

THE FIFTY-NINTH DAY

CARSON CITY (Wednesday), April 6, 2011

Senate called to order at 11:12 a.m.

President Krolicki presiding.

Roll called.

All present.

Prayer by the Chaplain, Pastor Larry Unterseher.

Father God,

In the quietness of this Chamber, we stand humbly in Your presence, asking Your blessing on the activities of this day. Each of these men and women of valor stand eager and willing to face the challenges set before them. Give them the ability to see through Your eyes as they continue to cast the vision for us now and for future generations to come.

Lord, if there is personal pain that these men and women are enduring, I pray that You give them the comfort they need and relieve them of these distractions so they may tackle this day's agenda with clarity of mind.

We pray in Your Holy Name.

AMEN.

Pledge of Allegiance to the Flag.

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

Motion carried.

REPORTS OF COMMITTEES

Mr. President:

Your Committee on Commerce, Labor and Energy, to which was referred Senate Bill No. 353, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

Also, your Committee on Commerce, Labor and Energy, to which were referred Senate Bills Nos. 136, 143, 152, 213, 215, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

MICHAEL A. SCHNEIDER, *Chair*

Mr. President:

Your Committee on Education, to which was referred Senate Bill No. 96, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

MO DENIS, *Chair*

Mr. President:

Your Committee on Government Affairs, to which were referred Senate Bills Nos. 280, 358, 438, 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. 65, 74, 77, 82, 85, 153, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

JOHN J. LEE, *Chair*

Mr. President:

Your Committee on Health and Human Services, to which were referred Senate Bills Nos. 44, 111, 167, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

ALLISON COPENING, *Chair*

Mr. President:

Your Committee on Judiciary, to which was referred Senate Bill No. 30, 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 were referred Senate Bills Nos. 469, 476, 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.

VALERIE WIENER, *Chair*

Mr. President:

Your Committee on Natural Resources, to which was referred Senate Bill No. 102, 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 Transportation, to which were referred Senate Bills Nos. 244, 408, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

Also, your Committee on Transportation, to which was referred Senate Bill No. 475, 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.

SHIRLEY A. BREEDEN, *Chair*

MESSAGES FROM THE ASSEMBLY

ASSEMBLY CHAMBER, Carson City, April 4, 2011

To the Honorable the Senate:

I have the honor to inform your honorable body that the Assembly on this day passed, as amended, Assembly Bills Nos. 39, 220; Assembly Joint Resolution No. 5.

MATTHEW BAKER

Assistant Chief Clerk of the Assembly

WAIVERS AND EXEMPTIONS

NOTICE OF EXEMPTION

April 4, 2011

The Fiscal Analysis Division, pursuant to Joint Standing Rule 14.6, has determined the exemption of: Senate Bills Nos. 216, 295, 359, 421, 422, 423, 424, 425, 426, 427, 428, 429, 430, 431, 433, 434, 435, 437, 442, 443, 444, 447, 450, 452, 453, 454, 455, 456, 457, 458, 459, 460, 461, 462, 463, 464, 465, 466, 467, 470, 471, 472, 473, 474, 478, 479, 480, 481, 482, 484, 486.

Also, the Fiscal Analysis Division, pursuant to Joint Standing Rule 14.6, has determined the eligibility for exemption of: Senate Bills Nos. 103, 115, 116, 129, 138, 143, 146, 147, 151, 158, 160, 168, 176, 438, 439, 440, 441, 445, 446, 448, 449, 451, 468, 469, 475, 476, 477, 483.

MARK KRMPOTIC

Fiscal Analysis Division

MOTIONS, RESOLUTIONS AND NOTICES

Assembly Joint Resolution No. 5.

Senator Wiener moved that the resolution be referred to the Committee on Natural Resources.

Motion carried.

Senator Wiener moved that Senate Bills Nos. 469, 475, 476 be re-referred to the Committee on Finance.

Motion carried.

Mr. President announced, according to Senate Standing Rule No. 23, the following appointments to the Senate Committee on Ethics. The first named Senator is the chair, and the second-named Senator is the vice chair:

Senators Horsford, Wiener, Hardy, McGinness; former Senators Joseph Neal and Bob Coffin; and Ms. Phyllis Hunewill of Smith Valley and alternates; Senators Settlemeyer and Denis; former Senator Thomas "Spike" Wilson; and Nye County Commissioner Joni Eastley.

INTRODUCTION, FIRST READING AND REFERENCE

Assembly Bill No. 39.

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

Motion carried.

Assembly Bill No. 220.

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

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 11:30 a.m.

SENATE IN SESSION

At 12:04 p.m.

President Krolicki presiding.

Quorum present.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Wiener moved that Senate Bill No. 29 be taken from the Second Reading File and placed on the Secretary's desk.

Motion carried.

SECOND READING AND AMENDMENT

Senate Bill No. 6.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 5.

"SUMMARY—Authorizes the electronic reproduction of the seal of a court. (BDR 1-324)"

"AN ACT relating to courts; authorizing the electronic reproduction of the seal of a court; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law provides that the seal of a court may be affixed to a court document by either impressing the seal on the document or impressing the seal on a substance attached to the document. (NRS 1.190) This bill

authorizes the electronic reproduction of the seal of a court as another method by which the seal may be affixed to a court document, if the seal is reproduced in accordance with certain **local** court rules, ~~and~~ **and rules adopted by the Supreme Court.** This bill also provides that a seal which is electronically reproduced has the same legal effect as a seal that is impressed.

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

Section 1. NRS 1.190 is hereby amended to read as follows:

1.190 **1.** The seal *of a court* may be affixed by ~~impressing it~~ :

(a) Impressing the seal on ~~the paper~~ a document or on a substance attached to ~~the paper~~ a document and capable of receiving the impression ~~it~~; or

(b) Electronically reproducing the seal on a document in accordance with the provisions of subsection 2.

2. *Each court that uses an electronically reproduced seal shall reproduce the seal of the court in accordance with:*

(a) Any electronic filing rules adopted by the Supreme Court that govern the electronic filing process in all the courts of this State; ~~and~~

(b) Any rules adopted by the Supreme Court which are intended to help safeguard a document from being changed after the electronic seal is affixed and to reduce the likelihood of the electronic seal being reproduced without authorization; and

(c) Any local rules of practice adopted by the court which establish the specific procedure to implement the electronic reproduction of the seal and which are consistent with any electronic filing rules adopted by the Supreme Court ~~and~~ and any rules adopted by the Supreme Court pursuant to paragraph (b).

3. *A seal that is electronically reproduced pursuant to subsection 1 has the same legal effect as a seal that is impressed pursuant to subsection 1.*

Sec. 2. NRS 10.175 is hereby amended to read as follows:

10.175 A seal of a ~~court or~~ public office, when required to any writ or process or proceeding, or to authenticate a copy of any record or document, may be impressed with wax, wafer, or any other substance, and then attached to the writ, process or proceeding, or to the copy of the record or document, or it may be impressed on the paper alone.

Sec. 3. 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 clarification that the rule to be adopted by the Supreme Court will include necessary safeguards to prevent misuse of the court seal.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 13.

Bill read second time.

The following amendment was proposed by the Committee on Revenue:

Amendment No. 108.

"SUMMARY—Revises provisions relating to the collection and payment of certain fuel taxes. (BDR 32-494)"

"AN ACT relating to fuel taxes; authorizing the Department of Motor Vehicles to use electronic mail to serve notice of the determination of the deficient payment of certain taxes owed; repealing certain provisions that allow the Department to grant an extension of time to file certain reports and ~~pay taxes on certain types of fuel;~~ returns; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law requires that the Department of Motor Vehicles, in person or by mail, serve a notice of a determination of deficient payment upon a person who owes money for taxes on certain fuels. (NRS 360A.140, 360A.150) **Sections 1 and 2** of this bill authorize the Department to serve such a notice by the alternative means of sending electronic mail to the electronic mail address provided to the Department by the person receiving the notice.

Existing law authorizes the Department to grant an extension of time to a person for the ~~payment of certain taxes and the~~ filing of certain returns and reports regarding certain fuels. (NRS ~~360A.050,~~ 365.135) Such an extension is not authorized in chapter 366 of NRS with respect to ~~taxes and~~ reports regarding special fuels. **Section 5** of this bill repeals ~~those authorizations,~~ that authorization, thus creating consistency with chapter 366 of NRS.

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

Section 1. NRS 360A.140 is hereby amended to read as follows:

360A.140 1. The Department shall give a person against whom a determination has been made written notice of its determination.

2. The notice may be served personally ~~for by mail. If~~ , ***mailed or, pursuant to subsection 4, sent by electronic mail.***

3. ***If*** served by mail, the notice must be addressed to the person at his or her address as it appears in the records of the Department ~~for~~

~~—3. If the notice is served by mail,~~ ***and*** service is complete at the time the notice is deposited with the United States Postal Service.

4. ***The provision by a person to the Department of an electronic mail address shall be deemed an agreement for the purposes of NRS 719.220 to receive notice pursuant to this section by electronic mail. If served by electronic mail, the notice must be sent to the person at his or her electronic mail address as it appears in the records of the Department and service is complete at the time the electronic mail is sent.***

5. Service of notice tolls any limitation for the determination of a further deficiency.

Sec. 2. NRS 360A.150 is hereby amended to read as follows:

360A.150 1. Except as otherwise provided in subsections 2, 3 and ~~4~~ **5**, each notice of a deficiency determination issued by the Department must be personally served, ~~or~~ mailed **or, pursuant to subsection 4, sent by electronic mail** within 4 years after the last day of the month following the period for which the amount is proposed to be determined or within 4 years after the return is filed, whichever period expires later.

2. In the case of a failure to make a return or a claim for an additional amount, each notice of determination must be mailed, ~~or~~ personally served **or, pursuant to subsection 4, sent by electronic mail** within 8 years after the last day of the month following the period for which the amount is proposed to be determined.

3. If, before the expiration of the time prescribed in this section for the ~~mailing~~ **service** of a notice of determination, the taxpayer has signed a waiver consenting to the ~~mailing~~ **service** of the notice after that time, the notice may be ~~mailed~~ **mailed, personally served or, pursuant to subsection 4, sent by electronic mail** at any time before the expiration of the period agreed upon. The period so agreed upon may be extended by subsequent agreements in writing if each agreement is made before the expiration of the period previously agreed upon.

4. ***The provision by a person to the Department of an electronic mail address shall be deemed an agreement for the purposes of NRS 719.220 to receive notice pursuant to this section by electronic mail. If served by electronic mail, the notice must be sent to the person at his or her electronic mail address as it appears in the records of the Department and service is complete at the time the electronic mail is sent.***

5. This section does not apply to cases of fraud or the intentional evasion of a provision of chapter 365, 366 or 373 of NRS or NRS 590.120 or 590.840, or any regulation of the Department adopted pursuant thereto.

Sec. 3. NRS 365.170 is hereby amended to read as follows:

365.170 ~~Except as otherwise provided in NRS 365.135, every~~ **Every** dealer shall:

1. Not later than the last day of each calendar month, submit to the Department a statement of all aviation fuel and fuel for jet or turbine-powered aircraft sold, distributed or used by the dealer in this State, as well as all such fuel sold, distributed or used in this State by a purchaser thereof upon which sale, distribution or use the dealer has assumed liability for the tax thereon pursuant to NRS 365.020, during the preceding calendar month; and

2. In accordance with the provisions of NRS 365.330, pay an excise tax on:

(a) All fuel for jet or turbine-powered aircraft in the amount of 1 cent per gallon, plus any applicable amount imposed pursuant to NRS 365.203; and

(b) Aviation fuel in the amount of 2 cents per gallon, plus any applicable amount imposed pursuant to NRS 365.203,

↪ so sold, distributed or used.

Sec. 4. NRS 365.175 is hereby amended to read as follows:

365.175 ~~Except as otherwise provided in NRS 365.135, every~~ **Every** supplier shall:

1. Not later than the last day of each calendar month, submit to the Department a statement of all motor vehicle fuel, except aviation fuel, sold, distributed or used by the supplier in this State during the preceding calendar month; and

2. In accordance with the provisions of NRS 365.330, pay an excise tax on all motor vehicle fuel, except aviation fuel, in the amount of 17.65 cents per gallon so sold, distributed or used.

Sec. 5. NRS ~~360A.050 and~~ 365.135 ~~are~~ **is** hereby repealed.

Sec. 6. This act becomes effective on July 1, 2011.

TEXT OF REPEALED SECTIONS, SECTION

~~360A.050 Extension of time for payment. Interest on amount due. If the Department grants an extension of time for paying any amount required to be paid pursuant to chapter 365, 366 or 373 of NRS or NRS 590.120 or 590.840, a person who pays the amount within the period for which the extension is granted shall pay, in addition to the amount owing, interest at the rate of 1 percent per month from the date the amount would have been due without the extension until the date of payment.~~

365.135 Extensions of time for making reports or returns; time when report, return, remittance or claim mailed to Department is deemed filed or received.

1. The Department may, for good cause, extend for not more than 30 days the period for making any report or return required pursuant to this chapter. The extension may be granted at any time if:

(a) A request for an extension has been filed with the Department within or before the period for which the extension may be granted; and

(b) A remittance of the estimated tax is made when the remittance is due.

2. Any report, return, remittance to cover a payment or claim for credit or refund required by this chapter which is transmitted through the United States mail shall be deemed filed or received by the Department on the date indicated on the post office cancellation mark stamped upon the envelope containing it, or on the date it was mailed if proof satisfactory to the Department establishes that the document or remittance was timely deposited in the United States mail and properly addressed to the Department.

Senator Leslie moved the adoption of the amendment.

Remarks by Senator Leslie.

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

Amendment No. 108 to Senate Bill No. 13 simply amends Section 5 of the bill to strike the repeal of *Nevada Revised Statutes* (NRS) 360A.050 to allow this provision to remain in current law.

Under a different section of current law, the Department of Motor Vehicles is authorized to enter into payment agreements for the payment of fuel taxes and repealing the provisions of NRS 360A.050, which would have prohibited the Department from assessing interest at a rate of 1 percent per month on the outstanding balance of those payment agreements.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 25.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 9.

"SUMMARY—Revises the method used to determine the number of justices of the peace in a township in certain counties. (BDR 1-342)"

"AN ACT relating to courts; revising the method used to determine the number of justices of the peace in a township in certain counties; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under existing law, there must be at least one elected justice of the peace in each justice court in a township of this State. In a county whose population is 400,000 or more (currently Clark County), one justice of the peace is required for each 100,000 population of the township, or fraction thereof. (NRS 4.020) This bill revises that requirement in such a county by providing that: **(1) in a township whose population is less than 1,100,000, one justice of the peace is required for each ~~150,000~~ 100,000 population of the township, or fraction thereof, until the township has four justices of the peace, and thereafter, one justice of the peace is required for each 125,000 population of the township, or fraction thereof, over a population of 300,000; and (2) in a township whose population is 1,100,000 or more, one justice of the peace is required for each 100,000 population of the township, or fraction thereof, up to a population of 1,100,000, and thereafter, one justice of the peace is required for each 125,000 population of the township, or fraction thereof, over a population of 1,100,000.**

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

Section 1. NRS 4.020 is hereby amended to read as follows:

4.020 1. There must be one justice court in each of the townships of the State, for which there must be elected by the qualified electors of the township at least one justice of the peace. Except as otherwise provided in subsection 3, the number of justices of the peace in a township must be increased according to the population of the township, as certified by the Governor in even-numbered years pursuant to NRS 360.285, in accordance with and not to exceed the following schedule:

(a) In a county whose population is 400,000 or more, ~~150,000~~:

(I) In a township whose population is less than 1,100,000, one justice of the peace for each 100,000 population of the township, or fraction thereof, until the township has four justices of the peace, and thereafter, one justice of the peace for each 125,000 population of the township, or fraction thereof, over a population of 300,000; and

(II) In a township whose population is 1,100,000 or more, one justice of the peace for each ~~100,000~~ ~~150,000~~ population of the township, or fraction thereof, ~~1/3~~, up to a population of 1,100,000, and thereafter, one justice of the peace for each 125,000 population of the township, or fraction thereof, over a population of 1,100,000.

(b) In a county whose population is 100,000 or more and less than 400,000, one justice of the peace for each 50,000 population of the township, or fraction thereof.

(c) In a county whose population is less than 100,000, one justice of the peace for each 34,000 population of the township, or fraction thereof.

(d) If a township includes a city created by the consolidation of a city and county into one municipal government, one justice of the peace for each 30,000 population of the township, or fraction thereof.

2. Except as otherwise provided in subsection 3, if the schedule set forth in subsection 1 provides for an increase in the number of justices of the peace in a township, the new justice or justices of the peace must be elected at the next ensuing biennial election.

3. If the schedule set forth in subsection 1 provides for an increase in the number of justices of the peace in a township and, in the opinion of a majority of the justices of the peace in that township, the caseload does not warrant an additional justice of the peace, the justices of the peace shall notify the Director of the Legislative Counsel Bureau and the board of county commissioners of their opinion on or before March 15 of the even-numbered year in which the population of the township provides for such an increase. The Director of the Legislative Counsel Bureau shall submit the opinion to the next regular session of the Legislature for its consideration. If the justices of the peace transmit such a notice to the Director of the Legislative Counsel Bureau and the board of county commissioners, the number of justices must not be increased during that period unless the Legislature, by resolution, expressly approves the increase.

4. Justices of the peace shall receive certificates of election from the boards of county commissioners of their respective counties.

5. The clerk of the board of county commissioners shall, within 10 days after the election or appointment and qualification of any justice of the peace, certify under seal to the Secretary of State the election or appointment and qualification of the justice of the peace. The certificate must be filed in the Office of the Secretary of State as evidence of the official character of that officer.

Sec. 2. The amendatory provisions of this act must not be construed to eliminate any judicial departments that were in existence on January 3, 2011.

Sec. 3. This act becomes effective on January 1, 2012.

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 changes the method for determining the number of justices of the peace for townships in Clark County. In townships under 1.1 million people, one justice is added for each 100,000 population until there are four justices. Thereafter, one justice is added for each 125,000 population.

However, once a township reaches 1.1 million people, one justice is added for each 125,000 population over 1.1 million people.

The amendment also specifies that this change is not intended to eliminate any judicial departments currently in existence. This was a collaboration between the Judicial Branch and the Executive Branch of Clark County.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 27.

Bill read second time.

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

Amendment No. 4.

"SUMMARY—Requires employees of certain child care facilities to complete training each year relating to the lifelong wellness, health and safety of children. (BDR 38-24)"

"AN ACT relating to child care facilities; requiring employees of certain child care facilities to complete training each year relating to the lifelong wellness, health and safety of children; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law requires the Board for Child Care to adopt licensing standards for child care facilities. (NRS 432A.077) The Board, by regulation, has adopted both initial and continuing training requirements for persons employed in child care facilities. Employees are initially required to complete at least 9 hours of training within 90 days after commencing employment in a child care facility and at least 6 hours of additional training within 12 months after commencing employment in a child care facility. After completion of the initial training requirements, employees are then required to complete at least 15 hours of training during each succeeding 12-month period. (NAC 432A.323, 432A.326) This bill ~~codifies these general training requirements provided by regulation and~~ requires persons employed in child care facilities to complete at least 15 hours of training each year ~~relating~~ **, at least 2 hours of which must be devoted** to the lifelong

wellness, health and safety of children ~~it~~ **and must include training relating to childhood obesity, nutrition and physical activity.**

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

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

*Each person who is employed in a child care facility, other than in ~~an accommodation facility or~~ a facility that provides care for ill children, shall complete at least 15 hours of training each year. ~~relating to~~ **At least 2 hours of such training must be devoted to the lifelong wellness, health and safety of children** ~~, including, without limitation:~~*

- ~~1. The administration of cardiopulmonary resuscitation;~~
- ~~2. The administration of first aid;~~
- ~~3. The recognition of signs and symptoms of illness, including risk factors and chronic conditions;~~
- ~~4. The recognition of child abuse and neglect;~~
- ~~5. The reporting requirements relating to child abuse and neglect; and~~
- ~~6. **Childhood** **and must include training relating to childhood obesity, nutrition and physical activity.**~~

Sec. 2. This act becomes effective on July 1, 2011.

Senator Copenig moved the adoption of the amendment.

Remarks by Senators Copenig, Cegavske and Wiener.

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

SENATOR COPENIG:

Amendment No. 4 revises the provisions to Senate Bill No. 27 by specifying that at least 2 hours, of the 15 hours of training required each year, must be devoted to the lifelong wellness, health, and safety of children and must include training related to childhood obesity, nutrition, and physical activity.

SENATOR CEGAVSKE:

Thank you, Mr. President. Why are we doing this in statute and it is not being done in regulation?

SENATOR WIENER:

The Health Division and the Board of Child Care felt that this was an important issue we needed to address. At least 2 hours of the 15 required training hours each year will address health and wellness of children. The epidemic of obesity prompts the need for more instruction in wellness, fitness and well-being of children. We believe those two hours of required training each year should be statutory. Leaders in this area feel that this annual requirement is important enough with long-term impacts, that it should be addressed statutorily.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 34.

Bill read second time.

The following amendment was proposed by the Committee on Revenue:

Amendment No. 107.

"SUMMARY—Makes various changes regarding the administration of sales and use taxes. (BDR 32-432)"

"AN ACT relating to taxation; revising the provisions governing the administration of sales and use taxes to ensure continued compliance with the Streamlined Sales and Use Tax Agreement, apply the taxes to retailers whose activities have a sufficient nexus with this State and provide for the rebuttal of certain presumptions regarding the application of use taxes to property delivered outside of or brought into this State; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law provides for the administration of sales and use taxes in this State pursuant to the Simplified Sales and Use Tax Administration Act, the Sales and Use Tax Act and the Local School Support Tax Law. (Chapters 360B, 372 and 374 of NRS) Under existing law, the Legislature has found and declared that this State should enter into an interstate agreement to simplify and modernize sales and use tax administration to reduce the burden of tax compliance for all sellers and types of commerce. (NRS 360B.020) Existing law requires the Nevada Tax Commission to enter into the Streamlined Sales and Use Tax Agreement and take all other actions reasonably required to implement the provisions of the Agreement. (NRS 360B.110)

This bill carries out various requirements of the Streamlined Sales and Use Tax Agreement. **Sections 2 and 26** of this bill replace superseded requirements for purchases of direct mail with new requirements regarding the sourcing of those transactions to various jurisdictions and the respective responsibilities of sellers and purchasers for the collection, reporting and payment of the applicable taxes. **Section 3** of this bill sets forth a new requirement regarding the registration of certain sellers who anticipate making no sales into certain states. **Sections 3, 14 and 23** of this bill carry out a new requirement to allow the electronic filing of simplified tax returns. **Sections 4 and 7** of this bill carry out a recent amendment to the Agreement governing the taxation of delivery charges. **Section 4.5 of this bill carries out a recent amendment to the Agreement regarding the due dates for tax returns and payments.** **Sections 13 and 22** of this bill set forth new requirements regarding the liability of a seller for accepting certain certificates of exemption which indicate that the claimed exemption is not available. **Sections 5 and 6** of this bill delete certain provisions of the Agreement that do not apply in this State. **Sections 9, 10, 18 and 19** of this bill delete a requirement for good faith which is not allowed by the Agreement.

Under existing law, the Commerce Clause of the United States Constitution prohibits a state from requiring a retailer to collect sales and use taxes unless the activities of the retailer have a substantial nexus with the taxing state. (*Quill Corp. v. North Dakota*, 504 U.S. 298, 112 S.Ct. 1904

(1992)) **Sections 8 and 17** of this bill apply the sales and use taxes imposed in this State to every retailer whose activities have such a nexus.

Existing law creates various presumptions regarding the application of the use taxes imposed in this State to property which is delivered outside of this State to a purchaser or brought into this State by a purchaser. (NRS 372.250, 372.255, 372.258, 374.255, 374.260, 374.263) **Sections 11, 12, 20, 21 and 26** of this bill revise that law to specify the methods for controverting a presumption that those taxes apply.

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

Section 1. NRS 360.299 is hereby amended to read as follows:

360.299 1. In determining the amount of:

(a) Sales tax due on a sale at retail, the rate of tax used must be the sum of the rates of all taxes imposed upon sales at retail in:

(1) The county determined pursuant to the provisions of NRS 360B.350 to 360B.375, inclusive ~~††~~, **or section 2 of this act**; or

(2) If those provisions do not apply to the sale, the county in which the property is or will be delivered to the purchaser or the agent or designee of the purchaser.

(b) Use tax due on the purchase of tangible personal property for use, storage or other consumption in this state, the rate of tax used must be the sum of the rates of all taxes imposed upon the use, storage or other consumption of property in:

(1) The county determined pursuant to the provisions of NRS 360B.350 to 360B.375, inclusive ~~††~~, **or section 2 of this act**; or

(2) If those provisions do not apply to the purchase, the county in which the property is first used, stored or consumed.

2. In determining the amount of taxes due pursuant to subsection 1:

(a) The amount due must be computed to the third decimal place and rounded to a whole cent using a method that rounds up to the next cent if the numeral in the third decimal place is greater than 4.

(b) A retailer may compute the amount due on a transaction on the basis of each item involved in the transaction or a single invoice for the entire transaction.

3. On or before January 1 of each year, the Department shall transmit to each retailer to whom a permit has been issued a notice which contains the provisions of subsections 1 and 2 and NRS 372.365.

Sec. 2. Chapter 360B of NRS is hereby amended by adding thereto a new section to read as follows:

1. Notwithstanding the provisions of NRS 360B.350 to 360B.375, inclusive:

(a) A purchaser of advertising and promotional direct mail may provide the seller with:

(1) Documentation of the direct pay permit of the purchaser issued pursuant NRS 360B.260;

(2) A certificate or written statement, in a form approved by the Department in accordance with the provisions of the Agreement, claiming the direct mail; or

(3) An informational statement of the jurisdictions to which the advertising and promotional direct mail is to be delivered to recipients.

(b) If the purchaser provides the documentation, certificate or statement pursuant to subparagraph (1) or (2) of paragraph (a), the sale shall be deemed to take place in the jurisdictions to which the advertising and promotional direct mail is to be delivered to the recipients and:

(1) If the seller does not maintain a place of business in this State:

(I) The purchaser shall report and pay any applicable sales or use taxes due; and

(II) The seller, in the absence of bad faith, is relieved of all obligations to collect, pay or remit any sales or use taxes applicable to any transaction involving the advertising and promotional direct mail to which the documentation, certificate or statement applies; or

(2) If the seller maintains a place of business in this State:

(I) The seller shall collect and remit any applicable sales or use taxes due in this State;

(II) The purchaser shall report and pay any applicable sales or use taxes due in any other state; and

(III) The seller, in the absence of bad faith, is relieved of all obligations to collect, pay or remit any sales or use taxes applicable to any transaction involving the advertising and promotional direct mail to which the documentation, certificate or statement applies which are due in any other state.

(c) If the purchaser provides the informational statement pursuant to subparagraph (3) of paragraph (a):

(1) The sale shall be deemed to take place in the jurisdictions to which the advertising and promotional direct mail is to be delivered;

(2) The seller shall collect and remit any applicable sales or use taxes due to those jurisdictions; and

(3) If the seller complies with subparagraph (2) in accordance with the delivery information provided by the purchaser, the seller, in the absence of bad faith, is relieved of any further obligation to collect any additional sales or use taxes on the sale.

(d) If the purchaser does not provide the seller with any of the items listed in paragraph (a), the sale shall be deemed to take place at the location described in subsection 5 of NRS 360B.360. The state to which the advertising and promotional direct mail is delivered may disallow credit for any sales or use taxes paid in accordance with this paragraph.

2. Notwithstanding the provisions of NRS 360B.350 to 360B.375, inclusive:

(a) Except as otherwise provided in this subsection, the sale of other direct mail shall be deemed to take place at the location described in subsection 3 of NRS 360B.360.

(b) A purchaser of other direct mail may provide the seller with:

(1) Documentation of the direct pay permit of the purchaser issued pursuant NRS 360B.260; or

(2) A certificate or written statement, in a form approved by the Department in accordance with the provisions of the Agreement, claiming the direct mail.

(c) If the purchaser provides the documentation, certificate or statement pursuant to paragraph (b), the sale shall be deemed to take place in the jurisdictions to which the other direct mail is to be delivered to the recipients and:

(1) If the seller does not maintain a place of business in this State:

(I) The purchaser shall report and pay any applicable sales or use taxes due; and

(II) The seller, in the absence of bad faith, is relieved of all obligations to collect, pay or remit any sales or use taxes applicable to any transaction involving the other direct mail to which the documentation, certificate or statement applies; or

(2) If the seller maintains a place of business in this State:

(I) The seller shall collect and remit any applicable sales or use taxes due in this State;

(II) The purchaser shall report and pay any applicable sales or use taxes due in any other state; and

(III) The seller, in the absence of bad faith, is relieved of all obligations to collect, pay or remit any sales or use taxes applicable to any transaction involving the other direct mail to which the documentation, certificate or statement applies which are due in any other state.

3. This section does not apply to any transaction that includes the development of billing information or the provision of any data processing service that is more than incidental, regardless of whether any advertising and promotional direct mail is included in the same mailing.

4. If a transaction is a bundled transaction, as defined by a regulation of the Department in accordance with the provisions of the Agreement, that includes advertising and promotional direct mail, this section applies only if the primary purpose of the transaction is the sale of products that meet the definition set forth in paragraph (a) of subsection 6.

5. The provisions of this section do not limit any purchaser's:

(a) Liability for any sales or use taxes to any states to which the direct mail is delivered;

(b) Rights under local, state, federal or constitutional law, to a credit for sales or use taxes due and paid to other jurisdictions; or

(c) Right to a refund of any sales or use taxes overpaid to any jurisdiction.

6. *As used in this section:*

(a) *"Advertising and promotional direct mail" means direct mail, the primary purpose of which is to attract public attention to a product, person, business or organization, or to attempt to sell, popularize or secure financial support for a product, person, business or organization. As used in this paragraph, "product" means tangible personal property, a product transferred electronically or a service.*

(b) *"Direct mail" means printed material delivered or distributed by the United States Postal Service or another delivery service to a mass audience or to addresses contained on a mailing list provided by a purchaser or at the direction of a purchaser when the cost of the items purchased is not billed directly to the recipients. The term includes tangible personal property supplied directly or indirectly by the purchaser to the seller of the direct mail for inclusion in the package containing the printed material. The term does not include multiple items of printed material delivered to a single address.*

(c) *"Other direct mail" means any direct mail that is not advertising and promotional direct mail, regardless of whether any advertising and promotional direct mail is included in the same mailing. The term:*

(1) Includes, but is not limited to:

(I) Transactional direct mail that contains personal information specific to the addressee, including, but not limited to, invoices, bills, statements of account and payroll advices;

(II) Any legally required mailings, including, but not limited to, privacy notices, tax reports and stockholder reports; and

(III) Other nonpromotional direct mail delivered to existing or former shareholders, customers, employees or agents, including, but not limited to, newsletters and informational pieces; and

(2) Does not include the development of billing information or the provision of any data processing service that is more than incidental.

Sec. 3. NRS 360B.200 is hereby amended to read as follows:

360B.200 1. The Department shall, in cooperation with any other states that are members of the Agreement, establish and maintain a central, electronic registration system that allows a seller to register to collect and remit the sales and use taxes imposed in this State and in the other states that are members of the Agreement.

2. A seller who registers pursuant to this section agrees to collect and remit sales and use taxes in accordance with the provisions of this chapter, the regulations of the Department and the applicable law of each state that is a member of the Agreement, including any state that becomes a member of the Agreement after the registration of the seller pursuant to this section. The cancellation or revocation of the registration of a seller pursuant to this section, the withdrawal of a state from the Agreement or the revocation of the Agreement does not relieve a seller from liability pursuant to this subsection to remit any taxes previously or subsequently collected on behalf of a state.

3. When registering pursuant to this section, a seller may:

(a) Elect to use a certified service provider as its agent to perform all the functions of the seller relating to sales and use taxes, other than the obligation of the seller to remit the taxes on its own purchases;

(b) Elect to use a certified automated system to calculate the amount of sales or use taxes due on its sales transactions;

(c) Under such conditions as the Department deems appropriate in accordance with the Agreement, elect to use its own proprietary automated system to calculate the amount of sales or use taxes due on its sales transactions; or

(d) Elect to use any other method authorized by the Department for performing the functions of the seller relating to sales and use taxes.

4. *A seller who registers pursuant to this section and does not make the election allowed pursuant to paragraph (a) of subsection 3 may elect to be registered in any state that:*

(a) Is a member of the Agreement at the time of that registration, as a seller who anticipates making no sales into that state if the seller has not had any sales into that state for the preceding 12 months; and

(b) Becomes a member of the Agreement after that registration, as a seller who anticipates making no sales into that state.

5. A seller who registers pursuant to this section agrees to submit its sales and use tax returns, and to remit any sales and use taxes due, to the Department at such times and in such a manner and format as the Department prescribes by regulation. Those regulations must:

(a) Require from each seller who registers pursuant to this section:

(1) Only ~~one~~ **a single** tax return for each taxing period for all the sales and use taxes collected on behalf of this State and each local government in this State; and

(2) Only one remittance of taxes for each tax return, except that the Department may require additional remittances of taxes if the seller:

(I) Collects more than \$30,000 in sales and use taxes on behalf of this State and the local governments in this State during the preceding calendar year;

(II) Is allowed to determine the amount of any additional remittance by a method of calculation instead of by the actual amount collected; and

(III) Is not required to file any tax returns in addition to those otherwise required in accordance with this subsection.

(b) Allow any seller who registers pursuant to this section ~~and makes an election pursuant to paragraph (a), (b) or (c) of subsection 3]~~ to submit tax returns **electronically** in a simplified format. ~~[that does not include any more data fields than are permitted in accordance with the Agreement.]~~

(c) Allow any seller who registers pursuant to this section, does not maintain a place of business in this State and has not made an election pursuant to paragraph (a), (b) or (c) of subsection 3, to file tax returns at a frequency that does not exceed once per year unless the seller accumulates

more than \$1,000 in the collection of sales and use taxes on behalf of this State and the local governments in this State.

(d) Provide an alternative method for a seller who registers pursuant to this section to make tax payments the same day as the seller intends if an electronic transfer of money fails.

(e) Require any data that accompanies the remittance of a tax payment by or on behalf of a seller who registers pursuant to this section to be formatted using uniform codes for the type of tax and payment in accordance with the Agreement.

~~§~~ 6. The registration of a seller and the collection and remission of sales and use taxes pursuant to this section may not be considered as a factor in determining whether a seller has a nexus with this State for the purposes of determining the liability of the seller to pay any tax imposed by this State.

Sec. 4. NRS 360B.290 is hereby amended to read as follows:

360B.290 Any invoice, billing or other document given to a purchaser that indicates the sales price for which tangible personal property is sold ~~must~~ :

1. ~~May~~ state separately any amount received by the seller for ~~—1—Any~~ **any** transportation, shipping or postage charges for the delivery of the property to a location designated by the purchaser ~~††~~ ; **and**

2. **Must state separately any amount received by the seller for:**

(a) Any installation charges for the property;

~~††~~ (b) Any credit for any trade-in which is specifically exempted from the sales price of the property pursuant to chapter 372 or 374 of NRS;

~~††~~ (c) Any interest, financing and carrying charges from credit extended on the sale; and

~~††~~ (d) Any taxes legally imposed directly on the consumer.

Sec. 4.5. NRS 360B.300 is hereby amended to read as follows:

360B.300 Notwithstanding the provisions of any other specific statute ~~††~~ ~~††~~ :

1. If any sales or use tax is due and payable on ~~††~~ :

(a) A Saturday, Sunday or legal holiday, the tax may be paid on the next succeeding business day ~~††~~ ; or

(b) A day on which a Federal Reserve bank is closed and, as a result of that closure, the taxpayer is not able to remit the tax electronically in accordance with the regulations adopted by the Department pursuant to NRS 360.092, the tax may be paid on the next succeeding day on which the Federal Reserve bank is open.

2. If any sales or use tax return is:

(a) Due on a Saturday, Sunday or legal holiday, the return may be filed on the next succeeding business day; or

(b) Required to be filed in conjunction with a remittance of the tax and paragraph (b) of subsection 1 applies to that remittance, the return may be filed on the same day as the tax may be paid in accordance with that paragraph.

Sec. 5. NRS 360B.350 is hereby amended to read as follows:

360B.350 As used in NRS 360B.350 to 360B.375, inclusive:

1. "Receive" means taking possession of ~~for making the first use of~~ tangible personal property . ~~for making the first use of~~ ~~whichever occurs first.~~ The term does not include possession by a shipping company on behalf of a purchaser.

2. "Transportation equipment" means:

(a) Locomotives and railcars used for the carriage of persons or property in interstate commerce.

(b) Trucks and truck-tractors having a manufacturer's gross vehicle weight rating of more than 10,000 pounds, and trailers, semitrailers and passenger buses that are:

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

(2) Operated under the authority of a carrier who is authorized by the Federal Government to engage in the carriage of persons or property in interstate commerce.

(c) Aircraft operated by an air carrier who is authorized by the Federal Government or a foreign government to engage in the carriage of persons or property in interstate or foreign commerce.

(d) Containers designed for use on and component parts attached or secured to any of the items described in paragraph (a), (b) or (c).

Sec. 5.5. NRS 360B.355 is hereby amended to read as follows:

360B.355 1. Except as otherwise provided in this section ~~††~~ **and section 2 of this act,** for the purpose of determining the liability of a seller for sales and use taxes, a retail sale shall be deemed to take place at the location determined pursuant to NRS 360B.350 to 360B.375, inclusive.

2. NRS 360B.350 to 360B.375, inclusive, do not:

(a) Affect any liability of a purchaser or lessee for a use tax.

(b) Apply to:

(1) The retail sale or transfer of watercraft, modular homes, manufactured homes or mobile homes.

(2) The retail sale, other than the lease or rental, of motor vehicles, trailers, semitrailers or aircraft that do not constitute transportation equipment.

Sec. 6. NRS 360B.360 is hereby amended to read as follows:

360B.360 Except as otherwise provided in NRS 360B.350 to 360B.375, inclusive, the retail sale, excluding the lease or rental, of tangible personal property shall be deemed to take place:

1. If the property is received by the purchaser at a place of business of the seller, at that place of business.

2. If the property is not received by the purchaser at a place of business of the seller:

(a) At the location indicated to the seller pursuant to any instructions provided for the delivery of the property to the purchaser or to another recipient who is designated by the purchaser as his or her donee; or

(b) If no such instructions are provided and if known by the seller, at the location where the purchaser or another recipient who is designated by the purchaser as his or her donee, receives the property.

3. If subsections 1 and 2 do not apply, at the address of the purchaser indicated in the business records of the seller that are maintained in the ordinary course of the seller's business, unless the use of that address would constitute bad faith.

4. If subsections 1, 2 and 3 do not apply, at the address of the purchaser obtained during the consummation of the sale, including, if no other address is available, the address of the purchaser's instrument of payment, unless the use of an address pursuant to this subsection would constitute bad faith.

5. In all other circumstances, at the address from which the property was shipped . ~~for, if it was delivered electronically, at the address from which it was first available for transmission by the seller.~~

Sec. 7. NRS 360B.480 is hereby amended to read as follows:

360B.480 1. "Sales price" means the total amount of consideration, including cash, credit, property and services, for which personal property is sold, leased or rented, valued in money, whether received in money or otherwise, and without any deduction for:

- (a) The seller's cost of the property sold;
- (b) The cost of materials used, labor or service cost, interest, losses, all costs of transportation to the seller, all taxes imposed on the seller, and any other expense of the seller;
- (c) Any charges by the seller for any services necessary to complete the sale, including any delivery charges which are not stated separately pursuant to **subsection 1 of** NRS 360B.290 and excluding any installation charges which are stated separately pursuant to **subsection 2 of** NRS 360B.290; and
- (d) Except as otherwise provided in subsection 2, any credit for any trade-in.

2. The term does not include:

- (a) Any delivery charges which are stated separately pursuant to **subsection 1 of** NRS 360B.290;
- (b) Any installation charges which are stated separately pursuant to **subsection 2 of** NRS 360B.290;
- (c) Any credit for any trade-in which is:
 - (1) Specifically exempted from the sales price pursuant to chapter 372 or 374 of NRS; and
 - (2) Stated separately pursuant to **subsection 2 of** NRS 360B.290;
- (d) Any discounts, including those in the form of cash, term or coupons that are not reimbursed by a third party, which are allowed by a seller and taken by the purchaser on a sale;

(e) Any interest, financing and carrying charges from credit extended on the sale of personal property, if stated separately pursuant to **subsection 2 of** NRS 360B.290; and

(f) Any taxes legally imposed directly on the consumer which are stated separately pursuant to **subsection 2 of** NRS 360B.290.

3. The term includes consideration received by a seller from a third party if:

(a) The seller actually receives consideration from a person other than the purchaser and the consideration is directly related to a price reduction or discount on the sale;

(b) The seller has an obligation to pass the price reduction or discount through to the purchaser;

(c) The amount of the consideration attributable to the sale is fixed and determinable by the seller at the time of the sale of the item to the purchaser; and

(d) Any of the following criteria is satisfied:

(1) The purchaser presents a coupon, certificate or other documentation to the seller to claim a price reduction or discount, and the coupon, certificate or other documentation is authorized, distributed or granted by a third party with the understanding that the third party will reimburse any seller to whom the coupon, certificate or other documentation is presented.

(2) The purchaser identifies himself or herself to the seller as a member of a group or organization entitled to a price reduction or discount. For the purposes of this subparagraph, a preferred customer card that is available to any patron does not constitute membership in such a group.

(3) The price reduction or discount is identified as a third-party price reduction or discount on the invoice received by the purchaser or on a coupon, certificate or other documentation presented by the purchaser.

Sec. 8. Chapter 372 of NRS is hereby amended by adding thereto a new section to read as follows:

1. *The provisions of this chapter relating to:*

(a) *The imposition, collection and remittance of the sales tax apply to every retailer whose activities have a sufficient nexus with this State to satisfy the requirements of the United States Constitution.*

(b) *The collection and remittance of the use tax apply to every retailer whose activities have a sufficient nexus with this State to satisfy the requirements of the United States Constitution.*

2. *In administering the provisions of this chapter, the Department shall construe the terms "seller," "retailer" and "retailer maintaining a place of business in this State" in accordance with the provisions of subsection 1.*

Sec. 9. NRS 372.155 is hereby amended to read as follows:

372.155 1. For the purpose of the proper administration of this chapter and to prevent evasion of the sales tax, it is presumed that all gross receipts are subject to the tax until the contrary is established. The burden of proving that a sale of tangible personal property is not a sale at retail is upon the person who makes the sale unless the person takes ~~in good faith~~ from the purchaser a certificate to the effect that the property is purchased for resale and the purchaser:

- (a) Is engaged in the business of selling tangible personal property;
- (b) Is registered pursuant to NRS 360B.200 or holds a permit issued pursuant to NRS 372.135; and
- (c) At the time of purchasing the property, intends to sell it in the regular course of business or is unable to ascertain at the time of purchase whether the property will be sold or will be used for some other purpose.

2. If a sale of tangible personal property is transacted by drop shipment, the third-party vendor is relieved of the burden of proving that the sale is not a sale at retail if:

(a) The third-party vendor:

- (1) Takes ~~in good faith~~ from his or her customer a certificate to the effect that the property is purchased for resale; or
- (2) Obtains any other evidence acceptable to the Department that the property is purchased for resale; and

(b) His or her customer:

- (1) Is engaged in the business of selling tangible personal property; and
- (2) Is selling the property in the regular course of business.

Sec. 10. NRS 372.225 is hereby amended to read as follows:

372.225 1. For the purpose of the proper administration of this chapter and to prevent evasion of the use tax and the duty to collect the use tax, it is presumed that tangible personal property sold by any person for delivery in this State is sold for storage, use or other consumption in this State until the contrary is established. The burden of proving the contrary is upon the person who makes the sale unless the person takes ~~in good faith~~ from the purchaser a certificate to the effect that the property is purchased for resale and the purchaser:

- (a) Is engaged in the business of selling tangible personal property;
- (b) Is registered pursuant to NRS 360B.200 or holds a permit issued pursuant to NRS 372.135; and
- (c) At the time of purchasing the property, intends to sell it in the regular course of business or is unable to ascertain at the time of purchase whether the property will be sold or will be used for some other purpose.

2. If a sale of tangible personal property is transacted by drop shipment, the third-party vendor is relieved of the burden of proving that the property is sold for storage, use or other consumption in this State if:

(a) The third-party vendor:

- (1) Takes ~~in good faith~~ from his or her customer a certificate to the effect that the property is purchased for resale; or
- (2) Obtains any other evidence acceptable to the Department that the property is purchased for resale; and

(b) His or her customer:

- (1) Is engaged in the business of selling tangible personal property; and
- (2) Is selling the property in the regular course of business.

Sec. 11. NRS 372.250 is hereby amended to read as follows:

372.250 *1.* It is presumed that tangible personal property shipped or brought to this State by the purchaser on or after July 1, 1979, was purchased from a retailer on or after July 1, 1979, for storage, use or other consumption in this State.

2. This presumption may be controverted by the vendor or purchaser by evidence showing that the property was stored or used:

(a) Exclusively outside of this State during the initial 30 days after its purchase; and

(b) Outside of this State for a majority of the time during the initial 12 months after its purchase.

Sec. 12. NRS 372.255 is hereby amended to read as follows:

372.255 *1.* ~~Except as otherwise provided in NRS 372.258, on~~ **On** and after July 1, 1979, it is presumed that tangible personal property delivered outside this State to a purchaser known by the retailer to be a resident of this State was purchased from a retailer for storage, use or other consumption in this State and stored, used or otherwise consumed in this State.

2. This presumption may be controverted by:

~~(a) **The vendor by a written** statement ~~in writing, signed by the purchaser or his or her authorized representative, and retained by the vendor,~~ that the property was purchased for use at a designated point or points outside this State ~~†~~~~

~~(b) Other evidence satisfactory to the Department that the property was not purchased for storage, use or other consumption in this State.† , if the statement is:~~

~~(1) Signed by the purchaser or his or her authorized representative; and~~

~~(2) Taken and retained by the vendor in good faith; or~~

~~(b) The vendor or purchaser by evidence showing that the property was stored or used:~~

~~(1) Exclusively outside of this State during the initial 30 days after its purchase; and~~

~~(2) Outside of this State for a majority of the time during the initial 12 months after its purchase.~~

Sec. 13. NRS 372.347 is hereby amended to read as follows:

372.347 *1.* If a purchaser wishes to claim an exemption from the taxes imposed by this chapter, the retailer shall obtain such ~~identifying~~ information from the purchaser ~~at the time of sale~~ as is required by the Department.

2. The Department shall, to the extent feasible, establish an electronic system for submitting a request for an exemption. A purchaser is not required to provide a signature to claim an exemption if the request is submitted electronically.

3. The Department may establish a system whereby a purchaser who is exempt from the payment of the taxes imposed by this chapter is issued an identification number that can be presented to the retailer at the time of sale.

4. A retailer shall maintain such records of exempt transactions as are required by the Department and provide those records to the Department upon request.

5. Except as otherwise provided in this subsection, a retailer who complies with the provisions of this section is not liable for the payment of any tax imposed by this chapter if the purchaser improperly claims an exemption. If the purchaser improperly claims an exemption, the purchaser is liable for the payment of the tax. The provisions of this subsection do not apply if the retailer ~~fraudulently~~ :

(a) ~~Fraudulently~~ fails to collect the tax ~~or solicits~~ ;

(b) ~~Solicits~~ a purchaser to participate in an unlawful claim of an exemption ~~+~~ ; or

(c) *Accepts a certificate of exemption from a purchaser who claims an entity-based exemption, the subject of the transaction sought to be covered by the certificate is actually received by the purchaser at a location operated by the seller, and the Department provides, and posts on a website or other Internet site that is operated or administered by or on behalf of the Department, a certificate of exemption which clearly and affirmatively indicates that the claimed exemption is not available.*

6. As used in this section ~~+~~ "retailer" :

(a) *"Entity-based exemption" means an exemption based on who purchases the product or who sells the product, and which is not available to all.*

(b) *"Retailer" includes a certified service provider, as that term is defined in NRS 360B.060, acting on behalf of a retailer who is registered pursuant to NRS 360B.200.*

Sec. 14. NRS 372.360 is hereby amended to read as follows:

372.360 Except as otherwise required by the Department pursuant to NRS 360B.200:

1. On or before the last day of the month following each reporting period, a return for the preceding period must be filed with the Department in such form *and manner* as the Department may prescribe. Any return required to be filed by this section must be combined with any return required to be filed pursuant to the provisions of chapter 374 of NRS.

2. For purposes of:

(a) The sales tax, a return must be filed by each seller.

(b) The use tax, a return must be filed by each retailer maintaining a place of business in the State and by each person purchasing tangible personal property, the storage, use or other consumption of which is subject to the use tax, who has not paid the use tax due.

3. ~~Returns~~ *Unless filed electronically, returns* must be signed by the person required to file the return or by his or her authorized agent but need not be verified by oath.

Sec. 15. NRS 372.365 is hereby amended to read as follows:

372.365 1. Except as otherwise required by the Department pursuant to NRS 360B.200 or provided in NRS 360B.350 to 360B.375, inclusive ~~†~~, *or section 2 of this act:*

(a) For the purposes of the sales tax:

(1) The return must show the gross receipts of the seller during the preceding reporting period.

(2) The gross receipts must be segregated and reported separately for each county to which a sale of tangible personal property pertains.

(3) A sale pertains to the county in this State in which the tangible personal property is or will be delivered to the purchaser or his or her agent or designee.

(b) For purposes of the use tax:

(1) In the case of a return filed by a retailer, the return must show the total sales price of the property purchased by him or her, the storage, use or consumption of which property became subject to the use tax during the preceding reporting period.

(2) The sales price must be segregated and reported separately for each county to which a purchase of tangible personal property pertains.

(3) If the property was:

(I) Brought into this State by the purchaser or his or her agent or designee, the sale pertains to the county in this State in which the property is or will be first used, stored or otherwise consumed.

(II) Not brought into this State by the purchaser or his or her agent or designee, the sale pertains to the county in this State in which the property was delivered to the purchaser or his or her agent or designee.

2. In case of a return filed by a purchaser, the return must show the total sales price of the property purchased by him or her, the storage, use or consumption of which became subject to the use tax during the preceding reporting period and indicate the county in this State in which the property was first used, stored or consumed.

3. The return must also show the amount of the taxes for the period covered by the return and such other information as the Department deems necessary for the proper administration of this chapter.

4. Except as otherwise provided in subsection 5, upon determining that a retailer has filed a return which contains one or more violations of the provisions of this section, the Department shall:

(a) For the first return of any retailer which contains one or more violations, issue a letter of warning to the retailer which provides an explanation of the violation or violations contained in the return.

(b) For the first or second return, other than a return described in paragraph (a), in any calendar year which contains one or more violations, assess a penalty equal to the amount of the tax which was not reported or was reported for the wrong county or \$1,000, whichever is less.

(c) For the third and each subsequent return in any calendar year which contains one or more violations, assess a penalty of three times the amount of

the tax which was not reported or was reported for the wrong county or \$3,000, whichever is less.

5. For the purposes of subsection 4, if the first violation of this section by any retailer was determined by the Department through an audit which covered more than one return of the retailer, the Department shall treat all returns which were determined through the same audit to contain a violation or violations in the manner provided in paragraph (a) of subsection 4.

Sec. 16. NRS 372.375 is hereby amended to read as follows:

372.375 1. Except as otherwise *authorized or* required by the Department, ~~pursuant to NRS 360B.200,~~ the person required to file a return shall deliver the return together with a remittance of the amount of the tax due to the Department.

2. The Department shall provide for the acceptance of credit cards, debit cards or electronic transfers of money for the payment of the tax due in the manner prescribed pursuant to NRS 360.092.

Sec. 17. Chapter 374 of NRS is hereby amended by adding thereto a new section to read as follows:

1. *The provisions of this chapter relating to:*

(a) *The imposition, collection and remittance of the sales tax apply to every retailer whose activities have a sufficient nexus with a county to satisfy the requirements of the United States Constitution.*

(b) *The collection and remittance of the use tax apply to every retailer whose activities have a sufficient nexus with a county to satisfy the requirements of the United States Constitution.*

2. *In administering the provisions of this chapter, the Department shall construe the terms "seller," "retailer" and "retailer maintaining a place of business in a county" in accordance with the provisions of subsection 1.*

Sec. 18. NRS 374.160 is hereby amended to read as follows:

374.160 1. For the purpose of the proper administration of this chapter and to prevent evasion of the sales tax it is presumed that all gross receipts are subject to the tax until the contrary is established. The burden of proving that a sale of tangible personal property is not a sale at retail is upon the person who makes the sale unless the person takes ~~in good faith~~ from the purchaser a certificate to the effect that the property is purchased for resale and the purchaser:

(a) Is engaged in the business of selling tangible personal property;

(b) Is registered pursuant to NRS 360B.200 or holds a permit issued pursuant to NRS 374.140; and

(c) At the time of purchasing the property, intends to sell it in the regular course of business or is unable to ascertain at the time of purchase whether the property will be sold or will be used for some other purpose.

2. If a sale of tangible personal property is transacted by drop shipment, the third-party vendor is relieved of the burden of proving that the sale is not a sale at retail if:

(a) The third-party vendor:

(1) Takes ~~in good faith~~ from his or her customer a certificate to the effect that the property is purchased for resale; or

(2) Obtains any other evidence acceptable to the Department that the property is purchased for resale; and

(b) His or her customer:

(1) Is engaged in the business of selling tangible personal property; and

(2) Is selling the property in the regular course of business.

Sec. 19. NRS 374.230 is hereby amended to read as follows:

374.230 1. For the purpose of the proper administration of this chapter and to prevent evasion of the use tax and the duty to collect the use tax, it is presumed that tangible personal property sold by any person for delivery in a county is sold for storage, use or other consumption in the county until the contrary is established. The burden of proving the contrary is upon the person who makes the sale unless the person takes ~~in good faith~~ from the purchaser a certificate to the effect that the property is purchased for resale and the purchaser:

(a) Is engaged in the business of selling tangible personal property;

(b) Is registered pursuant to NRS 360B.200 or holds a permit issued pursuant to NRS 374.140; and

(c) At the time of purchasing the property, intends to sell it in the regular course of business or is unable to ascertain at the time of purchase whether the property will be sold or will be used for some other purpose.

2. If a sale of tangible personal property is transacted by drop shipment, the third-party vendor is relieved of the burden of proving that the property is sold for storage, use or other consumption in this State if:

(a) The third-party vendor:

(1) Takes ~~in good faith~~ from his or her customer a certificate to the effect that the property is purchased for resale; or

(2) Obtains any other evidence acceptable to the Department that the property is purchased for resale; and

(b) His or her customer:

(1) Is engaged in the business of selling tangible personal property; and

(2) Is selling the property in the regular course of business.

Sec. 20. NRS 374.255 is hereby amended to read as follows:

374.255 1. It ~~shall be further~~ is presumed that tangible personal property shipped or brought to a county by the purchaser after July 1, 1967, was purchased from a retailer on or after July 1, 1967, for storage, use or other consumption in the county.

2. *This presumption may be controverted by the vendor or purchaser by evidence showing that the property was stored or used:*

(a) *Exclusively outside of a county during the initial 30 days after its purchase; and*

(b) *Outside of a county for a majority of the time during the initial 12 months after its purchase.*

Sec. 21. NRS 374.260 is hereby amended to read as follows:

374.260 1. ~~Except as otherwise provided in NRS 374.263, on~~ **On** and after July 1, 1967, it is ~~further~~ presumed that tangible personal property delivered outside this State to a purchaser known by the retailer to be a resident of the county was purchased from a retailer for storage, use or other consumption in the county and stored, used or otherwise consumed in the county.

2. This presumption may be controverted by:

(a) ~~1A] The vendor by a written statement in writing, signed by the purchaser or his or her authorized representative, and retained by the vendor,~~ that the property was purchased for use at a designated point or points outside this State ~~;~~

~~(b) Other evidence satisfactory to the Department that the property was not purchased for storage, use or other consumption in this State.] , if the statement is:~~

~~(1) Signed by the purchaser or his or her authorized representative; and~~

~~(2) Taken and retained by the vendor in good faith; or~~

~~(b) The vendor or purchaser by evidence showing that the property was stored or used:~~

~~(1) Exclusively outside of this State during the initial 30 days after its purchase; and~~

~~(2) Outside of this State for a majority of the time during the initial 12 months after its purchase.~~

Sec. 22. NRS 374.352 is hereby amended to read as follows:

374.352 1. If a purchaser wishes to claim an exemption from the taxes imposed by this chapter, the retailer shall obtain such ~~identifying~~ information from the purchaser ~~at the time of sale~~ as is required by the Department.

2. The Department shall, to the extent feasible, establish an electronic system for submitting a request for an exemption. A purchaser is not required to provide a signature to claim an exemption if the request is submitted electronically.

3. The Department may establish a system whereby a purchaser who is exempt from the payment of the taxes imposed by this chapter is issued an identification number that can be presented to the retailer at the time of sale.

4. A retailer shall maintain such records of exempt transactions as are required by the Department and provide those records to the Department upon request.

5. Except as otherwise provided in this subsection, a retailer who complies with the provisions of this section is not liable for the payment of any tax imposed by this chapter if the purchaser improperly claims an exemption. If the purchaser improperly claims an exemption, the purchaser is liable for the payment of the tax. The provisions of this subsection do not apply if the retailer ~~fraudulently~~ :

~~(a) Fraudulently fails to collect the tax for solicits ;~~

(b) *Solicits* a purchaser to participate in an unlawful claim of an exemption ~~†~~; *or*

(c) *Accepts a certificate of exemption from a purchaser who claims an entity-based exemption, the subject of the transaction sought to be covered by the certificate is actually received by the purchaser at a location operated by the seller, and the Department provides, and posts on a website or other Internet site that is operated or administered by or on behalf of the Department, a certificate of exemption which clearly and affirmatively indicates that the claimed exemption is not available.*

6. As used in this section ~~†, "retailer"†~~:

(a) *"Entity-based exemption" means an exemption based on who purchases the product or who sells the product, and which is not available to all.*

(b) *"Retailer"* includes a certified service provider, as that term is defined in NRS 360B.060, acting on behalf of a retailer who is registered pursuant to NRS 360B.200.

Sec. 23. NRS 374.365 is hereby amended to read as follows:

374.365 Except as otherwise required by the Department pursuant to NRS 360B.200:

1. On or before the last day of the month following each reporting period, a return for the preceding period must be filed with the Department in such form *and manner* as the Department may prescribe. Any return required to be filed by this section must be combined with any return required to be filed pursuant to the provisions of chapter 372 of NRS.

2. For purposes of:

(a) The sales tax, a return must be filed by every seller.

(b) The use tax, a return must be filed by every retailer maintaining a place of business in the county and by every person purchasing tangible personal property, the storage, use or other consumption of which is subject to the use tax, who has not paid the use tax due.

3. ~~Returns~~ *Unless filed electronically, returns* must be signed by the person required to file the return or by his or her authorized agent but need not be verified by oath.

Sec. 24. NRS 374.370 is hereby amended to read as follows:

374.370 1. Except as otherwise required by the Department pursuant to NRS 360B.200 or provided in NRS 360B.350 to 360B.375, inclusive ~~†~~, *or section 2 of this act:*

(a) For the purposes of the sales tax:

(1) The return must show the gross receipts of the seller during the preceding reporting period.

(2) The gross receipts must be segregated and reported separately for each county to which a sale of tangible personal property pertains.

(3) A sale pertains to the county in this State in which the tangible personal property is or will be delivered to the purchaser or his or her agent or designee.

(b) For purposes of the use tax:

(1) In the case of a return filed by a retailer, the return must show the total sales price of the property purchased by him or her, the storage, use or consumption of which property became subject to the use tax during the preceding reporting period.

(2) The sales price must be segregated and reported separately for each county to which a purchase of tangible personal property pertains.

(3) If the property was:

(I) Brought into this State by the purchaser or his or her agent or designee, the sale pertains to the county in this State in which the property is or will be first used, stored or otherwise consumed.

(II) Not brought into this State by the purchaser or his or her agent or designee, the sale pertains to the county in this State in which the property was delivered to the purchaser or his or her agent or designee.

2. In case of a return filed by a purchaser, the return must show the total sales price of the property purchased by him or her, the storage, use or consumption of which became subject to the use tax during the preceding reporting period and indicate the county in this State in which the property was first used, stored or consumed.

3. The return must also show the amount of the taxes for the period covered by the return and such other information as the Department deems necessary for the proper administration of this chapter.

4. Except as otherwise provided in subsection 5, upon determining that a retailer has filed a return which contains one or more violations of the provisions of this section, the Department shall:

(a) For the first return of any retailer which contains one or more violations, issue a letter of warning to the retailer which provides an explanation of the violation or violations contained in the return.

(b) For the first or second return, other than a return described in paragraph (a), in any calendar year which contains one or more violations, assess a penalty equal to the amount of the tax which was not reported or was reported for the wrong county or \$1,000, whichever is less.

(c) For the third and each subsequent return in any calendar year which contains one or more violations, assess a penalty of three times the amount of the tax which was not reported or was reported for the wrong county or \$3,000, whichever is less.

5. For the purposes of subsection 4, if the first violation of this section by any retailer was determined by the Department through an audit which covered more than one return of the retailer, the Department shall treat all returns which were determined through the same audit to contain a violation or violations in the manner provided in paragraph (a) of subsection 4.

Sec. 25. NRS 374.380 is hereby amended to read as follows:

374.380 1. Except as otherwise *authorized or* required by the Department, ~~pursuant to NRS 360B.200,~~ the person required to file a

return shall deliver the return together with a remittance of the amount of the tax due to the Department.

2. The Department shall provide for the acceptance of credit cards, debit cards or electronic transfers of money for the payment of the tax due in the manner prescribed pursuant to NRS 360.092.

Sec. 26. NRS 360B.280, 372.258 and 374.263 are hereby repealed.

Sec. 27. This act becomes effective upon passage and approval.

TEXT OF REPEALED SECTIONS

360B.280 Purchases of direct mail.

1. A purchaser of direct mail must provide to the seller at the time of the purchase:

(a) If the seller does not maintain a place of business in this State:

(1) A form for direct mail approved by the Department;

(2) An informational statement of the jurisdictions to which the direct mail will be delivered to recipients; or

(3) Documentation of the direct pay permit of the purchaser issued pursuant to NRS 360B.260; or

(b) If the seller maintains a place of business in this State, an informational statement of the jurisdictions to which the direct mail will be delivered to recipients.

↪ If a purchaser of direct mail provides documentation of a direct pay permit to a seller in accordance with subparagraph (3) of paragraph (a), the seller shall not require the purchaser to comply with any other provision of that paragraph.

2. Notwithstanding the provisions of NRS 360B.350 to 360B.375, inclusive:

(a) Upon the receipt pursuant to subsection 1 of:

(1) A form for direct mail by a seller who does not maintain a place of business in this State:

(I) The seller is relieved of any liability for the collection, payment or remission of any sales or use taxes applicable to the purchase of direct mail by that purchaser from that seller; and

(II) The purchaser is liable for any sales or use taxes applicable to the purchase of direct mail by that purchaser from that seller.

↪ Any form for direct mail provided to a seller pursuant to this subparagraph applies to all future sales of direct mail made by that seller to that purchaser until the purchaser delivers a written notice of revocation to the seller.

(2) An informational statement by any seller, the seller shall collect, pay or remit any applicable sales and use taxes in accordance with the information contained in that statement. In the absence of bad faith, the seller is relieved of any liability to collect, pay or remit any sales and use taxes other than in accordance with that information received.

(b) If a purchaser of direct mail does not comply with subsection 1, the seller shall determine the location of the sale pursuant to subsection 5 of NRS 360B.360 and collect, pay or remit any applicable sales and use taxes.

This paragraph does not limit the liability of the purchaser for the payment of any of those taxes.

3. As used in this section, "direct mail" means printed material delivered or distributed by the United States Postal Service or another delivery service to a mass audience or to addresses contained on a mailing list provided by a purchaser or at the direction of a purchaser when the cost of the items purchased is not billed directly to the recipients. The term includes tangible personal property supplied directly or indirectly by the purchaser to the seller of the direct mail for inclusion in the package containing the printed material. The term does not include multiple items of printed material delivered to a single address.

372.258 Presumption that certain property delivered outside this State was not purchased for use in this State.

1. It is presumed that tangible personal property delivered outside this State to a purchaser was not purchased from a retailer for storage, use or other consumption in this State if the property:

- (a) Was first used in interstate or foreign commerce outside this State; and
- (b) Is used continuously in interstate or foreign commerce, but not exclusively in this State, for at least 12 months after the date that the property was first used pursuant to paragraph (a).

2. As used in this section:

(a) "Interstate or foreign commerce" means the transportation of passengers or property between:

(1) A point in one state and a point in:

- (I) Another state;
- (II) A possession or territory of the United States; or
- (III) A foreign country; or

(2) Points in the same state when such transportation consists of one or more segments of transportation that immediately follow movement of the property into the state from a point beyond its borders or immediately precede movement of the property from within the state to a point outside its borders.

(b) "State" includes the District of Columbia.

374.263 Presumption that certain property delivered outside this State was not purchased for use in this State.

1. It is presumed that tangible personal property delivered outside this State to a purchaser was not purchased from a retailer for storage, use or other consumption in this State if the property:

- (a) Was first used in interstate or foreign commerce outside this State; and
- (b) Is used continuously in interstate or foreign commerce, but not exclusively in this State, for at least 12 months after the date that the property was first used pursuant to paragraph (a).

2. As used in this section:

(a) "Interstate or foreign commerce" means the transportation of passengers or property between:

(1) A point in one state and a point in:

- (I) Another state;
- (II) A possession or territory of the United States; or
- (III) A foreign country; or

(2) Points in the same state when such transportation consists of one or more segments of transportation that immediately follow movement of the property into the state from a point beyond its borders or immediately precede movement of the property from within the state to a point outside its borders.

(b) "State" includes the District of Columbia.

Senator Leslie moved the adoption of the amendment.

Remarks by Senator Leslie.

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

Amendment No. 107 to Senate Bill No. 34 makes two changes to the bill as a result of recent amendments to the Streamlined Sales and Use Tax Agreement, which occurred after the bill draft was submitted. These amendments are necessary for Nevada to maintain compliance with the Streamlined Sales and Use Tax Agreement.

The first change in Section 4.5 establishes that if the Federal Reserve Bank is closed on a due date that prohibits a person from being able to make a required tax payment, the payment shall be accepted as timely if made on the next day the Federal Reserve Bank is open.

Similarly, if a sales or use tax return is due on a Saturday, Sunday or legal holiday, the return may be filed on the next succeeding business day.

The second change in Section 5.5 provides a technical amendment to clarify that the new provisions within Section 2 of the bill are included as an exception to the provisions of NRS 360B.355 with regard to determining the liability of a seller for sales and use tax.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 67.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 67.

"SUMMARY—Revises provisions governing the disbursement of money from the Fund for the Compensation of Victims of Crime. (BDR 16-431)"

"AN ACT relating to the Fund for the Compensation of Victims of Crime; revising provisions governing the disbursement of money from the Fund; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under existing law, the victims of certain crimes, the dependents of those victims and certain members of the victim's household or immediate family are authorized to apply to the State Board of Examiners for compensation from the Fund for the Compensation of Victims of Crime for certain expenses and losses. (NRS 217.070, 217.100, 217.102, 217.160, 217.200, 217.260) Certain administrative expenses are also paid with money from the Fund. The Board is required under existing law to estimate quarterly the revenue in the Fund which is available for the payment of compensation and

the anticipated expenses for the next quarter. If the estimated expenses for the quarter exceed the available revenue, all claims paid in that quarter are required to be reduced in the same proportion as the expenses exceeded the revenue. (NRS 217.260) This bill ~~eliminates this administrative requirement and~~ requires instead that the money in the Fund be disbursed in accordance with the rules and regulations adopted by the Board. **Such rules and regulations must include, without limitation, the requirements that: (1) claims be categorized as to their priority; and (2) claims categorized as the highest priority be paid, in whole or in part, before other claims.** The Board is exempt from the requirements of the Nevada Administrative Procedure Act with respect to its adoption of such rules and regulations. (NRS 233B.039)

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

Section 1. NRS 217.260 is hereby amended to read as follows:

217.260 1. Money for payment of compensation as ordered by the Board and for payment of salaries and other expenses incurred by the Department of Administration pursuant to NRS 217.010 to 217.270, inclusive, must be paid from the Fund for the Compensation of Victims of Crime, which is hereby created. Money in the Fund must be disbursed on the order of the Board in the same manner as other claims against the State are paid. **paid and in accordance with the rules and regulations adopted by the Board pursuant to NRS 217.130. Such rules and regulations must include, without limitation, the requirements that:**

(a) Claims be categorized as to their priority; and

(b) Claims categorized as the highest priority be paid, in whole or in part, before other claims.

2. The Board shall estimate quarterly:

(a) The revenue in the Fund which is available for the payment of compensation; and

(b) The anticipated expenses for the next quarter.

~~If the estimated expenses for the quarter exceed the available revenue, all claims paid in that quarter must be reduced in the same proportion as the expenses exceeded the revenue. [accordance with the rules and regulations adopted by the Board pursuant to NRS 217.130.~~

~~2.~~ **3.** Money deposited in the Fund which is recovered from a forfeiture of assets pursuant to NRS 200.760 and the interest and income earned on that money must be used for the counseling and medical treatment of victims of crimes committed in violation of NRS 200.366, 200.710, 200.720, 200.725, 200.730 or 201.230.

~~3.~~ **4.** The interest and income earned on the money in the Fund for the Compensation of Victims of Crime, after deducting any applicable charges, must be credited to the Fund.

Sec. 2. 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 reinstates many of the requirements for payment of claims from the Compensation for Victims of Crime Fund that Senate Bill No. 67 proposed to eliminate, including quarterly estimates of revenue and expenses and payment of claims in the same manner as other claims against the State.

However, the amendment does allow the Board of Examiners to adopt rules and regulations for the payment of claims by priority with payment of higher priority claims, in whole or in part, before lower priority claims.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 72.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 79.

"SUMMARY—Revises provisions governing the assignment of certain criminal offenders to residential confinement. (BDR 16-120)"

"AN ACT relating to criminal offenders; revising provisions concerning the assignment of certain offenders who are imprisoned for causing death or serious bodily harm while driving under the influence of intoxicating liquor or a controlled substance to residential confinement; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law provides that a person who causes the death or substantial bodily harm of another person while driving under the influence of intoxicating liquor or a controlled substance is guilty of a category B felony and must be punished by a minimum term of imprisonment of not less than 2 years. (NRS 484C.430) Under existing law, the Director of the Department of Corrections may assign a person imprisoned for a category B felony to residential confinement if the person satisfies certain standards adopted by the Director and the Director finds that the assignment is not likely to pose a threat to public safety. (NRS 209.392) **Section 1** of this bill requires the standards adopted by the Director to prohibit the assignment of certain persons imprisoned for causing death or substantial bodily harm while driving under the influence of intoxicating liquor or a controlled substance to a term of residential confinement unless the person has served the minimum term of imprisonment in the state prison ~~required by existing law.~~ **which was imposed by the court.**

Existing law requires the Director to establish a program for the treatment of abusers of alcohol or drugs who are imprisoned for certain felonies involving driving under the influence of intoxicating liquor or a controlled substance. (NRS 209.425) **Section 2** of this bill replaces a provision that requires the Director to assign certain participants in this program to residential confinement with a provision that allows the Director to assign those participants to residential confinement. (NRS 209.429) **Section 2** also

prohibits the Director from assigning a participant in the program who is imprisoned for causing death or substantial bodily harm while driving under the influence of intoxicating liquor or a controlled substance to residential confinement unless that participant has served the minimum term of imprisonment in the state prison ~~required by existing law,~~ **which was imposed by the court.**

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

Section 1. NRS 209.392 is hereby amended to read as follows:

209.392 1. Except as otherwise provided in NRS 209.3925 and 209.429, the Director may, at the request of an offender who is eligible for residential confinement pursuant to the standards adopted by the Director pursuant to subsection 3 and who has:

- (a) Demonstrated a willingness and ability to establish a position of employment in the community;
 - (b) Demonstrated a willingness and ability to enroll in a program for education or rehabilitation; or
 - (c) Demonstrated an ability to pay for all or part of the costs of the offender's confinement and to meet any existing obligation for restitution to any victim of his or her crime,
- assign the offender to the custody of the Division of Parole and Probation of the Department of Public Safety to serve a term of residential confinement, pursuant to NRS 213.380, for not longer than the remainder of his or her sentence.

2. Upon receiving a request to serve a term of residential confinement from an eligible offender, the Director shall notify the Division of Parole and Probation. If any victim of a crime committed by the offender has, pursuant to subsection 4 of NRS 213.130, requested to be notified of the consideration of a prisoner for parole and has provided a current address, the Division of Parole and Probation shall notify the victim of the offender's request and advise the victim that the victim may submit documents regarding the request to the Division of Parole and Probation. If a current address has not been provided as required by subsection 4 of NRS 213.130, the Division of Parole and Probation must not be held responsible if such notification is not received by the victim. All personal information, including, but not limited to, a current or former address, which pertains to a victim and which is received by the Division of Parole and Probation pursuant to this subsection is confidential.

3. The Director, after consulting with the Division of Parole and Probation, shall adopt, by regulation, standards providing which offenders are eligible for residential confinement. The standards adopted by the Director must provide that an offender who:

- (a) Has recently committed a serious infraction of the rules of an institution or facility of the Department;

(b) Has not performed the duties assigned to the offender in a faithful and orderly manner;

(c) Has been convicted of:

(1) Any crime that is punishable as a felony involving the use or threatened use of force or violence against the victim within the immediately preceding 3 years;

(2) A sexual offense that is punishable as a felony; or

(3) Except as otherwise provided in subsection 4, a category A or B felony;

(d) Has more than one prior conviction for any felony in this State or any offense in another state that would be a felony if committed in this State, not including a violation of NRS 484C.110, 484C.120, 484C.130 or 484C.430; or

(e) Has escaped or attempted to escape from any jail or correctional institution for adults,

↪ is not eligible for assignment to the custody of the Division of Parole and Probation to serve a term of residential confinement pursuant to this section.

4. ~~The~~ ***Except as otherwise provided in subsection 5, the standards adopted by the Director pursuant to subsection 3 must provide that an offender who has been convicted of a category B felony is eligible for assignment to the custody of the Division of Parole and Probation to serve a term of residential confinement pursuant to this section if:***

(a) The offender is not otherwise ineligible pursuant to subsection 3 for an assignment to serve a term of residential confinement; and

(b) The Director makes a written finding that such an assignment of the offender is not likely to pose a threat to the safety of the public.

5. ***The standards adopted by the Director pursuant to subsection 3 must provide that an offender who is serving a sentence for a violation of NRS 484C.430 is not eligible for assignment to the custody of the Division of Parole and Probation to serve a term of residential confinement pursuant to this section unless the offender has served the minimum term of imprisonment in the state prison ~~set forth in NRS 484C.430~~ which was imposed by the court.***

6. If an offender assigned to the custody of the Division of Parole and Probation pursuant to this section escapes or violates any of the terms or conditions of the offender's residential confinement:

(a) The Division of Parole and Probation may, pursuant to the procedure set forth in NRS 213.410, return the offender to the custody of the Department.

(b) The offender forfeits all or part of the credits for good behavior earned by the offender before the escape or violation, as determined by the Director. The Director may provide for a forfeiture of credits pursuant to this paragraph only after proof of the offense and notice to the offender and may restore credits forfeited for such reasons as the Director considers proper. The decision of the Director regarding such a forfeiture is final.

~~6.1~~ 7. The assignment of an offender to the custody of the Division of Parole and Probation pursuant to this section shall be deemed:

(a) A continuation of the offender's imprisonment and not a release on parole; and

(b) For the purposes of NRS 209.341, an assignment to a facility of the Department,

↪ except that the offender is not entitled to obtain any benefits or to participate in any programs provided to offenders in the custody of the Department.

~~7.1~~ 8. An offender does not have a right to be assigned to the custody of the Division of Parole and Probation pursuant to this section, or to remain in that custody after such an assignment, and it is not intended that the provisions of this section or of NRS 213.371 to 213.410, inclusive, create any right or interest in liberty or property or establish a basis for any cause of action against the State, its political subdivisions, agencies, boards, commissions, departments, officers or employees.

Sec. 2. NRS 209.429 is hereby amended to read as follows:

209.429 1. Except as otherwise provided in subsection 6, the Director ~~shall~~ **may** assign an offender to the custody of the Division of Parole and Probation of the Department of Public Safety to serve a term of residential confinement, pursuant to NRS 213.380, for not longer than the remainder of the maximum term of his or her sentence if the offender has:

(a) Demonstrated a willingness and ability to establish a position of employment in the community;

(b) Demonstrated a willingness and ability to enroll in a program for education or rehabilitation; or

(c) Demonstrated an ability to pay for all or part of the costs of his or her confinement and to meet any existing obligation for restitution to any victim of his or her crime.

2. Before a person may be assigned to serve a term of residential confinement pursuant to this section, he or she must submit to the Division of Parole and Probation a signed document stating that:

(a) He or she will comply with the terms or conditions of the residential confinement; and

(b) If he or she fails to comply with the terms or conditions of the residential confinement and is taken into custody outside of this State, he or she waives all rights relating to extradition proceedings.

3. If an offender assigned to the custody of the Division of Parole and Probation pursuant to this section escapes or violates any of the terms or conditions of his or her residential confinement:

(a) The Division of Parole and Probation may, pursuant to the procedure set forth in NRS 213.410, return the offender to the custody of the Department.

(b) The offender forfeits all or part of the credits earned by the offender to reduce his or her sentence pursuant to this chapter before the escape or

violation, as determined by the Director. The Director may provide for a forfeiture of credits pursuant to this paragraph only after proof of the offense and notice to the offender and may restore credits forfeited for such reasons as the Director considers proper. The decision of the Director regarding forfeiture of credits is final.

4. The assignment of an offender to the custody of the Division of Parole and Probation pursuant to this section shall be deemed:

(a) A continuation of the offender's imprisonment and not a release on parole; and

(b) For the purposes of NRS 209.341, an assignment to a facility of the Department,

↳ except that the offender is not entitled to obtain any benefits or to participate in any programs provided to offenders in the custody of the Department.

5. A person does not have a right to be assigned to the custody of the Division of Parole and Probation pursuant to this section, or to remain in that custody after such an assignment, and it is not intended that the provisions of this section or of NRS 213.371 to 213.410, inclusive, create any right or interest in liberty or property or establish a basis for any cause of action against the State, its political subdivisions, agencies, boards, commissions, departments, officers or employees.

6. The Director shall not assign an offender who is serving a sentence for committing ~~to~~ :

(a) A battery which constitutes domestic violence pursuant to NRS 33.018 to the custody of the Division of Parole and Probation to serve a term of residential confinement unless the Director makes a finding that the offender is not likely to pose a threat to the victim of the battery.

(b) A violation of NRS 484C.430 to the custody of the Division of Parole and Probation to serve a term of residential confinement unless the offender has served the minimum term of imprisonment in the state prison [set forth in NRS 484C.430.] which was imposed by the court.

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 simply clarifies that the minimum term of imprisonment contemplated by the bill is the term imposed by the court and not strictly the minimum allowed by law.

For example, if the minimum allowed by law is two to eight years, the bill as currently written, could be interpreted that it would be limited to two years, while the court may actually impose a minimum term of up to eight years. It allows the court more discretion.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 89.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 32.

"SUMMARY—Revises provisions governing audits and reviews of financial statements of common-interest communities. (BDR 10-595)"

"AN ACT relating to common-interest communities; revising provisions governing the audit and review of financial statements of common-interest communities; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law requires a unit owners' association with an annual budget of less than \$75,000 to have an independent certified public accountant review its financial statement in the year immediately preceding the year in which a study of the association's reserves is conducted unless an audit is otherwise requested by 15 percent of the voting members of the association. (NRS 116.31144) This bill exempts associations with an annual budget of less than \$45,000 from this requirement. ~~and requires the executive board of such an association to review the association's financial statement every fiscal year unless an audit by an independent certified public accountant is otherwise requested by 15 percent of the voting members of the association.~~

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

Section 1. NRS 116.31144 is hereby amended to read as follows:

116.31144 1. Except as otherwise provided in subsection 2, the executive board shall:

(a) ~~If the annual budget of the association is less than \$45,000, review the financial statement of the association every fiscal year.~~

~~(b)~~ If the annual budget of the association is **\$45,000 or more but** less than \$75,000, cause the financial statement of the association to be reviewed by an independent certified public accountant during the year immediately preceding the year in which a study of the reserves of the association is to be conducted pursuant to NRS 116.31152.

~~(b)~~ ~~(c)~~ If the annual budget of the association is \$75,000 or more but less than \$150,000, cause the financial statement of the association to be reviewed by an independent certified public accountant every fiscal year.

~~(c)~~ ~~(d)~~ If the annual budget of the association is \$150,000 or more, cause the financial statement of the association to be audited by an independent certified public accountant every fiscal year.

2. ~~For~~ **Except as otherwise provided in this subsection, for** any fiscal year, the executive board of an association ~~to which paragraph (a) or (b) or (c) of subsection 1 applies~~ shall cause the financial statement for that fiscal year to be audited by an independent certified public accountant if, within 180 days before the end of the fiscal year, 15 percent of the total number of voting members of the association submit a written request for such an audit. **The provisions of this subsection do not apply to an association described in paragraph (c) of subsection 1.**

3. The Commission shall adopt regulations prescribing the requirements for the auditing or reviewing of financial statements of an association pursuant to this section. Such regulations must include, without limitation:

(a) The qualifications necessary for a person to audit or review financial statements of an association : ~~pursuant to paragraph (b), (c) or (d) of subsection 1 or subsection 2;~~ and

(b) The standards and format to be followed ~~by:~~
~~(1) An executive board/ in auditing or reviewing financial statements of an association pursuant to paragraph (a) of subsection 1; and~~
~~(2) An independent certified public accountant in auditing or reviewing financial statements of an association pursuant to paragraph (b), (c) or (d) of subsection 1 or subsection 2.~~

Sec. 2. 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 eliminates the review requirement for associations with a budget under \$45,000, but maintains the audit requirement if requested by 15 percent of the voting members.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 97.

Bill read second time.

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

Amendment No. 37.

"SUMMARY—~~Removes~~ **Extends** the prospective expiration of certain provisions governing the list of preferred prescription drugs to be used for the Medicaid program. (BDR S-940)"

"AN ACT relating to health care; ~~removing~~ **extending** the prospective expiration of provisions governing the list of preferred prescription drugs to be used for the Medicaid program; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under existing law, the Department of Health and Human Services is required to develop by regulation a list of preferred prescription drugs to be used for the Medicaid program. The Department is also required to establish a list of prescription drugs that must be excluded from any restrictions that are imposed on drugs that are on the list of preferred prescription drugs. Existing law further requires the Department to include certain specified drugs on the list of drugs excluded from the restrictions. (NRS 422.4025) Before July 1, 2010, the Department was required to exclude certain atypical and typical antipsychotic medications, anticonvulsant medications and antidiabetic medications from the restrictions that are imposed on drugs

which are on the list of preferred prescription drugs, but the Legislature suspended this requirement for the period from July 1, 2010, to June 30, 2011. (Chapter 4, Statutes of Nevada 2010, 26th Special Session, p. 35) This bill ~~removes~~ extends the prospective expiration of such provisions, which has the effect of continuing the inclusion of those types of medications in the restrictions that are imposed on drugs which are on the list of preferred prescription drugs ~~after~~ until June 30, ~~2011~~ 2015.

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

Section 1. Section 4 of chapter 4, Statutes of Nevada 2010, 26th Special Session, at page 37, is hereby amended to read as follows:

Sec. 4. This act becomes effective on July 1, 2010 ~~and~~ and expires by limitation on June 30, 2015.

Sec. 2. This act becomes effective upon passage and approval.

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. 37 revises the provisions of Senate Bill No. 97 by replacing the sunset and extending it to June 30, 2015.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Horsford moved that Senate Bills Nos. 72, 97 be re-referred to the Committee on Finance.

Motion carried.

SECOND READING AND AMENDMENT

Senate Bill No. 101.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 33.

"SUMMARY—Revises certain provisions relating to ~~the issuance of~~ certificates of marriage licenses and the solemnization of marriage. (BDR 11-635)"

"AN ACT relating to marriage; revising certain provisions relating to ~~the issuance of~~ certificates of marriage licenses and the solemnization of marriage; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under existing law, ~~an applicant for a marriage license is authorized to submit as proof of his or her name and age an original or certified copy of a birth certificate, along with either: (1) a secondary document that contains the name and photograph of the applicant; or (2) any document for which identification must be verified as a condition to receipt of the document. (NRS 122.040) Section 1 of this bill authorizes such an applicant to provide~~

~~an original or certified copy of a birth certificate, along with any two documents that contain the name and address of the applicant. Section 1 also specifies that if an applicant presents an original or certified copy of any of the required forms of identification as prescribed by law, the county clerk is required to accept those forms of identification as proof of the applicant's name and age. Additionally, section 1 authorizes an applicant to have an attendant with him or her at all times while the applicant is in the marriage license bureau.]~~ **the county clerk may place an affidavit of application for a marriage license, a certificate of marriage and a marriage license on a single form, on the reverse of which the county clerk must have printed or stamped instructions for obtaining a certified copy or certified abstract of the certificate of marriage. (NRS 122.055) Section 2 of this bill requires the county clerk to include on the reverse of such a form: (1) instructions for obtaining a certified copy or certified abstract of the certificate of marriage; (2) certain language explaining that the certificate is not a certified copy and that a certified copy will need to be obtained for certain legal matters; and (3) a time stamp used by the clerk to signify that the form has been filed.**

Existing law also provides that a certificate of permission to perform marriages expires when a minister or other person who is authorized to solemnize a marriage, to whom the certificate has been issued, moves from the county in which his or her certificate was issued. (NRS 122.066) **Section 3** of this bill specifies that a certificate of permission remains valid when a minister or other person who is authorized to solemnize a marriage, who is retired and who has been issued the certificate, moves to another county in this State.

~~† Section 2 of this bill requires the county clerk to include only certain information on the back of a certificate of marriage that is not a certified copy, and section 4 of this bill increases the fee for having a marriage solemnized by the commissioner of civil marriages or his or her deputy commissioner of civil marriages from \$45 to \$70.]~~

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

Section 1. ~~[NRS 122.040 is hereby amended to read as follows:~~

~~—122.040— 1. Before persons may be joined in marriage, a license must be obtained for that purpose from the county clerk of any county in the State. Except as otherwise provided in this subsection, the license must be issued at the county seat of that county. The board of county commissioners:~~

~~—(a) In a county whose population is 400,000 or more:~~

~~—(1) Shall designate one branch office of the county clerk at which marriage licenses may be issued and shall establish and maintain the designated branch office in an incorporated city whose population is 150,000 or more but less than 300,000; and~~

~~—(2) May, in addition to the branch office described in subparagraph (1), at the request of the county clerk, designate not more than four branch offices~~

~~of the county clerk at which marriage licenses may be issued, if the designated branch offices are located outside of the county seat.~~

~~(b) In a county whose population is less than 400,000 may, at the request of the county clerk, designate one branch office of the county clerk at which marriage licenses may be issued, if the designated branch office is established in a county office building which is located outside of the county seat.~~

~~2. Except as otherwise provided in this section, before issuing a marriage license, the county clerk shall require each applicant to provide proof of the applicant's name and age. The county clerk [may] shall accept as proof of the applicant's name and age, and shall not deny a marriage license to an applicant for failure to provide proof of the applicant's name and age, if the applicant provides an original or certified copy of any of the following:~~

~~(a) A driver's license, instruction permit or identification card issued by this State or another state, the District of Columbia or any territory of the United States.~~

~~(b) A passport.~~

~~(c) A birth certificate and:~~

~~(1) Any secondary document that contains the name and a photograph of the applicant; [or]~~

~~(2) Any document for which identification must be verified as a condition to receipt of the document [.] ; or~~

~~(3) Any two documents that contain the name and address of the applicant.~~

~~* If the birth certificate is written in a language other than English, the county clerk may request that the birth certificate be translated into English and notarized.~~

~~(d) A military identification card or military dependent identification card issued by any branch of the Armed Forces of the United States.~~

~~(e) A Certificate of Citizenship, Certificate of Naturalization, Permanent Resident Card or Temporary Resident Card issued by the United States Citizenship and Immigration Services of the Department of Homeland Security.~~

~~(f) Any other document that provides the applicant's name and age. If the applicant clearly appears over the age of 25 years, no documentation of proof of age is required.~~

~~3. Except as otherwise provided in subsection 4, the county clerk issuing the license shall require each applicant to answer under oath each of the questions contained in the form of license. The county clerk shall, except as otherwise provided in this subsection, require each applicant to include the applicant's social security number on the affidavit of application for the marriage license. If a person does not have a social security number, the person must state that fact. The county clerk shall not require any evidence to verify a social security number. If any of the information required is unknown to the person, the person must state that the answer is unknown.~~

~~The county clerk shall not deny a license to an applicant who states that the applicant does not have a social security number or who states that any requested information concerning the applicant's parents is unknown.~~

~~4. Upon finding that extraordinary circumstances exist which result in only one applicant being able to appear before the county clerk, the county clerk may waive the requirements of subsection 3 with respect to the person who is unable to appear before the county clerk, or may refer the applicant to the district court. If the applicant is referred to the district court, the district court may waive the requirements of subsection 3 with respect to the person who is unable to appear before the county clerk. If the district court waives the requirements of subsection 3, the district court shall notify the county clerk in writing. If the county clerk or the district court waives the requirements of subsection 3, the county clerk shall require the applicant who is able to appear before the county clerk to:~~

~~a) Answer under oath each of the questions contained in the form of license. The applicant shall answer any questions with reference to the other person named in the license.~~

~~b) Include the applicant's social security number and the social security number of the other person named in the license on the affidavit of application for the marriage license. If either person does not have a social security number, the person responding to the question must state that fact. The county clerk shall not require any evidence to verify a social security number.~~

~~c) If any of the information required on the application is unknown to the person responding to the question, the person must state that the answer is unknown. The county clerk shall not deny a license to an applicant who states that the applicant does not have a social security number or who states that any requested information concerning the parents of either the person who is responding to the question or the person who is unable to appear is unknown.~~

~~5. If any of the persons intending to marry are under age and have not been previously married, and if the authorization of a district court is not required, the clerk shall issue the license if the consent of the parent or guardian is:~~

~~a) Personally given before the clerk;~~

~~b) Certified under the hand of the parent or guardian, attested by two witnesses, one of whom must appear before the clerk and make oath that the witness saw the parent or guardian subscribe his or her name to the annexed certificate, or heard him or her acknowledge it; or~~

~~c) In writing, subscribed to and acknowledged before a person authorized by law to administer oaths. A facsimile of the acknowledged writing must be accepted if the original is not available.~~

~~6. If a parent giving consent to the marriage of a minor pursuant to subsection 5 has a last name different from that of the minor seeking to be married, the county clerk shall accept, as proof that the parent is the legal~~

~~parent of the minor, a certified copy of the birth certificate of the minor which shows the parent's first and middle name and which matches the first and middle name of the parent on any document listed in subsection 2.~~

~~7. If the authorization of a district court is required, the county clerk shall issue the license if that authorization is given to the county clerk in writing.~~

~~8. An applicant for a marriage license is entitled to have an attendant with him or her at all times while the applicant is in the marriage license bureau.~~

~~9. All records pertaining to marriage licenses are public records and open to inspection pursuant to the provisions of NRS 239.010.~~

~~9.10. A marriage license issued on or after July 1, 1987, expires 1 year after its date of issuance.~~ **(Deleted by amendment.)**

Sec. 2. NRS 122.055 is hereby amended to read as follows:

122.055 1. The county clerk may place the affidavit of application for a marriage license, the certificate of marriage and the marriage license on a single form.

2. The county clerk shall have printed or stamped on the reverse of the form ~~[instructions]~~ :

(a) **Instructions** for obtaining a certified copy or certified abstract of the certificate of marriage.

(b) **Language in black ink and at least 16-point bold type in a font that is easy to read and that is in substantially the following form:**

This is your certificate. This is not a certified copy. For name changes and other legal matters, you will need to obtain a certified copy.

3. **Nothing may be printed, stamped or written on the reverse of the form other than the instructions and language described in subsection 2 and a time stamp used by the county clerk to signify that the form has been filed.**

Sec. 3. NRS 122.066 is hereby amended to read as follows:

122.066 1. The Secretary of State shall establish and maintain a statewide database of ministers or other persons authorized to solemnize a marriage. The database must:

(a) Serve as the official list of ministers or other persons authorized to solemnize a marriage approved in this State;

(b) Provide for a single method of storing and managing the official list;

(c) Be a uniform, centralized and interactive database;

(d) Be electronically secure and accessible to each county clerk in this State;

(e) Contain the name, mailing address and other pertinent information of each minister or other person authorized to solemnize a marriage as prescribed by the Secretary of State; and

(f) Include a unique identifier assigned by the Secretary of State to each minister or other person authorized to solemnize a marriage.

2. If the county clerk approves an application for a certificate of permission to perform marriages, the county clerk shall:

(a) Enter all information contained in the application into the electronic statewide database of ministers or other persons authorized to solemnize a marriage maintained by the Secretary of State not later than 10 days after the certificate of permission to perform marriages is approved by the county clerk; and

(b) Provide to the Secretary of State all information related to the minister or other person authorized to solemnize a marriage pursuant to paragraph (e) of subsection 1.

3. Upon approval of an application pursuant to subsection 2, the minister or other person authorized to solemnize a marriage:

(a) Shall comply with the laws of this State governing the solemnization of marriage and conduct of ministers or other persons authorized to solemnize a marriage;

(b) Is subject to further review or investigation by the county clerk to ensure that he or she continues to meet the statutory requirements for a person authorized to solemnize a marriage; and

(c) Shall provide the county clerk with any changes to his or her status or information, including, without limitation, the address or telephone number of the church or religious organization or any other information pertaining to certification.

4. A certificate of permission is valid until the county clerk has received an affidavit of revocation of authority to solemnize marriages pursuant to NRS 122.0665.

5. An affidavit of revocation of authority to solemnize marriages that is received pursuant to subsection 4 must be sent to the county clerk within 5 days after the minister or other person authorized to solemnize a marriage ceased to be a member of the church or religious organization in good standing or ceased to be a minister or other person authorized to solemnize a marriage for the church or religious organization.

6. If the county clerk in the county where the certificate of permission was issued has reason to believe that the minister or other person authorized to solemnize a marriage is no longer in good standing within his or her church or religious organization, or that he or she is no longer a minister or other person authorized to solemnize a marriage, or that such church or religious organization no longer exists, the county clerk may require satisfactory proof of the good standing of the minister or other person authorized to solemnize a marriage. If such proof is not presented within 15 days, the county clerk shall revoke the certificate of permission by amending the electronic record of the minister or other person authorized to solemnize a marriage in the statewide database pursuant to subsection 1.

7. ~~##~~ ***Except as otherwise provided in subsection 8, if*** any minister or other person authorized to solemnize a marriage to whom a certificate of permission has been issued severs ties with his or her church or religious

organization or moves from the county in which his or her certificate was issued, the certificate shall expire immediately upon such severance or move, and the church or religious organization shall, within 5 days after the severance or move, file an affidavit of revocation of authority to solemnize marriages pursuant to NRS 122.0665. If the minister or other person authorized to solemnize a marriage voluntarily advises the county clerk of the county in which his or her certificate was issued of his or her severance with his or her church or religious organization, or that he or she has moved from the county, the certificate shall expire immediately upon such severance or move without any notification to the county clerk by the church or religious organization.

8. *If any minister or other person authorized to solemnize a marriage, who is retired and to whom a certificate of permission has been issued, moves from the county in which his or her certificate was issued to another county in this State, the certificate remains valid until such time as the certificate otherwise expires or is revoked as prescribed by law. The minister or other person authorized to solemnize a marriage must provide his or her new address to the county clerk in the county to which the minister or other person authorized to solemnize a marriage has moved.*

9. The Secretary of State may adopt regulations concerning the creation and administration of the statewide database. This section does not prohibit the Secretary of State from making the database publicly accessible for the purpose of viewing ministers or other persons who are authorized to solemnize a marriage in this State.

Sec. 4. ~~NRS 122.181 is hereby amended to read as follows:~~

~~122.181 1. The commissioner of civil marriages or his or her deputy commissioner of civil marriages is entitled to receive as his or her fee for solemnizing a marriage [\$45.] \$70. The fee must be deposited in the county general fund.~~

~~2. The commissioner of civil marriages or his or her deputy commissioner of civil marriages shall also at the time of solemnizing a marriage collect the additional sum of \$5 for the Account for Aid for Victims of Domestic Violence in the State General Fund. The fees collected for this purpose must be paid over to the county treasurer by the county clerk on or before the fifth day of each month for the preceding calendar month, and must be credited to that Account. The county treasurer shall, on or before the 15th day of each month, remit those fees deposited by the clerk to the State Controller for credit to that Account.] (Deleted by amendment.)~~

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

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 maintains some of the provisions of the original bill, but eliminates others.

It maintains the provisions that: (a) stipulate what may be printed on the back of the marriage form; and (b) allows retired ministers to perform marriages if they move from one county to another.

The amendment deletes the provisions that would: (a) change the forms of identification required to obtain a marriage license; (b) determine those allowed to accompany an applicant into the marriage bureau; and (c) increase certain fees.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 114.

Bill read second time.

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

Amendment No. 83.

"SUMMARY—Revises provisions relating to controlled substances. (BDR 40-190)"

"AN ACT relating to controlled substances; requiring certain reports made by the Investigation Division of the Department of Public Safety to be transmitted to the Legislative Committee on Health Care; authorizing the exchange of certain information concerning controlled substances with other states under certain circumstances; providing civil and criminal immunity to certain persons who provide to the State Board of Pharmacy and the Division certain information concerning controlled substances; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Section 1 of this bill requires the Investigation Division of the Department of Public Safety to provide to the Legislative Committee on Health Care a copy of the annual report concerning the distribution and abuse of controlled substances.

Existing law requires the State Board of Pharmacy and the Division to develop a computerized system to track prescriptions for controlled substances listed in schedules II, III and IV. (NRS 453.1545) **Section 2** of this bill authorizes the Board and the Division to enter into a written agreement with an appropriate agency in another state to provide, receive or exchange information obtained from Nevada's computerized system with a similar system to track prescriptions for controlled substances in that state. **Section 2** also provides immunity from criminal and civil liability for certain persons who, ~~in good faith,~~ **with reasonable care,** provide to the Division or Board reports or information related to the computerized system.

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

Section 1. NRS 453.154 is hereby amended to read as follows:

453.154 1. In this section, "diversion" means the transfer of a controlled substance from a lawful to an unlawful channel of distribution or use.

2. The Division shall regularly prepare and make available to other state regulatory, licensing and law enforcement agencies a report on the patterns and trends of distribution, diversion and abuse of controlled substances.

3. The Board and the Division may enter into written agreements with local, state and federal agencies to improve identification of sources of diversion and to improve enforcement of and compliance with NRS 453.011 to 453.348, inclusive, and other laws and regulations pertaining to unlawful conduct involving controlled substances. An agreement must specify the roles and responsibilities of each agency that has information or authority to identify, prevent or control diversion and abuse of controlled substances. The Board and the Division may convene periodic meetings to coordinate a state program to prevent and control diversion. The Board and the Division may arrange for cooperation and exchange of information among agencies and with other states and the Federal Government.

4. The Division shall report annually to the Governor *and the Legislative Committee on Health Care* and biennially to the presiding officer of each house of the Legislature on the outcome of the program with respect to its effect on distribution and abuse of controlled substances, including recommendations for improving control and prevention of the diversion of controlled substances in this State.

Sec. 2. NRS 453.1545 is hereby amended to read as follows:

453.1545 1. The Board and the Division shall cooperatively develop a computerized program to track each prescription for a controlled substance listed in schedule II, III or IV that is filled by a pharmacy that is registered with the Board or that is dispensed by a practitioner who is registered with the Board. The program must:

(a) Be designed to provide information regarding:

(1) The inappropriate use by a patient of controlled substances listed in schedules II, III and IV to pharmacies, practitioners and appropriate state agencies to prevent the improper or illegal use of those controlled substances; and

(2) Statistical data relating to the use of those controlled substances that is not specific to a particular patient.

(b) Be administered by the Board, the Division, the Health Division of the Department and various practitioners, representatives of professional associations for practitioners, representatives of occupational licensing boards and prosecuting attorneys selected by the Board and the Division.

(c) Not infringe on the legal use of a controlled substance for the management of severe or intractable pain.

(d) Include the contact information of each person who elects to access the database of the program pursuant to subsection 2, including, without limitation:

(1) The name of the person;

(2) The physical address of the person;

(3) The telephone number of the person; and

(4) If the person maintains an electronic mail address, the electronic mail address of the person.

2. The Board shall provide Internet access to the database of the program established pursuant to subsection 1 to each practitioner who is authorized to write prescriptions for and each person who is authorized to dispense controlled substances listed in schedule II, III or IV who:

- (a) Elects to access the database of the program; and
- (b) Completes the course of instruction described in subsection ~~16-~~ 7.

3. The Board and the Division must have access to the program established pursuant to subsection 1 to identify any suspected fraudulent or illegal activity related to the dispensing of controlled substances.

4. The Board or the Division shall report any activity it reasonably suspects may be fraudulent or illegal to the appropriate law enforcement agency or occupational licensing board and provide the law enforcement agency or occupational licensing board with the relevant information obtained from the program for further investigation.

5. *The Board and the Division may cooperatively enter into a written agreement with an agency of any other state to provide, receive or exchange information obtained by the program with a program established in that state which is substantially similar to the program established pursuant to subsection 1, including, without limitation, providing such state access to the database of the program or transmitting information to and receiving information from such state. Any information provided, received or exchanged as part of an agreement made pursuant to this section may only be used in accordance with the provisions of this chapter.*

6. Information obtained from the program relating to a practitioner or a patient is confidential and, except as otherwise provided by this section and NRS 239.0115, must not be disclosed to any person. That information must be disclosed:

- (a) Upon the request of a person about whom the information requested concerns or upon the request on behalf of that person by his or her attorney; or
- (b) Upon the lawful order of a court of competent jurisdiction.

~~16-~~ 7. The Board and the Division shall cooperatively develop a course of training for persons who elect to access the database of the program pursuant to subsection 2 and require each such person to complete the course of training before the person is provided with Internet access to the database pursuant to subsection 2.

~~17-~~ 8. ***A practitioner who is authorized to write prescriptions for each person who is authorized to dispense controlled substances listed in schedule II, III or IV who ~~in good faith transmits~~ acts with reasonable care when transmitting to the Board or the Division a report or information required by this section or a regulation adopted pursuant thereto is immune from civil and criminal liability relating to such action.***

9. The Board and the Division may apply for any available grants and accept any gifts, grants or donations to assist in developing and maintaining the program required by this section.

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. 83 revises the provisions to Senate Bill No. 114 by revising the provisions related to immunity for practitioners that report information to the Prescription Drug Monitoring Program by removing the language that indicates that he or she has acted "in good faith" and adding that he or she "acts with reasonable care" when transmitting the required information.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 117.

Bill read second time.

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

Amendment No. 10.

"SUMMARY—Revises provisions governing the licensure of certain physicians. (BDR 54-194)"

"AN ACT relating to physicians; allowing a resident who is enrolled in a **progressive** postgraduate training program in ~~this State~~ **the United States or Canada** to be considered for a license to practice medicine after completing 24 months of the program and committing in writing to complete the program; requiring an applicant for a license to practice medicine to submit proof of satisfactory completion of a **progressive** postgraduate training program under certain circumstances; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law authorizes the Board of Medical Examiners to issue a license to practice medicine to any person who meets certain requirements. (NRS 630.160)

Section 1 of this bill revises the requirements that must be met before applying for a license to practice medicine to allow a resident who is enrolled in a **progressive** postgraduate training program in ~~this State~~ **the United States or Canada** and who has completed certain other existing requirements to be considered for a license after completing 24 months of the program and committing in writing to complete the program. **Section 2** of this bill requires such an applicant for a license to submit proof of satisfactory completion of the program within ~~120~~ **60** days after the scheduled completion of the program.

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

Section 1. NRS 630.160 is hereby amended to read as follows:

630.160 1. Every person desiring to practice medicine must, before beginning to practice, procure from the Board a license authorizing the person to practice.

2. Except as otherwise provided in NRS 630.1605, 630.161 and 630.258 to 630.266, inclusive, a license may be issued to any person who:

(a) Is a citizen of the United States or is lawfully entitled to remain and work in the United States;

(b) Has received the degree of doctor of medicine from a medical school:

(1) Approved by the Liaison Committee on Medical Education of the American Medical Association and Association of American Medical Colleges; or

(2) Which provides a course of professional instruction equivalent to that provided in medical schools in the United States approved by the Liaison Committee on Medical Education;

(c) Is currently certified by a specialty board of the American Board of Medical Specialties and who agrees to maintain the certification for the duration of the licensure, or has passed:

(1) All parts of the examination given by the National Board of Medical Examiners;

(2) All parts of the Federation Licensing Examination;

(3) All parts of the United States Medical Licensing Examination;

(4) All parts of a licensing examination given by any state or territory of the United States, if the applicant is certified by a specialty board of the American Board of Medical Specialties;

(5) All parts of the examination to become a licentiate of the Medical Council of Canada; or

(6) Any combination of the examinations specified in subparagraphs (1), (2) and (3) that the Board determines to be sufficient;

(d) Is currently certified by a specialty board of the American Board of Medical Specialties in the specialty of emergency medicine, preventive medicine or family practice and who agrees to maintain certification in at least one of these specialties for the duration of the licensure, or:

(1) Has completed 36 months of progressive postgraduate:

(I) Education as a resident in the United States or Canada in a program approved by the Board, the Accreditation Council for Graduate Medical Education or the Coordinating Council of Medical Education of the Canadian Medical Association; or

(II) Fellowship training in the United States or Canada approved by the Board or the Accreditation Council for Graduate Medical Education; ~~or~~

(2) Has completed at least 36 months of postgraduate education, not less than 24 months of which must have been completed as a resident after receiving a medical degree from a combined dental and medical degree program approved by the Board; ~~and~~ or

(3) Is a resident who is enrolled in a progressive postgraduate training program in ~~this State,~~ the United States or Canada approved by the

Board, the Accreditation Council for Graduate Medical Education or the Coordinating Council of Medical Education of the Canadian Medical Association, has completed at least 24 months of the program and has committed, in writing, to the Board that he or she will complete the program; and

(e) Passes a written or oral examination, or both, as to his or her qualifications to practice medicine and provides the Board with a description of the clinical program completed demonstrating that the applicant's clinical training met the requirements of paragraph (b).

3. The Board may issue a license to practice medicine after the Board verifies, through any readily available source, that the applicant has complied with the provisions of subsection 2. The verification may include, but is not limited to, using the Federation Credentials Verification Service. If any information is verified by a source other than the primary source of the information, the Board may require subsequent verification of the information by the primary source of the information.

4. Notwithstanding any provision of this chapter to the contrary, if, after issuing a license to practice medicine, the Board obtains information from a primary or other source of information and that information differs from the information provided by the applicant or otherwise received by the Board, the Board may:

(a) Temporarily suspend the license;

(b) Promptly review the differing information with the Board as a whole or in a committee appointed by the Board;

(c) Declare the license void if the Board or a committee appointed by the Board determines that the information submitted by the applicant was false, fraudulent or intended to deceive the Board;

(d) Refer the applicant to the Attorney General for possible criminal prosecution pursuant to NRS 630.400; or

(e) If the Board temporarily suspends the license, allow the license to return to active status subject to any terms and conditions specified by the Board, including:

(1) Placing the licensee on probation for a specified period with specified conditions;

(2) Administering a public reprimand;

(3) Limiting the practice of the licensee;

(4) Suspending the license for a specified period or until further order of the Board;

(5) Requiring the licensee to participate in a program to correct alcohol or drug dependence or any other impairment;

(6) Requiring supervision of the practice of the licensee;

(7) Imposing an administrative fine not to exceed \$5,000;

(8) Requiring the licensee to perform community service without compensation;

(9) Requiring the licensee to take a physical or mental examination or an examination testing his or her competence to practice medicine;

(10) Requiring the licensee to complete any training or educational requirements specified by the Board; and

(11) Requiring the licensee to submit a corrected application, including the payment of all appropriate fees and costs incident to submitting an application.

5. If the Board determines after reviewing the differing information to allow the license to remain in active status, the action of the Board is not a disciplinary action and must not be reported to any national database. If the Board determines after reviewing the differing information to declare the license void, its action shall be deemed a disciplinary action and shall be reportable to national databases.

Sec. 2. NRS 630.171 is hereby amended to read as follows:

630.171 Except as otherwise provided in NRS 630.263, in addition to the other requirements for licensure, an applicant for a license to practice medicine shall cause to be submitted to the Board ~~to~~, ***if applicable:***

1. *A certificate of completion of progressive postgraduate training from the residency program where the applicant received training ~~to~~; and*

2. *Proof of satisfactory completion of a progressive postgraduate training program specified in subparagraph (3) of paragraph (d) of subsection 2 of NRS 630.160 within ~~120~~ 60 days after the scheduled completion of the program.*

Senator Roberson moved the adoption of the amendment.

Remarks by Senator Roberson.

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

Amendment No. 10 to Senate Bill No. 117 authorizes the Board of Medical Examiners to issue a license to an applicant who is a resident enrolled in a progressive postgraduate training program in the United States or Canada that has been approved by one of the specified accreditation councils.

An applicant must also commit in writing to the Board that the applicant will complete the training program. The applicant must submit proof of completion within 60 days after completion of the program.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 119.

Bill read second time.

The following amendment was proposed by the Committee on Natural Resources:

Amendment No. 115.

"SUMMARY—Revises provisions governing the Agency for Nuclear Projects. (BDR 40-249)"

"AN ACT relating to hazardous materials; revising the scope of the duties and powers of the Executive Director of the Agency for Nuclear Projects;

revising the scope of the duties of the Administrators of each Division of the Agency; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law establishes the Agency for Nuclear Projects and imposes on the Executive Director of the Agency and the Administrators of each Division of the Agency certain duties relating to the potential disposal of radioactive waste in this State and the location of a facility for the disposal of radioactive waste in this State. Additionally, existing law vests the Executive Director with certain discretionary powers relating to the potential disposal of radioactive waste in this State. (NRS 459.009, 459.0093-459.0098) ~~Section 1 of this~~ **This** bill revises 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, thereby expanding the scope of the duties and powers of the Executive Director and the Administrators as such duties and powers relate to the potential disposal of radioactive waste in this State. ~~Section 2 of this bill preserves the current definition of "radioactive waste" as it relates to provisions governing the Commission on Nuclear Projects.~~

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

Section 1. NRS 459.009 is hereby amended to read as follows:

459.009 As used in NRS 459.009 to 459.0098, inclusive, unless the context otherwise requires:

1. "Agency" means the Agency for Nuclear Projects.
2. "Commission" means the Commission on Nuclear Projects.
3. "Executive Director" means the Executive Director of the Agency.
4. "Radioactive waste" ~~is limited to:~~
 - ~~(a) The highly radioactive material resulting from the reprocessing of spent nuclear fuel, including liquid waste and any solid material derived from the liquid waste that contains concentrations of matter produced by nuclear fission sufficient to require permanent isolation, as determined by the Nuclear Regulatory Commission;~~
 - ~~(b) means radioactive material, including, without limitation:~~
 - (a) *High-level radioactive waste;*
 - (b) *Low-level radioactive waste;*
 - (c) *Transuranic waste;*
 - (d) Spent nuclear fuel ~~that has been withdrawn from a reactor following irradiation and has not been separated into its constituent elements by reprocessing; and~~
 - ~~(e) Other;~~
 - (e) *Any radioactive material resulting from, or a by-product of, the nuclear fuel cycle, the reprocessing of spent nuclear fuel or weapons reprocessing; and*
 - (f) *Any other radioactive* material that the Nuclear Regulatory Commission determines must be permanently isolated.

↪ *The term includes, without limitation, radioactive material that is a solid, semisolid, liquid or contained gas, or any combination thereof.*

Sec. 2. ~~NRS 459.0092 is hereby amended to read as follows:~~

~~459.0092 1. The Commission shall:~~

~~[1.] (a) Be informed on issues and developments relating to the disposal of radioactive waste.~~

~~[2.] (b) Report to the Governor and the Legislature on any matter relating to the disposal of radioactive waste which it deems appropriate and on any such matter requested by the Governor.~~

~~[3.] (c) Advise and make recommendations to the Governor and the Legislature on the policy of this State concerning all projects involving the disposal of radioactive waste.~~

~~[4.] (d) Formulate the administrative policies of the Agency and its divisions.~~

~~[5.] (e) Advise the state and local governments on litigation relating to radioactive waste.~~

~~[6.] (f) Adopt such regulations and perform such other duties as are necessary to carry out the provisions of NRS 459.009 to 459.0098, inclusive.~~

~~2. As used in this section, "radioactive waste" is limited to:~~

~~(a) The highly radioactive material resulting from the reprocessing of spent nuclear fuel, including liquid waste and any solid material derived from the liquid waste that contains concentrations of matter produced by nuclear fission sufficient to require permanent isolation, as determined by the Nuclear Regulatory Commission;~~

~~(b) Spent nuclear fuel that has been withdrawn from a reactor following irradiation and has not been separated into its constituent elements by reprocessing; and~~

~~(c) Other material that the Nuclear Regulatory Commission determines must be permanently isolated.] (Deleted by amendment.)~~

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

Senator Manendo moved the adoption of the amendment.

Remarks by Senator Manendo.

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

Thank you, Mr. President. The section we are deleting in this bill was in conflict with Senate Bill No. 121 which has been passed by this body.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 207.

Bill read second time and ordered to third reading.

Senate Bill No. 208.

Bill read second time and ordered to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Horsford moved that Senate Bills Nos. 207, 208 be re-referred to the Committee on Finance.

Remarks by Senator Horsford.

Motion carried.

SECOND READING AND AMENDMENT

Senate Bill No. 222.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 118.

"SUMMARY—Revises provisions concerning the lease or rental of a unit in a common-interest community. (BDR 10-294)"

"AN ACT relating to common-interest communities; enacting provisions governing registration of tenants of units' owners with associations or their agents; ~~prescribing the maximum amount of the fee which an association or agent may charge for the registration of a tenant; authorizing the Commission for Common Interest Communities and Condominium Hotels to adopt regulations prescribing the amount of such a fee;~~ and providing other matters properly relating thereto."

Legislative Counsel's Digest:

This bill enacts requirements governing the registration of a tenant or lease or rental agreement in a common-interest community and the provision of information to an association or its agent when a unit's owner leases or rents his or her unit. Under this bill, if the governing documents require a unit's owner who leases or rents his or her unit or the tenant of that unit's owner to register with the association or its agent or otherwise provide information concerning the tenant or the agreement to the association or its agent, the association or its agent: (1) must conduct such activities in accordance with the governing documents; (2) may not require the unit's owner or tenant to provide more information concerning the tenant than it requires from a unit's owner who occupies his or her unit, except that it may require the unit's owner to provide a copy of the lease; and (3) may not charge a fee to the unit's owner for the registration or submission of information, ~~which is greater than \$50 or, if the Commission for Common Interest Communities and Condominium Hotels has adopted regulations prescribing the amount of the fee, the amount prescribed by those regulations.~~

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

Section 1. NRS 116.335 is hereby amended to read as follows:

116.335 1. Unless, at the time a unit's owner purchased his or her unit, the declaration prohibited the unit's owner from renting or leasing his or her unit, the association may not prohibit the unit's owner from renting or leasing his or her unit.

2. Unless, at the time a unit's owner purchased his or her unit, the declaration required the unit's owner to secure or obtain any approval from the association in order to rent or lease his or her unit, an association may not require the unit's owner to secure or obtain any approval from the association in order to rent or lease his or her unit.

3. If a declaration contains a provision establishing a maximum number or percentage of units in the common-interest community which may be rented or leased, that provision of the declaration may not be amended to decrease that maximum number or percentage of units in the common-interest community which may be rented or leased.

4. *If the governing documents of an association require a unit's owner who leases or rents his or her unit, or the tenant of a unit's owner, to register with the association or its agent or otherwise submit to the association or its agent information concerning the lease or rental agreement or the tenant, the association or its agent:*

(a) Must conduct such activities in accordance with the governing documents;

(b) May not require the unit's owner or tenant of the unit's owner to provide information which the association or its agent does not require to be provided to the association or its agent by a unit's owner who occupies his or her unit, except that the association or its agent may require the unit's owner to provide a copy of the lease or rental agreement; and

(c) May not charge a fee to the unit's owner for the registration or submission of information ~~in an amount which exceeds \$50 or, if the Commission has adopted regulations prescribing the amount of such a fee, the amount prescribed by regulation by the Commission. The Commission may adopt regulations prescribing the amount of a fee which may be charged to a unit's owner pursuant to this paragraph.~~

5. The provisions of this section do not prohibit an association from enforcing any provisions which govern the renting or leasing of units and which are contained in this chapter or in any other applicable federal, state or local laws or regulations.

~~§~~ 6. Notwithstanding any other provision of law or the declaration to the contrary:

(a) If a unit's owner is prohibited from renting or leasing a unit because the maximum number or percentage of units which may be rented or leased in the common-interest community have already been rented or leased, the unit's owner may seek a waiver of the prohibition from the executive board based upon a showing of economic hardship, and the executive board may grant such a waiver and approve the renting or leasing of the unit.

(b) If the declaration contains a provision establishing a maximum number or percentage of units in the common-interest community which may be rented or leased, in determining the maximum number or percentage of units in the common-interest community which may be rented or leased, the number of units owned by the declarant must not be counted or considered.

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 eliminates a fee for registering a tenant or providing information to the association, and eliminates regulations adopted by the Commission on Common-Interest Communities to adopt regulations prescribing such a fee.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 242.

Bill read second time and ordered to third reading.

Senate Bill No. 289.

Bill read second time and ordered to third reading.

Senate Bill No. 301.

Bill read second time and ordered to third reading.

Senate Bill No. 337.

Bill read second time and ordered to third reading.

Senate Joint Resolution No. 3.

Resolution read second time and ordered to third reading.

Senate Joint Resolution No. 4.

Resolution read second time and ordered to third reading.

GENERAL FILE AND THIRD READING

Senate Bill No. 63.

Bill read third time.

Remarks by Senator Parks.

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

Senate Bill No. 63 authorizes the Division of Industrial Relations of the Department of Business and Industry to obtain a summary judgment against an employer who fails to pay the Division an amount owed for payments made from the Uninsured Employers' Claim Account on behalf of that employer. The bill establishes the procedures for obtaining a summary judgment and a lien based upon the judgment.

Any person who is the legal or beneficial owner of 25 percent or more of a business that terminates operations while owing money to the Division for certain payments, and who then becomes the legal or beneficial owner of 25 percent or more of a new business engaging in similar operations, or knowingly aids or abets another person in such conduct, remains liable for the unpaid amounts from the first business.

Roll call on Senate Bill No. 63:

YEAS—21.

NAYS—None.

Senate Bill No. 63 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 237.

Bill read third time.

Remarks by Senator Wiener.

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

Senate Bill No. 237 provides for the creation of a non-profit corporation with a 7-member Board of Directors appointed by the Legislative Commission to provide administrative and financial support for the activities of the Nevada Youth Legislature. Further, the measure creates the Nevada Youth Legislature Fund as a special revenue fund within the State Treasury to be managed by the Board of Directors in support of these activities. The bill carries forward funds previously appropriated for the Nevada Youth Legislature and requires the transfer of these and any other moneys provided to the group to the new Fund. The bill limits the use of the money in the Fund to programs and expenses for the operation and support of the Nevada Youth Legislature. The duties of the Board are set forth concerning its oversight of the activities of the group, in cooperation with the Legislative Counsel Bureau.

The bill also expands the eligibility of Youth Legislators to those students starting the 9th grade, and provides for a two-year term of office with the possibility of a second two-year reappointment. In addition, the measure clarifies provisions for filling a vacancy on the Youth Legislature due to a member's unexcused absences from the body's meetings, events, or other activities.

This bill is effective upon passage and approval.

Roll call on Senate Bill No. 237:

YEAS—21.

NAYS—None.

Senate Bill No. 237 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

REMARKS FROM THE FLOOR

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

Thank you, Mr. President. I am pleased to announce that we have a most distinguished Senator and former colleague to induct into the 2011 Senate Hall of Fame and that the induction ceremony will take place here on Tuesday, April 19.

For the new members of the Senate, I want to explain that the Senate Hall of Fame was created in 1989 to honor former Senators with a significant number of years of legislative service who served with distinction in leadership positions both within the Senate and outside the Legislature. These members are selected by the leadership of the Senate from recommendations made by the Legislative Counsel Bureau's Research Director based on historical research and analysis. The Research Director typically nominates at least one Senator who served in the Senate since 1970 and at least one Senator who served prior to 1970.

Former Senator James I. Gibson of Clark County was inducted as the first member of the Senate Hall of Fame in 1989. There are now a total of 36 members and three honorary members of the Senate Hall of Fame. Their photos can be found on the walls in the hallways near the entrance to the Chamber.

Today I am pleased to announce that I decided to break with tradition and have us induct only one person into the Senate Hall of Fame in 2011. Because of his extraordinary career both in the Nevada Senate and outside the Legislature, the sole inductee for 2011 is former Senate Majority Floor Leader William J. "Bill" Raggio, Republican of Washoe County.

Most of us served with former Senator Raggio in this Chamber or as members of the other House. Senator Raggio, a resident and native son of Reno, served in the Nevada Senate for over 38 years, the longest Senate service in the history of Nevada. His first session was the 1973 Regular Session, and his last was the Twenty-sixth Special Session, last year in early 2010. During the course of his Senate career, Senator Raggio served as Majority Leader for a record ten sessions and nine special sessions, chaired the Senate Committee on Finance during that

same time period, and served as Minority Floor Leader in six regular sessions and four special sessions. I think it is fitting that Senator Raggio was the creator of the Senate Hall of Fame back in 1989.

Please mark April 19 on your calendars as the date we will induct Senator Raggio into the Senate Hall of Fame.

GUESTS EXTENDED PRIVILEGE OF SENATE FLOOR

On request of Senator Halseth, the privilege of the Floor of the Senate Chamber for this day was extended to Kristiana Mangler.

On request of Senator Leslie, the privilege of the Floor of the Senate Chamber for this day was extended to the following students from the Coral Academy of Science: Lucas Adams, Aishwarya Anand, Julien Becker, Robert Bothne, Maxwell Cantor, Maxwell Case, Alex Czarnomski, Nicholas Fisher, Kaylee Foubert, Andrea Gonzalez Sanchez, Jarod Haren, Morgan Heath-Powers, Colton Hope, Sean Loberg, Zoe Maletsky, Cole Matteson, Ashley Moore, Kaija Nelson, Yana Vincent, Meryem Yuksel, Joshua Berryman, Brandon Callahan, Shannon Eagan, James England, Xara Frasier, Esteban Garabito, Aspen Hackbarth, Madysen Jorgensen, Trin Koha, Drew Maitland, Vincent Marcum, Angeline McCarty Lee, Hayden Moser, Victoria Nelson, Jon Pech-Montoya, Nolan Rhoads, Violet Danielle, Kaitlin White, Okkyu Baik, Joseph Berryman, Alexandria Blier, Margaret Brown, Kayla Burnham, Anthony Coots, Krystle Mae Cordero, Kayla Forseth, Nathan Gomez, Jacob Hartmann, Joseph Hodgin, Leila Mago, Skyler Meanny, Hayden McFarland, Desmond Mena, Connor Schmuck, Ismael Tamesis III, Chase Winslow, and Elizabeth Yrcisin.

On request of Senator McGinness, the privilege of the Floor of the Senate Chamber for this day was extended to Kevin Welsh and Arvilla Welsh.

Senator Horsford moved that the Senate adjourn until Thursday, April 7, 2011, at 11 a.m.

Motion carried.

Senate adjourned at 12:47 p.m.

Approved:

BRIAN K. KROLICKI
President of the Senate

Attest: DAVID A. BYERMAN
Secretary of the Senate