **records** in the possession of the public body awarding the contract may be discarded by the public body 2 years after final payment is made by the public body for the public work.

6. A contractor engaged on a public work shall not withhold from a subcontractor engaged on the public work the sums necessary to cover any penalties provided pursuant to subsection 3 of NRS 338.060 that may be withheld from the contractor by the public body awarding the contract because the public body did not receive a copy of the record maintained by the subcontractor pursuant to subsection 4 for a calendar month by the time specified in subsection 5 if:

(a) The subcontractor provided to the contractor, for submission to the public body by the contractor, a copy of the record not later than the later of:

(1) Ten days after the end of the month; or

(2) A date agreed upon by the contractor and subcontractor; and

(b) The contractor failed to submit the copy of the record to the public body by the time specified in subsection 5.

↪ Nothing in this subsection prohibits a subcontractor from submitting a copy of a record for a calendar month directly to the public body by the time specified in subsection 5.

7. Any contractor or subcontractor, or agent or representative thereof, performing work for a public work who neglects to comply with the provisions of this section is guilty of a misdemeanor.

Sec. 6. NRS 338.1373 is hereby amended to read as follows:

338.1373 1. A local government or its authorized representative shall award a contract for a public work pursuant to the provisions of ~~††~~ **section 3 of this act and:**

- (a) NRS 338.1377 to 338.139, inclusive;
- (b) NRS 338.143 to 338.148, inclusive;
- (c) NRS 338.169 to 338.1699, inclusive; or
- (d) NRS 338.1711 to 338.1727, inclusive.

2. The provisions of NRS 338.1375 to 338.1382, inclusive, 338.1386, 338.13862, 338.13864, 338.139, 338.142, 338.169 to 338.1699, inclusive, and 338.1711 to 338.1727, inclusive, do not apply with respect to contracts for the construction, reconstruction, improvement and maintenance of highways that are awarded by the Department of Transportation pursuant to NRS 408.313 to 408.433, inclusive.

Sec. 7. NRS 338.1379 is hereby amended to read as follows:

338.1379 1. Except as otherwise provided in NRS 338.1382, a contractor who wishes to qualify as a bidder on a contract for a public work must submit an application to the State Public Works Board or the local government.

2. Upon receipt of an application pursuant to subsection 1, the State Public Works Board or the local government shall:

- (a) Investigate the applicant to determine whether the applicant is qualified to bid on a contract; and
- (b) After conducting the investigation, determine whether the applicant is qualified to bid on a contract. The determination must be made within 45 days after receipt of the application.

3. The State Public Works Board or the local government shall notify each applicant in writing of its determination. If an application is denied, the notice must set forth the reasons for the denial and inform the applicant of the right to a hearing pursuant to NRS 338.1381.

4. The State Public Works Board or the local government may determine an applicant is qualified to bid:

- (a) On a specific project; or
- (b) On more than one project over a period of time to be determined by the State Public Works Board or the local government.

5. ~~††~~ **Except as otherwise provided in subsection 8, the** State Public Works Board shall not use any criteria other than criteria adopted by regulation pursuant to NRS 338.1375 in determining whether to approve or deny an application.

6. ~~††~~ **Except as otherwise provided in subsection 8, the** local government shall not use any criteria other than the criteria described in NRS 338.1377 in determining whether to approve or deny an application.

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

8. *The State Public Works Board or the local government shall deny an application and revoke any existing qualification to bid if it finds that the applicant has, within the preceding year, breached a contract for a public work for which the cost exceeds \$25,000,000 by failing to comply with a requirement of paragraphs (a) to (e), inclusive, of subsection 1 of section 2 of this act.*

Sec. 8. NRS 338.1382 is hereby amended to read as follows:

338.1382 In lieu of adopting criteria pursuant to NRS 338.1377 and determining the qualification of bidders pursuant to NRS 338.1379, a governing body may deem a person to be qualified to bid on:

1. Contracts for public works of the local government if the person *has not, within the preceding year, breached a contract for a public work for which the cost exceeds \$25,000,000 by failing to comply with a requirement of paragraphs (a) to (e), inclusive, of subsection 1 of section 2 of this act,* and has been determined by:

(a) The State Public Works Board pursuant to NRS 338.1379 to be qualified to bid on contracts for public works of the State pursuant to criteria adopted pursuant to NRS 338.1375; or

(b) Another governing body pursuant to NRS 338.1379 to be qualified to bid on contracts for public works of that local government pursuant to the criteria set forth in NRS 338.1377.

2. A contract for a public work of the local government if:

(a) The person has been determined by the Department of Transportation pursuant to NRS 408.333 to be qualified to bid on the contract for the public work;

(b) The public work will be owned, operated or maintained by the Department of Transportation after the public work is constructed by the local government; and

(c) The Department of Transportation requested that bidders on the contract for the public work be qualified to bid on the contract pursuant to NRS 408.333.

Sec. 9. NRS 338.1389 is hereby amended to read as follows:

338.1389 1. Except as otherwise provided in subsection 10 and NRS 338.1385, 338.1386 and 338.13864, a public body or its authorized representative shall award a contract for a public work for which the estimated cost exceeds \$250,000 to the contractor who submits the best bid.

2. Except as otherwise provided in subsection 10 or limited by subsection 11, the lowest bid that is:

(a) Submitted by a responsive and responsible contractor who:

(1) Has been determined by the public body to be a qualified bidder pursuant to NRS 338.1379 or 338.1382; ~~and~~

(2) At the time the contractor submits his or her bid, has a valid certificate of eligibility to receive a preference in bidding on public works issued to the contractor by the State Contractors' Board pursuant to subsection 3 or 4; and

(3) *At the time the contractor submits his or her bid, submits a signed affidavit that meets the requirements of subsection 1 of section 2 of this act; and*

(b) Not more than 5 percent higher than the bid submitted by the lowest responsive and responsible bidder who ~~does~~ :

(1) *Does* not have, at the time he or she submits the bid, a valid certificate of eligibility to receive a preference in bidding on public works issued to him or her by the State Contractors' Board pursuant to subsection 3 or 4 ~~†~~ ; **or**

(2) *Does not submit, at the time he or she submits the bid, a signed affidavit certifying that he or she will comply with the requirements of paragraphs (a) to (e), inclusive, of subsection 1 of section 2 of this act for the duration of the contract,*

↪ shall be deemed to be the best bid for the purposes of this section.

3. The State Contractors' Board shall issue a certificate of eligibility to receive a preference in bidding on public works to a general contractor who is licensed pursuant to the provisions of chapter 624 of NRS and submits to the Board an affidavit from a certified public accountant setting forth that the general contractor has, while licensed as a general contractor in this State:

(a) Paid directly, on his or her own behalf:

(1) The sales and use taxes imposed pursuant to chapters 372, 374 and 377 of NRS on materials used for construction in this State, including, without limitation, construction that is undertaken or carried out on land within the boundaries of this State that is managed by the Federal Government or is on an Indian reservation or Indian colony, of not less than \$5,000 for each consecutive 12-month period for 60 months immediately preceding the submission of the affidavit from the certified public accountant;

(2) The governmental services tax imposed pursuant to chapter 371 of NRS on the vehicles used in the operation of his or her business in this State of not less than \$5,000 for each consecutive 12-month period for 60 months immediately preceding the submission of the affidavit from the certified public accountant; or

(3) Any combination of such sales and use taxes and governmental services tax; or

(b) Acquired, by purchase, inheritance, gift or transfer through a stock option plan, all the assets and liabilities of a viable, operating construction firm that possesses a:

(1) License as a general contractor pursuant to the provisions of

chapter 624 of NRS; and

(2) Certificate of eligibility to receive a preference in bidding on public works.

4. The State Contractors' Board shall issue a certificate of eligibility to receive a preference in bidding on public works to a specialty contractor who is licensed pursuant to the provisions of chapter 624 of NRS and submits to the Board an affidavit from a certified public accountant setting forth that the specialty contractor has, while licensed as a specialty contractor in this State:

(a) Paid directly, on his or her own behalf:

(1) The sales and use taxes pursuant to chapters 372, 374 and 377 of NRS on materials used for construction in this State, including, without limitation, construction that is undertaken or carried out on land within the boundaries of this State that is managed by the Federal Government or is on an Indian reservation or Indian colony, of not less than \$5,000 for each consecutive 12-month period for 60 months immediately preceding the submission of the affidavit from the certified public accountant;

(2) The governmental services tax imposed pursuant to chapter 371 of NRS on the vehicles used in the operation of his or her business in this State of not less than \$5,000 for each consecutive 12-month period for 60 months immediately preceding the submission of the affidavit from the certified public accountant; or

(3) Any combination of such sales and use taxes and governmental services tax; or

(b) Acquired, by purchase, inheritance, gift or transfer through a stock option plan, all the assets and liabilities of a viable, operating construction firm that possesses a:

(1) License as a specialty contractor pursuant to the provisions of chapter 624 of NRS; and

(2) Certificate of eligibility to receive a preference in bidding on public works.

5. For the purposes of complying with the requirements set forth in paragraph (a) of subsection 3 and paragraph (a) of subsection 4, a contractor shall be deemed to have paid:

(a) Sales and use taxes and governmental services taxes that were paid in this State by an affiliate or parent company of the contractor, if the affiliate or parent company is also a general contractor or specialty contractor, as applicable; and

(b) Sales and use taxes that were paid in this State by a joint venture in which the contractor is a participant, in proportion to the amount of interest the contractor has in the joint venture.

6. A contractor who has received a certificate of eligibility to receive a preference in bidding on public works from the State Contractors' Board pursuant to subsection 3 or 4 shall, at the time for the renewal of his or her contractor's license pursuant to NRS 624.283, submit to the Board an affidavit from a certified public accountant setting forth that the contractor

has, during the immediately preceding 12 months, paid the taxes required pursuant to paragraph (a) of subsection 3 or paragraph (a) of subsection 4, as applicable, to maintain eligibility to hold such a certificate.

7. A contractor who fails to submit an affidavit to the Board pursuant to subsection 6 ceases to be eligible to receive a preference in bidding on public works unless the contractor reapplies for and receives a certificate of eligibility pursuant to subsection 3 or 4, as applicable.

8. If a contractor holds more than one contractor's license, the contractor must submit a separate application for each license pursuant to which the contractor wishes to qualify for a preference in bidding. Upon issuance, the certificate of eligibility to receive a preference in bidding on public works becomes part of the contractor's license for which the contractor submitted the application.

9. If a contractor who applies to the State Contractors' Board for a certificate of eligibility to receive a preference in bidding on public works ~~submits~~ :

(a) Submits false information to the Board regarding the required payment of taxes, the contractor is not eligible to receive a preference in bidding on public works for a period of 5 years after the date on which the Board becomes aware of the submission of the false information ~~††~~ ; *or*

(b) Is found by the Board to have, within the preceding 5 years, breached a contract for a public work for which the cost exceeds \$5,000,000 by failing to comply with a requirement of paragraphs (a) to (e), inclusive, of subsection 1 of section 2 of this act, the contractor is not eligible to receive a preference in bidding on public works.

10. If any federal statute or regulation precludes the granting of federal assistance or reduces the amount of that assistance for a particular public work because of the provisions of subsection 2, those provisions do not apply insofar as their application would preclude or reduce federal assistance for that work.

11. If a bid is submitted by two or more contractors as a joint venture or by one of them as a joint venturer, the bid may be deemed the best bid only if both or all of the joint venturers separately meet the requirements of subsection 2.

12. The State Contractors' Board shall adopt regulations and may assess reasonable fees relating to the certification of contractors for a preference in bidding on public works.

13. A person or entity who believes that a contractor wrongfully holds a certificate of eligibility to receive a preference in bidding on public works may challenge the validity of the certificate by filing a written objection with the public body to which the contractor has submitted a bid on a contract for the construction of a public work. A written objection authorized pursuant to this subsection must:

(a) Set forth proof or substantiating evidence to support the belief of the person or entity that the contractor wrongfully holds a certificate of eligibility to receive a preference in bidding on public works; and

(b) Be filed with the public body not later than 3 business days after the opening of the bids by the public body or its authorized representative.

14. If a public body receives a written objection pursuant to subsection 13, the public body shall determine whether the objection is accompanied by the proof or substantiating evidence required pursuant to paragraph (a) of that subsection. If the public body determines that the objection is not accompanied by the required proof or substantiating evidence, the public body shall dismiss the objection and the public body or its authorized representative may proceed immediately to award the contract. If the public body determines that the objection is accompanied by the required proof or substantiating evidence, the public body shall determine whether the contractor qualifies for the certificate pursuant to the provisions of this section and the public body or its authorized representative may proceed to award the contract accordingly.

Sec. 10. NRS 338.147 is hereby amended to read as follows:

338.147 1. Except as otherwise provided in subsection 10 and NRS 338.143, 338.1442 and 338.1446, a local government or its authorized representative shall award a contract for a public work for which the estimated cost exceeds \$250,000 to the contractor who submits the best bid.

2. Except as otherwise provided in subsection 10 or limited by subsection 11, the lowest bid that is:

(a) Submitted by a contractor who:

(1) Has been found to be a responsible and responsive contractor by the local government or its authorized representative; ~~and~~

(2) At the time the contractor submits his or her bid, has a valid certificate of eligibility to receive a preference in bidding on public works issued to the contractor by the State Contractors' Board pursuant to subsection 3 or 4; and

(3) *At the time the contractor submits his or her bid, submits a signed affidavit that meets the requirements of subsection 1 of section 2 of this act; and*

(b) Not more than 5 percent higher than the bid submitted by the lowest responsive and responsible bidder who ~~does~~ :

(1) *Does* not have, at the time he or she submits the bid, a valid certificate of eligibility to receive a preference in bidding on public works issued to him or her by the State Contractors' Board pursuant to subsection 3 or 4 ~~;~~ ; **or**

(2) *Does not submit, at the time he or she submits the bid, a signed affidavit certifying that he or she will comply with the requirements of paragraphs (a) to (e), inclusive, of subsection 1 of section 2 of this act for the duration of the contract,*

↪ shall be deemed to be the best bid for the purposes of this section.

3. The State Contractors' Board shall issue a certificate of eligibility to receive a preference in bidding on public works to a general contractor who is licensed pursuant to the provisions of chapter 624 of NRS and submits to the Board an affidavit from a certified public accountant setting forth that the general contractor has, while licensed as a general contractor in this State:

(a) Paid directly, on his or her own behalf:

(1) The sales and use taxes imposed pursuant to chapters 372, 374 and 377 of NRS on materials used for construction in this State, including, without limitation, construction that is undertaken or carried out on land within the boundaries of this State that is managed by the Federal Government or is on an Indian reservation or Indian colony, of not less than \$5,000 for each consecutive 12-month period for 60 months immediately preceding the submission of the affidavit from the certified public accountant;

(2) The governmental services tax imposed pursuant to chapter 371 of NRS on the vehicles used in the operation of his or her business in this State of not less than \$5,000 for each consecutive 12-month period for 60 months immediately preceding the submission of the affidavit from the certified public accountant; or

(3) Any combination of such sales and use taxes and governmental services tax; or

(b) Acquired, by purchase, inheritance, gift or transfer through a stock option plan, all the assets and liabilities of a viable, operating construction firm that possesses a:

(1) License as a general contractor pursuant to the provisions of chapter 624 of NRS; and

(2) Certificate of eligibility to receive a preference in bidding on public works.

4. The State Contractors' Board shall issue a certificate of eligibility to receive a preference in bidding on public works to a specialty contractor who is licensed pursuant to the provisions of chapter 624 of NRS and submits to the Board an affidavit from a certified public accountant setting forth that the specialty contractor has, while licensed as a specialty contractor in this State:

(a) Paid directly, on his or her own behalf:

(1) The sales and use taxes pursuant to chapters 372, 374 and 377 of NRS on materials used for construction in this State, including, without limitation, construction that is undertaken or carried out on land within the boundaries of this State that is managed by the Federal Government or is on an Indian reservation or Indian colony, of not less than \$5,000 for each consecutive 12-month period for 60 months immediately preceding the submission of the affidavit from the certified public accountant;

(2) The governmental services tax imposed pursuant to chapter 371 of NRS on the vehicles used in the operation of his or her business in this State of not less than \$5,000 for each consecutive 12-month period for 60 months

immediately preceding the submission of the affidavit from the certified public accountant; or

(3) Any combination of such sales and use taxes and governmental services tax; or

(b) Acquired, by purchase, inheritance, gift or transfer through a stock option plan, all the assets and liabilities of a viable, operating construction firm that possesses a:

(1) License as a specialty contractor pursuant to the provisions of chapter 624 of NRS; and

(2) Certificate of eligibility to receive a preference in bidding on public works.

5. For the purposes of complying with the requirements set forth in paragraph (a) of subsection 3 and paragraph (a) of subsection 4, a contractor shall be deemed to have paid:

(a) Sales and use taxes and governmental services taxes paid in this State by an affiliate or parent company of the contractor, if the affiliate or parent company is also a general contractor or specialty contractor, as applicable; and

(b) Sales and use taxes paid in this State by a joint venture in which the contractor is a participant, in proportion to the amount of interest the contractor has in the joint venture.

6. A contractor who has received a certificate of eligibility to receive a preference in bidding on public works from the State Contractors' Board pursuant to subsection 3 or 4 shall, at the time for the renewal of his or her contractor's license pursuant to NRS 624.283, submit to the Board an affidavit from a certified public accountant setting forth that the contractor has, during the immediately preceding 12 months, paid the taxes required pursuant to paragraph (a) of subsection 3 or paragraph (a) of subsection 4, as applicable, to maintain eligibility to hold such a certificate.

7. A contractor who fails to submit an affidavit to the Board pursuant to subsection 6 ceases to be eligible to receive a preference in bidding on public works unless the contractor reapplies for and receives a certificate of eligibility pursuant to subsection 3 or 4, as applicable.

8. If a contractor holds more than one contractor's license, the contractor must submit a separate application for each license pursuant to which the contractor wishes to qualify for a preference in bidding. Upon issuance, the certificate of eligibility to receive a preference in bidding on public works becomes part of the contractor's license for which the contractor submitted the application.

9. If a contractor who applies to the State Contractors' Board for a certificate of eligibility to receive a preference in bidding on public works ~~submits~~:

(a) **Submits** false information to the Board regarding the required payment of taxes, the contractor is not eligible to receive a preference in bidding on

public works for a period of 5 years after the date on which the Board becomes aware of the submission of the false information ~~†~~; *or*

(b) Is found by the Board to have, within the preceding 5 years, breached a contract for a public work for which the cost exceeds \$5,000,000 by failing to comply with a requirement of paragraphs (a) to (e), inclusive, of subsection 1 of section 2 of this act, the contractor is not eligible to receive a preference in bidding on public works.

10. If any federal statute or regulation precludes the granting of federal assistance or reduces the amount of that assistance for a particular public work because of the provisions of subsection 2, those provisions do not apply insofar as their application would preclude or reduce federal assistance for that work.

11. If a bid is submitted by two or more contractors as a joint venture or by one of them as a joint venturer, the bid may be deemed a best bid only if both or all of the joint venturers separately meet the requirements of subsection 2.

12. The State Contractors' Board shall adopt regulations and may assess reasonable fees relating to the certification of contractors ~~†~~ for a preference in bidding on public works.

13. A person or entity who believes that a contractor wrongfully holds a certificate of eligibility to receive a preference in bidding on public works may challenge the validity of the certificate by filing a written objection with the local government to which the contractor has submitted a bid on a contract for the construction of a public work. A written objection authorized pursuant to this subsection must:

(a) Set forth proof or substantiating evidence to support the belief of the person or entity that the contractor wrongfully holds a certificate of eligibility to receive a preference in bidding on public works; and

(b) Be filed with the local government not later than 3 business days after the opening of the bids by the local government or its authorized representative.

14. If a local government receives a written objection pursuant to subsection 13, the local government shall determine whether the objection is accompanied by the proof or substantiating evidence required pursuant to paragraph (a) of that subsection. If the local government determines that the objection is not accompanied by the required proof or substantiating evidence, the local government shall dismiss the objection and the local government or its authorized representative may proceed immediately to award the contract. If the local government determines that the objection is accompanied by the required proof or substantiating evidence, the local government shall determine whether the contractor qualifies for the certificate pursuant to the provisions of this section and the local government or its authorized representative may proceed to award the contract accordingly.

Sec. 11. NRS 338.1693 is hereby amended to read as follows:

338.1693 1. The local government shall appoint a panel consisting of at least three members to rank the statements of qualifications submitted to the local government by evaluating the statements of qualifications as required pursuant to subsections 2 and 3.

2. The panel shall rank the statements of qualifications by:

(a) Verifying that each applicant satisfies the requirements of NRS 338.1691; and

(b) Conducting an evaluation of the qualifications of each applicant based on the factors and relative weight assigned to each factor that the local government specified in the request for statements of qualifications advertised pursuant to NRS 338.1692.

3. When ranking the statements of qualifications, the panel shall assign a relative weight of 5 percent to the *applicant's* possession of a certificate of eligibility to receive a preference in bidding on public works ~~†~~ *if the applicant submits a signed affidavit that meets the requirements of subsection 1 of section 2 of this act.*

4. After the panel ranks the statements of qualifications, the local government shall:

(a) Make available to the public the rankings of the applicants; and

(b) Except as otherwise provided in subsection 5, select at least the two but not more than the five applicants that the panel determined to be most qualified as finalists to submit final proposals to the local government pursuant to NRS 338.1694.

5. If the local government did not receive at least two statements of qualifications from applicants that the panel determines to be qualified pursuant to this section and NRS 338.1691, the local government may not contract with a construction manager at risk.

Sec. 12. NRS 338.1699 is hereby amended to read as follows:

338.1699 1. To be eligible to provide materials, equipment, work or other services on a public work for which a construction manager at risk was awarded a contract pursuant to NRS 338.1696, a subcontractor must be:

(a) Licensed pursuant to chapter 624 of NRS; and

(b) Selected by the construction manager at risk based on the process of competitive bidding set forth in the applicable provisions of NRS 338.1373 to 338.148, inclusive ~~†~~, *and sections 2 and 3 of this act.*

2. A construction manager at risk to whom a contract for the construction of a public work is awarded pursuant to NRS 338.1696 shall submit to the local government that awarded the contract or its authorized representative a list containing the names of each subcontractor with whom the construction manager at risk intends to enter into a contract for the provision of materials, equipment, work or other services on the public work.

Sec. 13. NRS 338.1727 is hereby amended to read as follows:

338.1727 1. After selecting the finalists pursuant to NRS 338.1725, the public body shall provide to each finalist a request for final proposals for the public work. The request for final proposals must:

(a) Set forth the factors that the public body will use to select a design-build team to design and construct the public work, including the relative weight to be assigned to each factor; and

(b) Set forth the date by which final proposals must be submitted to the public body.

2. If one or more of the finalists selected pursuant to NRS 338.1725 is disqualified or withdraws, the public body may select a design-build team from the remaining finalist or finalists.

3. Except as otherwise provided in this subsection, in assigning the relative weight to each factor for selecting a design-build team pursuant to subsection 1, the public body shall assign, without limitation, a relative weight of 5 percent to the *design-build team's* possession of a certificate of eligibility to receive a preference in bidding on public works *if the design-build team submits a signed affidavit that meets the requirements of subsection 1 of section 2 of this act*, and a relative weight of at least 30 percent to the proposed cost of design and construction of the public work. If any federal statute or regulation precludes the granting of federal assistance or reduces the amount of that assistance for a particular public work because of the provisions of this subsection relating to preference in bidding on public works, those provisions of this subsection do not apply insofar as their application would preclude or reduce federal assistance for that public work.

4. A final proposal submitted by a design-build team pursuant to this section must be prepared thoroughly and be responsive to the criteria that the public body will use to select a design-build team to design and construct the public work described in subsection 1. A design-build team that submits a final proposal which is not responsive shall not be awarded the contract and shall not be eligible for the partial reimbursement of costs provided for in subsection 7.

5. A final proposal is exempt from the requirements of NRS 338.141.

6. After receiving and evaluating the final proposals for the public work, the public body, at a regularly scheduled meeting, shall:

(a) Select the final proposal, using the criteria set forth pursuant to subsections 1 and 3, and award the design-build contract to the design-build team whose proposal is selected; or

(b) Reject all the final proposals.

7. If a public body selects a final proposal and awards a design-build contract pursuant to paragraph (a) of subsection 6, the public body shall:

(a) Partially reimburse the unsuccessful finalists if partial reimbursement was provided for in the request for preliminary proposals pursuant to paragraph (j) of subsection 2 of NRS 338.1723. The amount of reimbursement must not exceed, for each unsuccessful finalist, 3 percent of the total amount to be paid to the design-build team as set forth in the design-build contract.

(b) Make available to the public the results of the evaluation of final proposals that was conducted and the ranking of the design-build teams who submitted final proposals. The public body shall not release to a third party, or otherwise make public, financial or proprietary information submitted by a design-build team.

8. A contract awarded pursuant to this section:

(a) Must comply with the provisions of NRS 338.020 to 338.090, inclusive.

(b) Must specify:

(1) An amount that is the maximum amount that the public body will pay for the performance of all the work required by the contract, excluding any amount related to costs that may be incurred as a result of unexpected conditions or occurrences as authorized by the contract;

(2) An amount that is the maximum amount that the public body will pay for the performance of the professional services required by the contract; and

(3) A date by which performance of the work required by the contract must be completed.

(c) May set forth the terms by which the design-build team agrees to name the public body, at the cost of the public body, as an additional insured in an insurance policy held by the design-build team.

(d) Except as otherwise provided in paragraph (e), must not require the design professional to defend, indemnify or hold harmless the public body or the employees, officers or agents of that public body from any liability, damage, loss, claim, action or proceeding caused by the negligence, errors, omissions, recklessness or intentional misconduct of the employees, officers and agents of the public body.

(e) May require the design-build team to defend, indemnify and hold harmless the public body, and the employees, officers and agents of the public body from any liabilities, damages, losses, claims, actions or proceedings, including, without limitation, reasonable attorneys' fees, that are caused by the negligence, errors, omissions, recklessness or intentional misconduct of the design-build team or the employees or agents of the design-build team in the performance of the contract.

(f) Must require that the design-build team to whom a contract is awarded assume overall responsibility for ensuring that the design and construction of the public work is completed in a satisfactory manner.

9. Upon award of the design-build contract, the public body shall make available to the public copies of all preliminary and final proposals received.

Sec. 14. NRS 408.333 is hereby amended to read as follows:

408.333 Except as otherwise provided in NRS 408.3875 to 408.3887, inclusive:

1. Before furnishing any person proposing to bid on any advertised work with the plans and specifications for such work, the Director shall require from the person a statement, verified under oath, in the form of answers to

questions contained in a standard form of questionnaire and financial statement, which must include a complete statement of the person's financial ability and experience in performing public work of a similar nature.

2. Such statements must be filed with the Director in ample time to permit the Department to verify the information contained therein in advance of furnishing proposal forms, plans and specifications to any person proposing to bid on the advertised public work, in accordance with the regulations of the Department.

3. Whenever the Director is not satisfied with the sufficiency of the answers contained in the questionnaire and financial statement, the Director may refuse to furnish the person with plans and specifications and the official proposal forms on the advertised project. ***If the Director determines that the person has, within the preceding year, breached a contract for a public work for which the cost exceeds \$25,000,000 by failing to comply with a requirement of paragraphs (a) to (e), inclusive, of subsection 1 of section 2 of this act, the Director shall refuse to furnish the person with plans and specifications and the official proposal forms on the advertised project.*** Any bid of any person to whom plans and specifications and the official proposal forms have not been issued in accordance with this section must be disregarded, and the certified check, cash or undertaking of such a bidder returned forthwith.

4. Any person who is disqualified by the Director, in accordance with the provisions of this section, may request, in writing, a hearing before the Director and present again the person's check, cash or undertaking and such further evidence with respect to the person's financial responsibility, organization, plant and equipment, or experience, as might tend to justify, in his or her opinion, issuance to him or her of the plans and specifications for the work.

5. Such a person may appeal the decision of the Director to the Board no later than 5 days before the opening of the bids on the project. If the appeal is sustained by the Board, the person must be granted the rights and privileges of all other bidders.

Sec. 15. NRS 408.3883 is hereby amended to read as follows:

408.3883 1. The Department shall advertise for preliminary proposals for the design and construction of a project by a design-build team in a newspaper of general circulation in this State.

2. A request for preliminary proposals published pursuant to subsection 1 must include, without limitation:

- (a) A description of the proposed project;
- (b) Separate estimates of the costs of designing and constructing the project;
- (c) The dates on which it is anticipated that the separate phases of the design and construction of the project will begin and end;
- (d) The date by which preliminary proposals must be submitted to the Department, which must not be less than 30 days after the date that the

request for preliminary proposals is first published in a newspaper pursuant to subsection 1; and

(e) A statement setting forth the place and time in which a design-build team desiring to submit a proposal for the project may obtain the information necessary to submit a proposal, including, without limitation, the information set forth in subsection 3.

3. The Department shall maintain at the time and place set forth in the request for preliminary proposals the following information for inspection by a design-build team desiring to submit a proposal for the project:

(a) The extent to which designs must be completed for both preliminary and final proposals and any other requirements for the design and construction of the project that the Department determines to be necessary;

(b) A list of the requirements set forth in NRS 408.3884;

(c) A list of the factors that the Department will use to evaluate design-build teams who submit a proposal for the project, including, without limitation:

(1) The relative weight to be assigned to each factor pursuant to NRS 408.3886; and

(2) A disclosure of whether the factors that are not related to cost are, when considered as a group, more or less important in the process of evaluation than the factor of cost;

(d) Notice that a design-build team desiring to submit a proposal for the project must include with its proposal the information used by the Department to determine finalists among the design-build teams submitting proposals pursuant to subsection 2 of NRS 408.3885 and a description of that information;

(e) A statement that a design-build team whose prime contractor holds a certificate of eligibility to receive a preference in bidding on public works issued pursuant to NRS 338.1389 or 338.147 should submit *with its proposal* a copy of the certificate of eligibility ~~[with its proposal,]~~ *and a signed affidavit that meets the requirements of subsection 1 of section 2 of this act;* and

(f) A statement as to whether a bidding design-build team that is selected as a finalist pursuant to NRS 408.3885 but is not awarded the design-build contract pursuant to NRS 408.3886 will be partially reimbursed for the cost of preparing a final proposal or best and final offer, or both, and, if so, an estimate of the amount of the partial reimbursement.

Sec. 16. NRS 408.3886 is hereby amended to read as follows:

408.3886 1. After selecting the finalists pursuant to NRS 408.3885, the Department shall provide to each finalist a request for final proposals for the project. The request for final proposals must:

(a) Set forth the factors that the Department will use to select a design-build team to design and construct the project, including the relative weight to be assigned to each factor; and

(b) Set forth the date by which final proposals must be submitted to the Department.

2. Except as otherwise provided in this subsection, in assigning the relative weight to each factor for selecting a design-build team pursuant to subsection 1, the Department shall assign, without limitation, a relative weight of 5 percent to the *design-build team's* possession of a certificate of eligibility to receive a preference in bidding on public works *if the design-build team submits a signed affidavit that meets the requirements of subsection 1 of section 2 of this act*, and a relative weight of at least 30 percent for the proposed cost of design and construction of the project. If any federal statute or regulation precludes the granting of federal assistance or reduces the amount of that assistance for a particular project because of the provisions of this subsection relating to preference in bidding on public works, those provisions of this subsection do not apply insofar as their application would preclude or reduce federal assistance for that project.

3. A final proposal submitted by a design-build team pursuant to this section must be prepared thoroughly, be responsive to the criteria that the Department will use to select a design-build team to design and construct the project described in subsection 1 and comply with the provisions of NRS 338.141.

4. After receiving the final proposals for the project, the Department shall:

(a) Select the most cost-effective and responsive final proposal, using the criteria set forth pursuant to subsections 1 and 2;

(b) Reject all the final proposals; or

(c) Request best and final offers from all finalists in accordance with subsection 5.

5. If the Department determines that no final proposal received is cost-effective or responsive and the Department further determines that requesting best and final offers pursuant to this subsection will likely result in the submission of a satisfactory offer, the Department may prepare and provide to each finalist a request for best and final offers for the project. In conjunction with preparing a request for best and final offers pursuant to this subsection, the Department may alter the scope of the project, revise the estimates of the costs of designing and constructing the project, and revise the selection factors and relative weights described in paragraph (a) of subsection 1. A request for best and final offers prepared pursuant to this subsection must set forth the date by which best and final offers must be submitted to the Department. After receiving the best and final offers, the Department shall:

(a) Select the most cost-effective and responsive best and final offer, using the criteria set forth in the request for best and final offers; or

(b) Reject all the best and final offers.

6. If the Department selects a final proposal pursuant to paragraph (a) of subsection 4 or selects a best and final offer pursuant to paragraph (a) of subsection 5, the Department shall hold a public meeting to:

(a) Review and ratify the selection.

(b) Partially reimburse the unsuccessful finalists if partial reimbursement was provided for in the request for preliminary proposals pursuant to paragraph (f) of subsection 3 of NRS 408.3883. The amount of reimbursement must not exceed, for each unsuccessful finalist, 3 percent of the total amount to be paid to the design-build team as set forth in the design-build contract.

(c) Make available to the public a summary setting forth the factors used by the Department to select the successful design-build team and the ranking of the design-build teams who submitted final proposals and, if applicable, best and final offers. The Department shall not release to a third party, or otherwise make public, financial or proprietary information submitted by a design-build team.

7. A contract awarded pursuant to this section:

(a) Must comply with the provisions of NRS 338.020 to 338.090, inclusive; and

(b) Must specify:

(1) An amount that is the maximum amount that the Department will pay for the performance of all the work required by the contract, excluding any amount related to costs that may be incurred as a result of unexpected conditions or occurrences as authorized by the contract;

(2) An amount that is the maximum amount that the Department will pay for the performance of the professional services required by the contract; and

(3) A date by which performance of the work required by the contract must be completed.

8. A design-build team to whom a contract is awarded pursuant to this section shall:

(a) Assume overall responsibility for ensuring that the design and construction of the project is completed in a satisfactory manner; and

(b) Use the workforce of the prime contractor on the design-build team to construct at least 15 percent of the project.

Sec. 17. 1. The amendatory provisions of this act apply to all public works for which bids are first advertised after the effective date of this act.

2. Any contract awarded for a public work to which the amendatory provisions of this act apply pursuant to subsection 1 and:

(a) Which was not advertised in compliance with the amendatory provisions of this act;

(b) For which bids were not accepted in compliance with the amendatory provisions of this act; or

(c) For which the contract was not awarded in compliance with the amendatory provisions of this act,

↪ is void.

3. As used in this section, "contract" and "public work" have the meanings ascribed to them in NRS 338.010.

Sec. 18. This act becomes effective upon passage and approval.

Senator Kihuen moved the adoption of the amendment.

Remarks by Senator Kihuen.

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

Amendment No. 51 to Assembly Bill No. 144 modifies the requirement that 25 percent of the materials for a public works project be purchased in Nevada and instead requires that 25 percent of the suppliers of materials purchased for a public works project be in Nevada. The amendment provides that penalties imposed for violation of certain provisions of the bill are to be shared by the primary contractor and subcontractors, in the event that the primary contractor was not solely at fault for the violation. It also requires local governments and certain State agencies to report annually to the Legislative Commission on the contracts awarded under the program.

In addition, Amendment No. 51 makes changes to protect the personal identifying information of employees working on projects awarded under the program. It requires the driver's license and identification card information collected to be kept confidential and not open to public inspection.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

GENERAL FILE AND THIRD READING

Senate Bill No. 30.

Bill read third time.

Remarks by Senator Kihuen.

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

Senate Bill No. 30 revises procedures for the transfer or withdrawal of money from the operating account of a unit-owners' association. First, electronic transfers can be made without certain signatures to a State or federal agency pursuant to the appropriate law. Second, an association may use electronic signatures to withdraw money under certain circumstances. There must be a written agreement with the financial institution where the account is held, the withdrawal must be authorized by the executive board, and the association must have internal controls to safeguard the assets.

The bill also repeals existing law concerning the availability of certain financial records and instead requires that they be available in a manner similar to other association records. The measure retains the existing provision that a copy of the financial records must be made available, at a cost not to exceed 25 cents per page, to a unit owner or the Ombudsman within 14 days of receiving a written request.

Roll call on Senate Bill No. 30:

YEAS—21.

NAYS—None.

Senate Bill No. 30 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 44.

Bill read third time.

Remarks by Senator Copening.

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

Senate Bill No. 44 requires the Division of Mental Health and Developmental Services, Department of Health and Human Services, to adopt regulations that define when a consumer may receive services from the Division, and that establish policies and procedures for the referral of a consumer to another organization or resource when the Division cannot provide the services that the consumer needs.

The bill also replaces the term "client" in certain existing statutes with the term "consumer" to reflect currently acceptable nomenclature within the field of mental health for individuals who seek and can benefit from services offered by the Division. Finally, the bill requires the Legislative Counsel to make corresponding changes to existing regulations.

Roll call on Senate Bill No. 44:

YEAS—21.

NAYS—None.

Senate Bill No. 44 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 65.

Bill read third time.

Remarks by Senator Settlemeyer.

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

Senate Bill No. 65 changes the requirement that a Board of County Commissioners and the Clerk and Council of each incorporated city publish a quarterly financial statement detailing the receipts and disbursements of each bill that the county and city has paid.

The bill provides that a summary statement showing the total amounts of receipts, disbursements, and bills to be published quarterly in a newspaper of general circulation and on the county's or city's Internet website, if available, for a period of five consecutive days. The measure requires the quarterly statement to include instructions for the public indicating for the statement published in the newspaper, where on the county's or city's Internet website the statement can be viewed; a telephone number the public may call to obtain financial documents; and an address of the city or county offices where the public may view the statements.

Finally, the bill clarifies that the documents and receipts that support the local financial transactions set forth in the quarterly statements are considered public records.

Roll call on Senate Bill No. 65:

YEAS—21.

NAYS—None.

Senate Bill No. 65 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 74.

Bill read third time.

Remarks by Senator Settlemeyer.

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

Senate Bill No. 74 changes the designation of certain State funds and accounts and realigns numerous special funds into separate accounts within the State General Fund.

This brings us into accordance with the Government Accounting Standards Board rules.

Roll call on Senate Bill No. 74:

YEAS—21.

NAYS—None.

Senate Bill No. 74 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 77.

Bill read third time.

Remarks by Senators Hardy and Kieckhefer.

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

SENATOR HARDY:

The key points are fingerprints being required and the complete form needs to be filled out before it is notarized. The notary will have notice of any suspension on the Internet, and the submission of fingerprints will take place upon passage, as opposed to January 1, 2012, for the rest of the bill.

SENATOR KIECKHEFER:

Thank you, Mr. President. With the amendment, does it maintain the establishment of a class C felony for notaries who intentionally misuse their stamp?

SENATOR HARDY:

Yes, if there is a substantial and material misstatement or omission of fact, the notary public is guilty of a category C felony. Likewise, the stamp and the notary journal must be kept in a secure location.

SENATOR KIECKHEFER:

Is this an ongoing problem we are trying to fix?

SENATOR HARDY:

Not after this amendment.

SENATOR KIECKHEFER:

I do not have a problem with the bill, but I would like to say that list of class C felonies is very strange, including anything from bribing a legislator to sex crimes or stealing \$250. It is a diverse list of crimes with which we are making this consistent.

Roll call on Senate Bill No. 77:

YEAS—21.

NAYS—None.

Senate Bill No. 77 having received a two-thirds majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 82.

Bill read third time.

Remarks by Senator Hardy.

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

Senate Bill No. 82 requires an investigation of security breaches and report of the breach to the appropriate people. It makes changes in the Information Technology Board as well as requires some local government assistance when it does not increase the cost to the State or

would be allowed to reduce the cost to the State. It requires Internet use for advertisements and for the local governments to use the Internet websites if they have them available.

Roll call on Senate Bill No. 82:

YEAS—21.

NAYS—None.

Senate Bill No. 82 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 85.

Bill read third time.

Remarks by Senators Lee and Manendo.

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

SENATOR LEE:

Senate Bill No. 85 clarifies which decisions of a planning commission, board of adjustment, hearing examiner, or governing body may be appealed to the district court. For the purposes of judicial review within Clark County, Senate Bill No. 85 revises the definition of "aggrieved" to specifically exclude a person who has not submitted in writing to, or appeared before, the appropriate bodies and stated the grounds for his or her appeal, or whose claims are based solely on increased or new competition.

SENATOR MANENDO:

I rise in opposition to Senate Bill No. 85. An individual cannot appeal a land use decision by the planning commission or other governing body unless they have been aggrieved by that decision. As the Chair of the Committee mentioned, to be deemed aggrieved, you must appear in person through an authorized representative or in writing and state your position on that particular item. This is fine unless you miss the public hearing. Many times citizens miss items on an agenda due to a wide variety of reasons such as they are at work or caring for their families. Sometimes they just cannot decipher the agenda item. I remember an incident in Clark County where there was a controversial item that had to do with building a minimum-security facility. It started out being a 500-bed facility then grew to be a 2,000-bed facility, which was within a half mile of homes and within a mile of a school. That item was moved to the consent items. We did not know where the item went. We could not find it. We did not see it on the agenda. We had almost 2,000 signatures against this item. Those of us who could leave work did so. We begged and they moved the item from the consent items. Things like that happen. Often the public is not alerted to an item until after it has been heard by the planning commission. They must deal with it at the city or county commission level. In Senate Bill No. 85 if a member of the public does not appear at that hearing and wants to appeal a decision, under this legislation they cannot appeal it.

The unintended consequences are not in the public's best interest. We should not place undue restrictions on the public input in an appeal process in land and zoning decisions.

I urge your opposition to this bill.

SENATOR LEE:

I agree with what he is saying. However, these go through the planning commission, the board of adjustments, or the hearing examiner and are vetted there. From there, the decision goes to the county commission. If I thought for one minute that someone would not have a chance to have an opportunity to have their opinions heard, I would not push this bill. You have time to submit your concerns in writing or appear before the appropriate body. I understand the residential issue, but sometimes some businesses try to act as if they are aggrieved every time another industry wants to place a business nearby. For instance, an auto dealership might not want another dealership four miles away because they do not want the competition. What we were trying to do with this is to use language in such a way that someone would have to come to

the hearing and have to talk about it, not just file a claim, thus stopping the process. I agree that things do happen to people. Sometimes they cannot make meetings. I would hope that, in that case, a county commissioner would be available if someone missed the meeting and they would still listen to them.

I offer this bill with my full support.

Roll call on Senate Bill No. 85:

YEAS—19.

NAYS—Leslie, Manendo—2.

Senate Bill No. 85 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 96.

Bill read third time.

Remarks by Senator Hardy.

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

Encouraging young adults to volunteer to serve their community is widely viewed as beneficial to the individual as well as to society. Past research has found that students who participate in these programs tend to have stronger ties to school, peers, and the community, and generally demonstrate positive social behaviors. Not the least of which, is networking with other people who like to volunteer. Many times that leads to knowing people who hire people. You get jobs by knowing someone who knows someone.

Roll call on Senate Bill No. 96:

YEAS—21.

NAYS—None.

Senate Bill No. 96 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 102.

Bill read third time.

Remarks by Senator Lee.

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

Senate Bill No. 102 imposes a civil penalty of not less than \$5,000 nor more than \$30,000 for unlawfully killing or possessing a trophy big game mammal. The bill imposes a civil penalty against a person for unlawfully killing or possessing a moose.

Mr. President, I was not certain about this, but I learned that moose from California sometimes come across the State line and they become our property. We do not hunt moose in Nevada.

The measure also revises the maximum amount of a civil penalty for hunting, fishing, or trapping without a license from \$250 to the amount of the fee for the required license or permit. Finally, Senate Bill No. 102 requires the Board of Wildlife Commissioners to adopt regulations for the taking of antlers naturally shed by big game mammals. I encourage this body's support.

Roll call on Senate Bill No. 102:

YEAS—21.

NAYS—None.

Senate Bill No. 102 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 111.

Bill read third time.

Remarks by Senator Kieckhefer.

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

Senate Bill No. 111 requires each agency that provides child welfare services to develop and implement a written plan to ensure that the provisions and exceptions for placement of children in protective custody into a childcare institution are understood and carried out.

Roll call on Senate Bill No. 111:

YEAS—21.

NAYS—None.

Senate Bill No. 111 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 120.

Bill read third time.

Remarks by Senator Lee.

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

Senate Bill No. 120 changes the name of the Committee on High-Level Radioactive Waste to the Committee on Radioactive Waste, and expands the scope of the duties and powers of the Committee by revising the definition of "radioactive waste" to include high-level radioactive waste, low-level radioactive waste, transuranic waste, spent nuclear fuel, and certain other radioactive materials that the Nuclear Regulatory Commission determines must be permanently isolated.

Roll call on Senate Bill No. 120:

YEAS—21.

NAYS—None.

Senate Bill No. 120 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 136.

Bill read third time.

Remarks by Senator Settlemeyer.

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

Senate Bill No. 136 prohibits a bank that acquires real property through the collection of debts from holding the property for longer than five years. A bank may request, and the Commissioner of Financial Institutions, Department of Business and Industry, may grant, an extension of not more than five additional years. The Commissioner shall not grant more than one extension.

Roll call on Senate Bill No. 136:

YEAS—21.

NAYS—None.

Senate Bill No. 136 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 143.

Bill read third time.

Remarks by Senator Copening.

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

Senate Bill No. 143 makes several changes to insurance industry practices. The bill repeals the requirement that a resident insurance producer maintain a place of business in this State which is accessible to the public and at which the producer principally conducts transaction subject to the producer's license. Basically, this saying a "brick and mortar" requirement is repealed.

The bill provides that a certificate of insurance issued regarding a contract or policy of property or casualty insurance, other than a group master policy, is informational only and does not amend any term or alter or extend any coverage, exclusion, or condition of the contract or policy of insurance.

This bill is effective on July 1, 2011.

Roll call on Senate Bill No. 143:

YEAS—21.

NAYS—None.

Senate Bill No. 143 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

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

Senate in recess at 12:57 p.m.

SENATE IN SESSION

At 1:35 p.m.

President Krolicki presiding.

Quorum present.

Senate Bill No. 152.

Bill read third time.

The following amendment was proposed by Senator Schneider:

Amendment No. 206.

"SUMMARY—Revises provisions governing insurance adjusters. (BDR 57-939)"

"AN ACT relating to insurance; revising provisions governing insurance adjusters; exempting certain persons from provisions of the Nevada Insurance Adjusters Law governing the licensing and regulation of adjusters; ~~authorizing the Commissioner of Insurance to issue a license as an adjuster to a resident of Canada under certain circumstances;~~ and providing other matters properly relating thereto."

Legislative Counsel's Digest:

The Nevada Insurance Adjusters Law governs the licensing of adjusters and the regulation of their conduct. (NRS 684A.010-684A.260) The Nevada Insurance Adjusters Law defines "adjuster," "independent adjuster," "public adjuster" and "associate adjuster" for purposes of the Nevada Insurance Code. (NRS 684A.020, 684A.030) The Nevada Insurance Adjusters Law is applicable only to persons who satisfy the statutory definition of adjuster, but not to persons who adjust or settle claims relating to life insurance, health insurance or annuities. (NRS 684A.010)

Section 2 of this bill exempts certain persons from the provisions governing the licensing and regulation of adjusters by specifically providing that such persons are not considered adjusters for purposes of the Code. **Section 2** provides that the following persons are not considered adjusters: (1) certain employees of an independent adjuster or an affiliate of an independent adjuster who collect information relating to a claim and conduct data entry; (2) licensed agents who supervise certain employees of an independent adjuster or an affiliate of an independent adjuster; (3) persons employed only to collect factual information concerning a claim for coverage arising under an insurance contract; (4) persons employed only to provide technical assistance to an independent adjuster; (5) persons employed to investigate suspected fraudulent claims for coverage arising under an insurance contract but who do not adjust losses or determine the payment of claims; (6) persons who perform only executive, administrative, managerial or clerical duties, or any combination thereof, but do not investigate or settle claims for coverage arising under an insurance contract; (7) licensed health care providers or any employees thereof who provide managed care services if those services do not include the determination of compensability; (8) managed care organizations or any employees thereof or organizations that provide managed care services or any employees thereof if the services provided do not include the determination of compensability; (9) persons who settle only reinsurance or subrogation claims; (10) brokers, agents or representatives of risk retention groups; (11) attorneys-in-fact of reciprocal insurers; and (12) managers of branch offices of alien insurers that are located in the United States.

~~† Section 5 of this bill authorizes the Commissioner of Insurance to issue a license as an adjuster to a resident of Canada who is otherwise qualified for licensure and who adjusts and pays claims on business written in Nevada. Sections 6 and 7 of this bill exempt a resident of Canada from certain requirements relating to licensure as an adjuster. A resident of Canada who applies for licensure as an adjuster is required to pay certain fees for the issuance or renewal of such a license. (NRS 680B.010, 680C.110, 684A.090, 684A.130, 684A.160)†~~

Section 6 ~~also~~ **of this bill** revises provisions concerning applications for licensure submitted by an applicant that is a firm or corporation rather than a natural person.

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

Section 1. Chapter 684A of NRS is hereby amended by adding thereto a new section to read as follows:

As used in this Code, "automated claims adjudication system" means a preprogrammed computer system which:

1. Is designed for the collection, data entry, calculation and final resolution of claims arising under an insurance contract for portable electronic insurance coverage;

2. Is used by a licensed adjuster, licensed agent or person supervised by a licensed adjuster or licensed agent; and

3. Complies with the requirements of this Code concerning the payment of claims.

Sec. 2. NRS 684A.020 is hereby amended to read as follows:

684A.020 1. ~~As~~ *Except as otherwise provided in subsection 2, as used in this Code, "adjuster" means any person who, for compensation as an independent contractor or for a fee or commission, investigates and settles, and reports to his or her principal relative to, claims:*

(a) Arising under insurance contracts for property, casualty or surety coverage, on behalf solely of the insurer or the insured; or

(b) Against a self-insurer who is providing similar coverage, unless the coverage provided relates to a claim for industrial insurance.

2. For the purposes of this chapter:

(a) An associate adjuster, as defined in NRS 684A.030;

(b) An attorney at law who adjusts insurance losses from time to time incidental to the practice of his or her profession;

(c) An adjuster of ocean marine losses;

(d) A salaried employee of an insurer; ~~or~~

(e) A salaried employee of a managing general agent maintaining an underwriting office in this state ~~or~~;

(f) An employee of an independent adjuster or an employee of an affiliate of an independent adjuster who is one of not more than 25 such employees under the supervision of an independent adjuster or licensed agent and who:

(1) Collects information relating to a claim for coverage arising under an insurance contract from or furnishes such information to an insured or a claimant; and

(2) Conducts data entry, including, without limitation, entering data into an automated claims adjudication system;

(g) A licensed agent who supervises not more than 25 employees described in paragraph (f);

(h) A person who is employed only to collect factual information concerning a claim for coverage arising under an insurance contract;

(i) A person who is employed only to provide technical assistance to an independent adjuster;

(j) A person who is employed to investigate suspected fraudulent claims for coverage arising under an insurance contract but who does not adjust losses or determine the payment of claims;

(k) A person who performs only executive, administrative, managerial or clerical duties, or any combination thereof, but does not investigate or settle claims for coverage arising under an insurance contract;

(l) A licensed health care provider or any employee thereof who provides managed care services if those services do not include the determination of compensability;

(m) A managed care organization or any employee thereof or an organization that provides managed care services or any employee thereof if the services provided do not include the determination of compensability;

(n) A person who settles only reinsurance or subrogation claims;

(o) A broker, agent or representative of a risk retention group;

(p) An attorney-in-fact of a reciprocal insurer; or

(q) A manager of a branch office of an alien insurer that is located in the United States,

↪ is not considered an adjuster.

Sec. 3. (Deleted by amendment.)

Sec. 4. (Deleted by amendment.)

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

Sec. 6. NRS 684A.090 is hereby amended to read as follows:

684A.090 1. The applicant for a license as an adjuster shall file a written application therefor with the Commissioner on forms prescribed and furnished by the Commissioner. As part of, or in connection with, the application, the applicant shall furnish information as to his or her identity, personal history, experience, financial responsibility, business record and other pertinent matters as reasonably required by the Commissioner to determine the applicant's eligibility and qualifications for the license.

2. If the applicant is a natural person ~~, other than an applicant described in paragraph (c) of subsection 2 of NRS 684A.070,~~ the application must include the social security number of the applicant.

3. If the applicant is a firm or corporation, the application must ~~also include the names of all firm members, all corporate officers and directors, and shall~~ designate each individual who is to exercise the license powers ~~†~~ **and must include:**

(a) The name of each member of the firm or each officer and director of the corporation;

(b) The name of each executive officer and director who owns more than 10 percent of the outstanding voting securities of the applicant; and

(c) The name of any other individual who owns more than 10 percent of the outstanding voting securities of the applicant.

↪ Each such member, officer, director and individual shall furnish information to the Commissioner as though applying for an individual license.

4. If the applicant is a nonresident of this state, the application must be accompanied by an appointment of the Commissioner as process agent and agreement to appear pursuant to NRS 684A.200.

5. The application must be accompanied by the applicable license fee as specified in NRS 680B.010 and, in addition to any other fee or charge, all applicable fees required pursuant to NRS 680C.110.

6. No applicant for such a license may willfully misrepresent or withhold any fact or information called for in the application form or in connection therewith. A violation of this subsection is a gross misdemeanor.

Sec. 7. (Deleted by amendment.)

Senator Schneider moved the adoption of the amendment.

Remarks by Senators Schneider and Copenig.

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

SENATOR SCHNEIDER:

Amendment No. 206 to Senate Bill No. 152 deletes the provisions of the bill authorizing the Commissioner of Insurance to issue a license as an adjuster to a resident of Canada.

The change occurs with the deletion of Section 5 and Section 7. By removing those two sections we remove the 2/3 majority vote requirement.

SENATOR COPENING:

Senate Bill No. 152 makes several changes to the conduct of insurance business. The bill authorizes the use of an automated claims adjudication system with claims arising under an insurance contract for portable electronic insurance coverage. It specifies additional persons who are not considered to be adjusters for purposes of the Nevada Insurance Code. It authorizes the Commissioner of Insurance to issue a license as an adjuster to a resident of Canada under certain conditions, and revises provisions concerning applications for licensure submitted by an applicant that is a firm or corporation rather than a natural person.

Amendment adopted.

Bill ordered reprinted, re-engrossed and to third reading.

Senate Bill No. 153.

Bill read third time.

Remarks by Senators Lee, Settelmeyer, Brower and Copenig.

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

SENATOR LEE:

Thank you, Mr. President. Senate Bill No. 153 revises the period for which a State engineer may grant an extension of time to complete the application from five years to ten years. This is only for subdivision maps that have been recorded. If you have a project and you are in the middle of the process of financing which is a little tight right now, the water engineer will extend the one time extension from five to ten years so that the water is kept on that property without losing it.

SENATOR SETTELMAYER:

Thank you, Mr. President. I rise in opposition to this bill. We had testimony from the State Water Engineer, Jason King that this allows municipalities to tie up water. For that reason, I object to this bill. What the bill goes after is a discussion of beneficial use of water. Currently, if you are a private water user and you do not have a beneficial use, you will be sent a notice. You can receive a one-year extension if you are a private person. Currently, if you are a municipality,

you receive five years. This bill would let a municipality go to ten years. With all of the over-appropriated basins in the State, I do not think it is wise to allow us to further extend out and not let people use water beneficially.

I urge everyone to vote "no" on this bill.

SENATOR BROWER:

Did the State Water Engineer oppose the bill?

SENATOR SETTELMEYER:

The original bill was called the Caliente Bill. That was stricken in its entirety. The same principles still apply. It is wrong to allow individuals to further tie up water. His opposition in the testimony did not occur on the amendment. However, in private discussions he said it is still not a good idea to tie up water.

He did not specifically state to the Committee on Government Affairs that he opposes the concept that is currently within the bill, but he does oppose the overall concept of allowing people to tie up water and not allow it to go to beneficial use.

SENATOR LEE:

This bill works toward the public benefit. Sometimes the local governments do not know what their land use planning is going to be for certain areas. They stretch it out a little to see what growth might happen in that area. I understand what Senator Settelmeyer is saying, but there is a difference between the public benefit use of water and the water rights of an individual in this case. I urge your support.

SENATOR COPENING:

Does this have an adverse affect on private water rights owner?

SENATOR LEE:

No, it does not.

SENATOR SETTELMEYER:

In Government Affairs, I disagreed with that comment. If you allow municipalities to further tie up water, that affects the rest of the water basin. Therefore, the concept of allowing them five additional years to continue to hold water and to tie it up, adversely affects the private holder's rights.

Roll call on Senate Bill No. 153:

YEAS—11.

NAYS—Brower, Cegavske, Copening, Gustavson, Halseth, Leslie, McGinness, Rhoads, Roberson, Settelmeyer—10.

Senate Bill No. 153 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 167.

Bill read third time.

Remarks by Senator Leslie.

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

Senate Bill No. 167 specifies that data or information concerning reports of the abuse or neglect of a child, relating to a child over whom a guardianship is sought, may be released in certain circumstances to the court that has jurisdiction over the proceeding, the person who filed or intends to file the petition, the proposed guardian or proposed successor guardian, the parent or guardian of the child, and the child, if he or she is at least 14 years of age.

Roll call on Senate Bill No. 167:

YEAS—21.

NAYS—None.

Senate Bill No. 167 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 175.

Bill read third time.

Remarks by Senator Gustavson.

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

Senate Bill No. 175 provides that the identity of a concealed weapons permit holder and any information and records concerning the permittee are confidential in the same manner as the identity, information, and records concerning an applicant for such a permit.

Roll call on Senate Bill No. 175:

YEAS—21.

NAYS—None.

Senate Bill No. 175 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Senate Bill No. 215.

Bill read third time.

Remarks by Senator Roberson.

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

Senate Bill No. 215 makes several changes to the manner in which the Chiropractic Physicians' Board of Nevada licenses practitioners. The license for a chiropractic physician must be renewed biennially each even-numbered year; the certificate for a chiropractor's assistant must be renewed each odd-numbered year. The bill contains a transition mechanism for renewal of a chiropractic physician license, as well as a renewal fee proration provision, to accommodate the change in the renewal cycle from every odd-numbered year to every even-numbered year.

Roll call on Senate Bill No. 215:

YEAS—21.

NAYS—None.

Senate Bill No. 215 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 279.

Bill read third time.

Remarks by Senator Gustavson.

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

Senate Bill No. 279 requires a sheriff to conduct an investigation of an applicant who wishes to renew his or her Concealed Carry Weapon (CCW) permit to carry a concealed firearm.

It is required to have background check when you initially get your CCW permit, but it was not required to do so upon renewal. This bill will correct that.

Roll call on Senate Bill No. 279:

YEAS—21.

NAYS—None.

Senate Bill No. 279 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Senate Bill No. 280.

Bill read third time.

Remarks by Senator Brower.

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

Senate Bill No. 280 clarifies that the money deposited in the Gift Account for Veterans from fees collected from holders of Nevada's veterans' license plates may be used for both veterans outreach programs and services benefitting veterans and their families.

The bill was introduced at the request of the Nevada Office of Veterans Services. I want to thank all of the cosponsors of this bill in this Chamber and behalf of all Nevada veterans, I urge your support.

Roll call on Senate Bill No. 280:

YEAS—21.

NAYS—None.

Senate Bill No. 280 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Senate Bill No. 317.

Bill read third time.

Remarks by Senator Wiener.

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

Senate Bill No. 317 requires crisis response development committees established by school districts, charter schools, and private schools to include emergency response matters within their crisis plans. The measure defines emergencies as occurrences or threatened occurrences that may require action to save lives, to avert property damage, or to protect the health and safety of persons on school property or at school events.

Roll call on Senate Bill No. 317:

YEAS—21.

NAYS—None.

Senate Bill No. 317 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Senate Bill No. 348.

Bill read third time.

Remarks by Senator Roberson.

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

Senate Bill No. 348 eliminates the \$15,000 premium limit for an exemption from execution of money, benefits, privileges, or immunities arising out of a policy of life insurance, thereby allowing for a complete exemption.

The measure also eliminates the \$350 monthly benefit exemption limit for execution of any annuity benefits due and payable to an annuitant on a scheduled or periodic basis, thereby allowing for a complete exemption from the execution of annuity benefits.

Roll call on Senate Bill No. 348:

YEAS—21.

NAYS—None.

Senate Bill No. 348 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Senate Bill No. 353.

Bill read third time.

Remarks by Senator Roberson.

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

Senate Bill No. 353 exempts from the definition of "secondhand dealer" a person who engages in the business of buying and selling coins and collectibles.

Roll call on Senate Bill No. 353:

YEAS—21.

NAYS—None.

Senate Bill No. 353 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Senate Bill No. 358.

Bill read third time.

Remarks by Senator Denis.

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

Senate Bill No. 358 removes the exemption established for the Regional Transportation Commission of Southern Nevada from giving priority of right in vending operations to persons who are blind or visually impaired.

Roll call on Senate Bill No. 358:

YEAS—21.

NAYS—None.

Senate Bill No. 358 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Senate Bill No. 408.

Bill read third time.

Remarks by Senator Breeden.

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

Senate Bill No. 408 increases from 25 to 30 the number of specialty license plates that may be issued by the Department of Motor Vehicles for charitable causes.

Roll call on Senate Bill No. 408:

YEAS—21.

NAYS—None.

Senate Bill No. 408 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Senate Joint Resolution No. 14.

Resolution read third time.

Remarks by Senators Roberson, Settelmeyer, Lee and Brower.

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

SENATOR ROBERSON:

Senate Joint Resolution No. 14 proposes an amendment to the *Nevada Constitution* to create an intermediate appellate court, known as the Court of Appeals, to be comprised of three judges initially appointed to two-year terms by the Governor from nominees chosen by the Commission on Judicial Selection. Following initial appointment, the judges will be elected at the general election to serve a term of six years.

The Court of Appeals will have appellate jurisdiction in civil cases arising from the district courts and in criminal cases within the original jurisdiction of the district courts. The Nevada Supreme Court will fix the appellate court's jurisdiction and provide for the review of appeals decided by the Court of Appeals. Finally, the Nevada Supreme Court must provide for the assignment of one or more judges of the Court of Appeals to devote part of their time to serve as supplemental district judges where needed.

If approved in identical form during the 2013 Session of the Legislature, the proposal will be submitted to the voters for final approval or disapproval at the 2014 General Election.

SENATOR SETTELMAYER:

The voters just voted on this and it failed 53-46. Why are we dealing with it again?

SENATOR ROBERSON:

I supported this vote in Committee. Chief Justice Douglas testified in favor of this. The courts are over loaded. It is something we need. I acknowledge that the voters disapproved this. Part of the reason was that people were in the mood to vote "no" on anything that included more government spending. There was the initiative to change the way we select our judges. Many people probably just threw up their hands and voted "no" to things that otherwise they may have considered voting in favor of.

Another reason I voted for this is because we heard testimony from the Chief Justice that this court would cost \$1.3 million. If the decision that we had to make today was to spend \$1.3 million we do not have, I would have voted "no." But, this is something that is not going to come into play unless we vote for it this time, again in two years and then the voters vote on it in 2014. I am in favor of giving the people of Nevada another opportunity to vote on this. We truly do need this appellate court.

SENATOR LEE:

Would this entail building a brand new building? Would they use existing structures? What would the financial costs be for this?

SENATOR ROBERSON:

It is my understanding from the Chief Justice that we would be using existing facilities. Senator Wiener has more information on this. We are not talking about building a new building. The cost would just be the salaries, judges, the appellate court justices and certain administration involved with that. We are being told that if it were implemented today, it would be \$1.3 million. We are not creating new facilities.

SENATOR BROWER:

I also rise in support of this resolution. Part of the Supreme Court's presentation included the information that the court returned more money from its budget to the General Fund last year

than this would cost. It has a net zero fiscal impact. This is a long-term process. As our case-backlog problem becomes more acute in this State, and we are one of the few states that does not have intermediate court, that unless we start the process now, there is no chance for the voters to approve this if they want to in 2014.

If this was just us voting, I would probably be a "no" vote, but the idea of letting the voters have another chance in 2014 makes a lot of sense because of the increasingly difficult backlog which means that justice, whether in the civil system or in the criminal system, is more difficult for Nevadans to achieve every day for they cannot get their cases heard in court because there are too many cases given the number of judges we have. I want to let the voters decide one more time in 2014.

I urge your support.

Roll call on Senate Joint Resolution No. 14:

YEAS—16.

NAYS—Cegavske, Gustavson, Halseth, Kieckhefer, Settelmeyer—5.

Senate Joint Resolution No. 14 having received a constitutional majority, Mr. President declared it passed.

Resolution ordered transmitted to the Assembly.

GUESTS EXTENDED PRIVILEGE OF SENATE FLOOR

On request of Senator Breeden, the privilege of the Floor of the Senate Chamber for this day was extended to Jonathan Steele and Regina Teza.

On request of Senator Brower, the privilege of the Floor of the Senate Chamber for this day was extended to Lori Martin, Earl "Doos" Mays III, Karin Mracek, and Sujeewa Arjuna Senasingha.

On request of Senator Copening, the privilege of the Floor of the Senate Chamber for this day was extended to Dr. Arezo Fathie.

On request of Senator Denis, the privilege of the Floor of the Senate Chamber for this day was extended to John Wilkinson and Jason Woodbury.

On request of Senator Gustavson, the privilege of the Floor of the Senate Chamber for this day was extended to Tina Nelson and Drew Simmons.

On request of Senator Halseth, the privilege of the Floor of the Senate Chamber for this day was extended to Justin Fong.

On request of Senator Hardy, the privilege of the Floor of the Senate Chamber for this day was extended to Florence Jameson.

On request of Senator Kieckhefer, the privilege of the Floor of the Senate Chamber for this day was extended to Harry Krasner, Henry Krasner and Lisa Krasner.

On request of Senator Kihuen, the privilege of the Floor of the Senate Chamber for this day was extended to Bakhodirzhon Abdulasulovich Radzhaper.

On request of Senator Lee, the privilege of the Floor of the Senate Chamber for this day was extended to Chingiz Koktemserikovich Lepsibayev.

On request of Senator Leslie, the privilege of the Floor of the Senate Chamber for this day was extended to Brian Callister.

On request of Senator Roberson, the privilege of the Floor of the Senate Chamber for this day was extended to Ron Kline, M.D.

On request of Senator Settlemeyer, the privilege of the Floor of the Senate Chamber for this day was extended to Pat Hicks, Brenda Kolling and Jeff Martin.

On request of Senator Wiener, the privilege of the Floor of the Senate Chamber for this day was extended to Anna Ocasio-McAndrew.

Senator Horsford moved that the Senate adjourn until Friday, April 15, 2011, at 10:30 a.m.

Motion carried.

Senate adjourned at 2:09 p.m.

Approved:

BRIAN K. KROLICKI
President of the Senate

Attest: DAVID A. BYERMAN
Secretary of the Senate