

**THE SEVENTY-SECOND DAY**

---

CARSON CITY (Tuesday), April 19, 2011

Senate called to order at 11:07 a.m.

President Krolicki presiding.

Roll called.

All present.

Prayer by the Chaplain, Pastor Ron Torkelson.

Dear God,

Your Scripture encourages people to "worry about nothing, pray about everything, and rejoice." The promise is that You can bring good from what appears to be chaos. The amazing truth is that You have chosen these people standing here to do just that. The evening news has reported the challenges and the decisions this body of people have been dealing with and it is no simple task.

Therefore, I pray once again for the wisdom You have promised to give. Use these people today to do that which is best for this State and the people who live here.

Thank You for the success You have promised.

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.

## COMMUNICATIONS

The Secretary of the Senate read a letter to former Senator Raggio from former Secretary of the Senate Janice L. Thomas.

Dear Senator Raggio:

I was honored to have been serving under your esteemed leadership when you created this wonderful tribute, initially, for a gentleman with impeccable honor, Senator James I. Gibson, who had served as the Senate Democratic Majority Leader for many years. You continued this tradition throughout your tenure by honoring many other past Senators who were also recognized for their outstanding service to the Senate of the Nevada Legislature. And, now, the tribute is paid to you for which you so richly deserve.

While I am unable to be there to witness this wonderful celebration, my family and I send our sincere congratulations on your Induction into the Senate Hall of Fame. We will forever be grateful and blessed by your awesome dedication and service to the Senate and to the people of the State of Nevada, but, most especially, for your special friendship.

With my warmest regards,

Janice L. Thomas

(Former Secretary of the Senate, 1981-2000)

## MOTIONS, RESOLUTIONS AND NOTICES

By Senators Horsford, McGinness, Breeden, Brower, Cegavske, Copening, Denis, Gustavson, Halseth, Hardy, Kieckhefer, Kihuen, Lee, Leslie, Manendo, Parks, Rhoads, Roberson, Schneider, Settlemeyer and Wiener:

Senate Resolution No. 4—Inducting William J. Raggio into the Senate Hall of Fame.

WHEREAS, The Senate of the Legislature of the State of Nevada has established a Senate Hall of Fame whose members are selected by leadership from those past Senators who have served with distinction and who have made exemplary contributions to the State of Nevada; and

WHEREAS, William J. Raggio, a fourth generation Nevadan, was born October 30, 1926, in Reno, Nevada, and was educated in the Reno public schools; and

WHEREAS, During World War II, William entered Naval Officer Candidate training, and later was commissioned as a Second Lieutenant in the United States Marine Corps; after his military service, he received his B.A. from the University of Nevada, Reno, before going on to receive his J.D. from the University of California; and

WHEREAS, William J. Raggio was elected District Attorney of Washoe County in 1958, an office he held until 1970; while District Attorney, he was named "Outstanding Prosecutor in the United States" and elected President of the National District Attorneys Association; and

WHEREAS, William J. Raggio was first elected to the Nevada Senate from Washoe County in November 1972 and served over 38 years until January 2011, having the longest Senate service in the history of Nevada, including 19 regular sessions and 13 special sessions; Senator Raggio served as Senate Majority Floor Leader in 1987-1989 and 1993-2008, making him the longest-serving Senate Majority Floor Leader in Nevada history; he also served as Senate Minority Floor Leader for 6 regular and 4 special sessions; and

WHEREAS, Senator Raggio was Chairman of the Senate Committee on Finance in the regular sessions of 1987-1989 and 1993-2007, and served as either Chairman or Vice Chairman of the Interim Finance Committee during that same time period; and Senator Raggio served as Chairman of the Legislative Committee on Education in 1997-1998, 2001-2002, and 2005-2006; and

WHEREAS, Among his legislative accomplishments, Senator Raggio sponsored Nevada's Education Reform Act, perhaps the most important education measure in State history; established the Nevada Economic Forum to provide nonpartisan, technical projections of state revenue; authored legislation providing comprehensive regional planning in Washoe County; and was honored as the "Father of the Airport Authority" in recognition of his legislation creating that entity; and

WHEREAS, Senator Raggio received numerous national awards and honors over the years for his legislative service, including the elected National Chairman of the American Legislative Exchange Council (ALEC) in 1993; the Lifetime Achievement Award of the National Italian American Foundation in 1999; and ALEC honoring him by establishing the William J. Raggio Excellence in Leadership and Outstanding Service Award; now, therefore, be it

RESOLVED BY THE SENATE OF THE STATE OF NEVADA, That William J. Raggio, a leader among leaders and most dedicated son to his native Nevada, is hereby inducted into the Senate Hall of Fame of the Legislature of the State of Nevada.

Senator Horsford moved the adoption of the resolution.

Remarks by Senators Horsford, McGinness, Cegavske, Leslie, Denis, Breeden, Hardy, Brower, Parks, Wiener, Schneider, Settlemeyer, Lee and President Krolicki.

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

SENATOR HORSFORD:

I rise in support of this resolution inducting Senator Bill Raggio into the Senate Hall of Fame. Senator Bill Raggio represented Washoe County in the Senate for over 38 years, the longest Senate service in the history of the great State of Nevada. Most of us in the Senate today served as members of the Legislature with former Senator Raggio. I had the privilege to serve in this Chamber with Senator Raggio for three regular sessions and six special sessions. Senator Raggio, as the resolution has indicated, is a fourth generation Nevadan. He is a native and resident of Reno. His long career in public service is unparalleled.

On a personal note, Mr. President, Senator Raggio has always been one of the greatest figures in political life for many of us coming up in Nevada politics. I can recall coming to this

legislative process as an intern. I was afraid of Senator Raggio and avoided coming into the Senate Chamber because in many ways I was awestruck by his presence, his knowledge, and command of the process and his ability to get \$20 out of everyone he met. Over the years, I have had the profound opportunity to get to know the man, Bill Raggio, not just the State Senator or public servant. He has been a loving father and parent. He has been a phenomenal community leader in many respects, not only to the community of Reno or Washoe County but as a community leader to the State of Nevada and our country. He has been a great spouse and a wonderful partner. He adores his wife.

I had the pleasure many years ago in a previous role of helping to honor Senator Raggio. It was during that process when I had the opportunity to interview people who worked with Senator Raggio, not just in his Senate capacity, but in his role as a lawyer, as a community leader and as a resident of our great State. Without question, the people that I spoke to and asked about, the essence of Senator Bill Raggio, it all came back to the same word: Statesman.

He is a true statesman. He loves his party, but he puts the State of Nevada before his party. He is a true statesman in that he has always looked out for the future of our State, providing great vision and leadership during difficult times. He is a great statesman because he has been an example for those of us who now stand on your shoulders, Senator, to carry the torch of what it truly means to be a statesman in the State of Nevada.

Today is one small way for us, as a body, to honor Senator Raggio in inducting him into the Senate Hall of Fame. I wish there were some greater honor, some larger recognition that we could bestow upon you because of everything you have bestowed upon the great State of Nevada. On behalf of this Chamber, on behalf of myself and my family and on behalf of the citizens of the State of Nevada, it is my honor to support Senate Resolution No. 4 and your induction into the Hall of Fame. You are truly Nevada's statesman.

PRESIDENT KROLICKI:

One of the great privileges of my public service life has been to be Lieutenant Governor, being a part of this legislative process and to serve with you.

SENATOR MCGINNESS:

I rise today to honor a Nevadan and a colleague who has dedicated his life to improving the lives of all Nevadans.

The words in this resolution can never capture all of Senator Raggio's public service. He has always been an advocate for public education, public safety, and making certain that our State provided the services to those who needed it most.

The 38 years he has spent serving in the Senate is not the extent of Senator Raggio's public service. He started out as the Washoe County District Attorney for 18 years fighting crime and corruption with burning passion, ultimately making northern Nevada a safer place.

Senator Raggio's unique knowledge of the State budget and the legislative process in Carson City will never again be equaled. I congratulate Senator Raggio on his induction into the Senate Hall of Fame and I thank you for your devotion to the great State of Nevada. Thank you, very much.

SENATOR CEGAVSKE:

Thank you, Mr. President. It is so nice to see Senator Raggio here, today. I remember the first time I went to dinner with you in Washington D.C. It was when you got my \$20. The trip was just before the terrorist attacks on the Twin Towers, we were there for a meeting with your daughter and granddaughter. We had a wonderful time and it will always be a fond memory for me. I will remind you about the three blondes and am sorry the other two are not here today. All the stories are kept behind the caucus doors.

It is a privilege to honor you, today.

SENATOR LESLIE:

Thank you, Mr. President. I wish to offer my thanks to Senator Raggio for terrifying me during my 12 years in the Assembly. We often had bills in the Assembly that Senator Raggio did not like very much. We would take turns fighting over who would take a bill to the Senate Committee on Finance for hearing. Several times, I lost that fight and the Speaker would tell me

it was my turn to go to the Committee. That was the worst assignment you could draw in the Assembly. He yelled at me a few times, but I never took it personally, because I knew he did not take it personally. Outside of the meeting, Senator Raggio was the most gracious legislator and he taught us so much. Because of term limits, I am the senior Washoe County Legislator. I am in my first term in the Senate. We have a tradition in the Washoe County delegation, that the senior member calls the meetings. Senator Raggio would have someone call the office saying there was a meeting at 12:00 and be there. There were no excuses; you went. If you did not show up, he would send the Legislative Police to find you to escort you to the meeting. I am nicer, but people do not show up to my meetings the way they did for his.

The first time I got a handwritten note from Senator Raggio, it was in his distinctive handwriting. It was addressed to "Shelia." Though I opened his note with trepidation, I knew it was because he wanted me to do something. He always signed it in that beautiful, flourishing handwriting that said "Bill." We used to discuss that in the Assembly. "I got a note from "Bill" today." We just could not think of him as "Bill." He will always be Senator Raggio. As a member of the Washoe County delegation, I want to thank Senator Raggio for representing our interests so well for so long. We truly admire his work, and we admire his family for putting up with him. There is no one who has represented Washoe County the way Senator Raggio has. I am grateful for his service on a deeply personal level.

SENATOR DENIS:

Thank you, Mr. President. Thank you, Senator Raggio for your service. I did not know that we shared the honor of being Eagle Scouts. I knew there was something special about him. I remember my first Interim Finance Committee meeting as a freshman. Senator Raggio asked me for that \$20. I was just a new kid. I was trying to be helpful and gave it to him even though I think it was all I had. It was an honor serving with him.

SENATOR BREEDEN:

Thank you, Mr. President. I am honored to spend this special day with you. Congratulations.

SENATOR HARDY:

Having never been asked, I feel left out, so Senator Raggio, I have your \$20. Please pass that to him, thank you.

If I could describe Bill with one word, it would be gracious. He accepted that \$20 graciously. I appreciate all of the wisdom he has shared with me and with us.

SENATOR BROWER:

Thank you, Mr. President. I am humbled beyond words to be sitting in this seat. I think Senator Raggio knows how I feel. Your presence is felt in this Chamber every day. We are better for it.

SENATOR PARKS:

Thank you, Mr. President. I wish to express my appreciation to Senator Raggio to congratulate him on being inducted into the Senate Hall of Fame. Long before I came to the Legislature, I served in a number of positions that required me to come to the Legislature to testify on bills. Several of the bills were presented before the Senate Committee on Finance. I was shaking in my boots as I presented my testimony. I also wish to give Senator Raggio my \$20. Please pass it down. Once he asked for that \$20 then withdrew his request. Now I want him to have it. Congratulations on this wonderful award.

SENATOR WIENER:

Thank you, Mr. President. As I listen to the stories today, I remember my first day in the building. As I passed one of the Legislative Police, he said, "Good morning, Senator." I told him to call me Valerie. He told me, "Not in this building." That was the respect we have for each other.

Senator Raggio came to my very small closet of an office, the first few weeks of Session, and told me it was a tough campaign, now it is over, now we work together. I will never forget that, because that is what this is about. When we came into the first session to be sworn in, none of my supporters were able to attend because the weather was bad. I sat in the third row by myself,

but just before we started, they were able to arrive on time led by my aunt. Senator Raggio used to work with my aunt and my dad and Senator Raggio were law partners. Before I knew you, I knew of you. When he stood to welcome me to the Floor, he spoke to my aunt first because of their friendship. When I saw the love of the years they shared, it spilled over to me too. I appreciate the relationship you had with my family. I appreciate all the love you have shared with your Nevada family and what it is you have brought to the Senate, what it is you have left with the Senate that can never be matched and never be replaced for it like you and the work you have done, is permanent and we are better for it.

Thank you for being a part of it and for leading us for all of these years, for stamping that Raggio mark on the history and the future. I appreciate you and I thank you.

SENATOR SCHNEIDER:

Thank you, Mr. President. I am the only one in this building Senator Raggio did not shake the \$20 out of. I am proud of that. I served with him for 20 years and refused to give him the \$20. I knew he would not pass my bills anyway.

Years ago when I was a young Senator who just moved here from the Assembly, I had a bill on construction defects. I received a letter from the Ethics Commission. Someone made an ethics complaint against me because I introduced a bill on construction defects. On Monday morning, I told Senator Townsend who was Chair of the Senate Committee on Commerce and Labor what had happened. An hour later, Senator Raggio requested I come to his office. I thought I was in trouble. He called in Brenda Erdoes and Jan Needham and insisted they prepare a case for me. He said if you need to hire outside counsel, then hire them. He said that we would defend this all of the way. He stated that this would chill the legislative process if we allow this to continue. I was thankful he would stand up for a minority member like me. He stood up for the body of the Senate. Thank you.

SENATOR SETTELMAYER:

Thank you, Mr. President. It is an honor to say some kind words about such a kind man. His service to the State and to the nation can never be overlooked. Mr. Hettrick said once to me that it is about honoring this institution, to leave the fights at the door when you walk through and to have thoughtful discussions and to try to do what is best for the State overall. The first time I ran, we talked at Senator Jacobsen's funeral. I remember what you said to me then. You said, "The man who showed me around the first time was Senator Settelmeyer." He was my great uncle, Fred. It is such an honor to be here today. I would like to give you an 1865 dollar. It might be worth something someday soon.

SENATOR LEE:

Thank you, Mr. President. I understand that the highest honor you received was the Eagle Scout Award and I feel the same way. To do a good deed daily, that is what we learn from scouting. When I was a freshman, I was following Dina Titus' leadership. We were getting ready for a bill and Senator Raggio walked in and looked at me and he said, "I am not fooling around, you get your caucus in order right now." He walked away and I thought, "What do I do?" I had no idea how to respond to that. When I told Dina, she said, "Oh, do not listen to him."

But I am mindful that I am now sitting at the desk that you sat at last session. I think we should put a brass plate on this desk, recognizing this desk as your desk. In the future, anyone who sits here will remember Bill Raggio. Thank you, Senator Raggio.

Senator Horsford requested that the remarks of former Senator William J. Raggio be entered in the Journal.

FORMER SENATOR WILLIAM J. RAGGIO:

Thank you, you know I am not used to using these microphones. I would like to say I am overwhelmed. At first, I did not know how to dress for this occasion, so asked former Senator Townsend and he suggested one of his suits, then former Senator Coffin offered one of his sport coats, so I opted for Senator Townsend's suit.

I am overwhelmed by what you have said and what is in this resolution. If I had known you were going to say all of these nice things, I would have retired earlier. This is a significant honor

that I truly appreciate. I want to thank my family for all of the years they have supported me during this process. When I first came to the Senate in 1972, I never thought I would serve this long in this body. I never thought I would serve ten consecutive terms as a Senator in this Chamber. Looking back, I realize almost half of my life has been spent as a member of the Senate. I have appreciated the privilege and opportunity that I have had during those years to work with so many distinguished colleagues, some of you here, some who no longer serve here, and many who have passed on. There are wonderful memories. There were good times, tough times and fun times. I have always appreciated that we have such a wonderful staff to work with in this legislative process, dedicated individuals who cannot be thanked enough for making all of us who serve as legislators look good through this difficult process. We had tough times, serious issues that we have had to deal with. Obviously, we have often disagreed, but in the end, I always felt that the final result was in the best interest of the State of Nevada. I was privileged to be part of that process.

I do not have the words to express how much I appreciate this honor. The memories will still go on and on. I have always respected the dignity and the decorum of this Senate Chamber and I will continue to do so. I thank all of you for this recognition and the honor you have bestowed upon me. I have received many plaques and many honors over the years. I have often said that earning my Eagle Scout Badge as a Boy Scout was my highest honor, but this ranks right up there. I am grateful to you all for honoring me in this way.

Thank you, so much.

Resolution adopted unanimously.

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

Senate in recess at 12:07 p.m.

#### SENATE IN SESSION

At 2:35 p.m.

Senator Parks, Chair of Committee on Legislative Operations and Elections, presiding:

Quorum present.

#### REPORTS OF COMMITTEES

*Mr. President:*

Your Committee on Commerce, Labor and Energy, to which were referred Assembly Bills Nos. 156, 217, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

MICHAEL A. SCHNEIDER, *Chair*

*Mr. President:*

Your Committee on Education, to which was referred Senate Bills Nos. 230, 276, 318, 449, 451, 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 Finance, to which was referred Assembly Bill No. 565, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

STEVEN A. HORSFORD, *Chair*

*Mr. President:*

Your Committee on Government Affairs, to which were referred Senate Bills Nos. 260, 261, 377, 384, 385, 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. 53, 245, 340, 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 were referred Assembly Bills Nos. 18, 147, 464, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

Also, your Committee on Judiciary, to which were referred Senate Bills Nos. 66, 200, 201, 218, 257, 283, 347, 356, 405, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

VALERIE WIENER, *Chair*

*Mr. President:*

Your Committee on Natural Resources, to which was referred Senate Joint Resolution No. 12, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

MARK A. MANENDO, *Chair*

*Mr. President:*

Your Select Committee on Economic Growth and Employment, to which was referred Senate Bill No. 64, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

RUBEN J. KIHUEN, *Chair*

#### MESSAGES FROM THE ASSEMBLY

ASSEMBLY CHAMBER, Carson City, April 18, 2011

*To the Honorable the Senate:*

I have the honor to inform your honorable body that the Assembly on this day passed Senate Bill No. 220; Assembly Bills Nos. 19, 143, 194, 211, 271, 296, 355, 456, 459, 504, 523, 524, 533, 556.

Also, I have the honor to inform your honorable body that the Assembly on this day passed, as amended, Assembly Bills Nos. 12, 20, 25, 26, 32, 36, 55, 82, 91, 102, 109, 111, 121, 125, 138, 142, 170, 232, 233, 261, 295, 309, 313, 319, 348, 395, 478.

Also, I have the honor to inform your honorable body that the Assembly on this day passed Assembly Joint Resolutions Nos. 6, 7.

MATTHEW BAKER

*Assistant Chief Clerk of the Assembly*

#### MOTIONS, RESOLUTIONS AND NOTICES

Senator Horsford moved that all necessary rules be suspended, that the reading of Assembly Bill No. 565 be considered to have fulfilled the requirement for second reading, and that the bill be declared an emergency measure under the Constitution and placed at the top of third reading for final passage on this legislative day.

Remarks by Senator Horsford.

Motion carried unanimously.

Senator Wiener moved that Senate Bill No. 140 be taken from the Second Reading File and placed on the Second Reading File for the next legislative day.

Motion carried.

Senator Wiener moved that Senate Bills Nos. 180, 368 be taken from the General File and placed on the General File for the next legislative day.

Motion carried.

Assembly Joint Resolution No. 6.

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

Motion carried.

Assembly Joint Resolution No. 7.

Senator Wiener moved that the resolution be referred to the Committee on Legislative Operations and Elections.

Motion carried.

#### REMARKS FROM THE FLOOR

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

Mr. President, in the interest of time, I move the Secretary read through all of the bill summaries noting the appropriate committee referrals. Once that has been completed, Senator Wiener will make a motion that all bills previously read be referred to the committees as indicated all in one motion rather than have a senator stand and move their own bills individually. If a senator has an objection to a referral, it will be addressed after the reading of all summaries has been completed.

#### INTRODUCTION, FIRST READING AND REFERENCE

Assembly Bill No. 12.

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

Motion carried.

Assembly Bill No. 19.

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

Motion carried.

Assembly Bill No. 20.

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

Motion carried.

Assembly Bill No. 25.

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

Motion carried.



Assembly Bill No. 26.

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

Motion carried.

Assembly Bill No. 32.

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

Motion carried.

Assembly Bill No. 36.

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

Motion carried.

Assembly Bill No. 55.

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

Motion carried.

Assembly Bill No. 82.

Senator Wiener moved that the bill be referred to the Committee on Legislative Operations and Elections.

Motion carried.

Assembly Bill No. 91.

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

Motion carried.

Assembly Bill No. 102.

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

Motion carried.

Assembly Bill No. 109.

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

Motion carried.

Assembly Bill No. 111.

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

Motion carried.

Assembly Bill No. 121.

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

Motion carried.

Assembly Bill No. 125.

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

Motion carried.

Assembly Bill No. 138.

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

Motion carried.

Assembly Bill No. 142.

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

Motion carried.

Assembly Bill No. 143.

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

Motion carried.

Assembly Bill No. 170.

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

Motion carried.

Assembly Bill No. 194.

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

Motion carried.

Assembly Bill No. 211.

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

Motion carried.

Assembly Bill No. 232.

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

Motion carried.

Assembly Bill No. 233.

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

Motion carried.

Assembly Bill No. 261.

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

Motion carried.

Assembly Bill No. 271.

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

Motion carried.

Assembly Bill No. 295.

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

Motion carried.

Assembly Bill No. 296.

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

Motion carried.

Assembly Bill No. 309.

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

Motion carried.

Assembly Bill No. 313.

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

Motion carried.

Assembly Bill No. 319.

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

Motion carried.

Assembly Bill No. 348.

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

Motion carried.

Assembly Bill No. 355.

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

Motion carried.

Assembly Bill No. 395.

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

Motion carried.

Assembly Bill No. 456.

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

Motion carried.

Assembly Bill No. 459.

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

Motion carried.

Assembly Bill No. 478.

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

Motion carried.

Assembly Bill No. 504.

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

Motion carried.

Assembly Bill No. 523.

Senator Wiener moved that the bill be referred to the Committee on Legislative Operations and Elections.

Motion carried.

Assembly Bill No. 524.

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

Motion carried.

Assembly Bill No. 533.

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

Motion carried.

Assembly Bill No. 556.

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

Motion carried.

#### GENERAL FILE AND THIRD READING

Assembly Bill No. 565.

Bill read third time.

Remarks by Senator Horsford.

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

For the current fiscal year, Assembly Bill No. 565 delays the statutory deadline for school districts to notify employees concerning reemployment status for the 2011-12 school year from the current date of May 1, 2011 to no later than May 16, 2011. The legislation also extends the date by which the employee must notify the district of acceptance of the 2011-12 contract from the current date of May 10, 2011, to May 25, 2011. The failure of an employee to notify the school district which employs him of the employee's acceptance of the 2011-12 contract on or before May 25, 2011, is conclusive evidence of the employee's rejection of the contract.

This act becomes effective upon passage and approval and expires on July 1, 2011.

Roll call on Assembly Bill No. 565:

YEAS—19.

NAYS—None.

EXCUSED—Rhoads, Schneider—2.

Assembly Bill No. 565 having received a constitutional majority, Mr. Chair declared it passed.

Senator Horsford moved that all necessary rules be suspended and that Assembly Bill No. 565 be immediately transmitted to the Assembly.

Motion carried unanimously.

Senator Horsford moved that Senate Bills Nos. 10, 24, 26, 40, 57, 81, 110, 112, 127, 152, 159, 187, 194, 196, 198, 209, 213, 251, 256, 262, 268, 277, 284, 304, 309, 361, 375, 376, 392, 393, 402, 403, 417, 432, 488, 495; Senate Joint Resolution No. 8; Assembly Bills Nos. 30, 144 be taken from the General File and placed on the General File for the next legislative day.

Motion carried.

Senator Denis moved that Senate Bills Nos. 449, 451 be re-referred to the Committee on Finance.

Motion carried.

Senator Horsford moved that Senate Bill No. 75 be re-referred to the Committee on Finance.

Motion carried.

#### SECOND READING AND AMENDMENT

Senate Bill No. 15.

Bill read second time.

The following amendment was proposed by the Committee on Transportation:

Amendment No. 11.

"SUMMARY—Requires the Department of Motor Vehicles to cancel the driver's license of a person convicted of driving under the influence of intoxicating liquor or a controlled substance under certain circumstances. (BDR 43-487)"

"AN ACT relating to the Department of Motor Vehicles; requiring the Department to cancel the driver's license of a person convicted of driving under the influence of intoxicating liquor or a controlled substance under certain circumstances; and providing other matters properly relating thereto."

#### **Legislative Counsel's Digest:**

Under existing law, in addition to any other penalty provided by law, a person convicted of driving under the influence of intoxicating liquor or a controlled substance is liable to the State for a civil penalty of \$35, payable to the Department of Motor Vehicles. The Department is prohibited from issuing any license to drive a motor vehicle to a person convicted of such a violation until the civil penalty is paid. (NRS 484C.500) This bill requires the Department to cancel the license of a person whose license to drive a motor

vehicle has already been reinstated, if the Department receives notice after reinstating the license that the person has been convicted of driving under the influence of intoxicating liquor or a controlled substance, unless the civil penalty is paid within 30 days after the ~~receipt of such~~ **Department provides notice ~~to~~ to the person that the license will be cancelled unless the civil penalty is paid.**

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

**Section 1.** NRS 484C.500 is hereby amended to read as follows:

484C.500 1. In addition to any other penalty provided by law, a person convicted of a violation of NRS 484C.110 or 484C.120 is liable to the State for a civil penalty of \$35, payable to the Department.

2. The Department shall not issue any license to drive a motor vehicle to a person convicted of a violation of NRS 484C.110 or 484C.120 until the civil penalty is paid.

**3. *If the Department receives notice that a person whose license to drive a motor vehicle has already been reinstated has been subsequently convicted of a violation of NRS 484C.110 or 484C.120, the Department shall cancel the license unless the civil penalty is paid within 30 days after the date on which the Department ~~receives that~~ provides notice ~~to~~***

**~~to~~ to the person that the license will be cancelled unless the civil penalty is paid.**

**4.** Any money received by the Department pursuant to subsection 1 must be deposited with the State Treasurer for credit to the Fund for the Compensation of Victims of Crime.

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

Senator Breeden moved the adoption of the amendment.

Remarks by Senator Breeden.

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

Amendment No. 11 to Senate Bill No. 15 requires Nevada's Department of Motor Vehicles to provide notice to the convicted person who has been convicted of driving under the influence of intoxicating liquor or controlled substance that his or her license will be cancelled unless the required civil penalty is paid.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 38.

Bill read second time.

The following amendment was proposed by the Committee on Education:

Amendment No. 292.

"SUMMARY—Revises provisions governing apportionments to school districts, charter schools and university schools for profoundly gifted pupils. (BDR 34-507)"

"AN ACT relating to education; authorizing the Superintendent of Public Instruction to deduct from, withhold from or otherwise make adjustments to

the quarterly apportionments paid to a school district, charter school or university school for profoundly gifted pupils under certain circumstances; revising provisions governing the calculation of apportionments which take into account the effect of the declining enrollment of pupils in a school district or charter school; and providing other matters properly relating thereto."

**Legislative Counsel's Digest:**

Under existing law, the Superintendent of Public Instruction apportions, on a quarterly basis, the State Distributive School Account in the State General Fund among the school districts, charter schools and university schools for profoundly gifted pupils. (NRS 387.124) **Section 2** of this bill authorizes the Superintendent to deduct from a quarterly apportionment if a school district, charter school or university school for profoundly gifted pupils fails to repay certain amounts due the Department of Education or pays a claim determined to be unearned, illegal or unreasonably excessive. The amount deducted must correspond to the amount due or the amount of the claim. **Section 2** also authorizes the Superintendent to withhold the full amount of a quarterly apportionment or a portion thereof if a school district, charter school or university school for profoundly gifted pupils fails to submit a report or other information that is required to be submitted to the Superintendent, State Board of Education or Department pursuant to a statute ~~or regulation~~. If the required report or information is subsequently provided, the amount withheld must be immediately paid.

Under existing law, the sponsor of a charter school may submit a request to the charter school for reimbursement of the administrative costs associated with the sponsorship for each school quarter. (NRS 386.570) If the charter school does not pay the reimbursement, **section 2** of this bill authorizes the Superintendent to withhold the amount due from the quarterly apportionment of the charter school and transfer that amount to the sponsor as payment on the claim. Finally, **section 2** authorizes an appeal to the State Board of a decision of the Superintendent to deduct or withhold from a quarterly apportionment.

Under existing law, the amount of the quarterly apportionments paid to a school district or charter school is based upon the enrollment of pupils. If a school district or charter school experiences declining enrollment in the current school year, the higher enrollment number from a preceding school year is used to calculate the quarterly apportionment, which is commonly referred to as the "hold harmless" provision. (NRS 387.1233) **Section 3** of this bill provides that the enrollment number from the current school year must be used if the Department determines that a school district or charter school deliberately causes a decline in the enrollment of pupils to receive the higher apportionment.

**Section 5** of this bill allows for adjustments to the quarterly apportionments if the Department determines as a result of an audit that a pupil is not properly enrolled in or attending a public school.

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

**Section 1.** NRS 386.570 is hereby amended to read as follows:

386.570 1. Each pupil who is enrolled in a charter school, including, without limitation, a pupil who is enrolled in a program of special education in a charter school, must be included in the count of pupils in the school district for the purposes of apportionments and allowances from the State Distributive School Account pursuant to NRS 387.121 to 387.126, inclusive, unless the pupil is exempt from compulsory attendance pursuant to NRS 392.070. A charter school is entitled to receive its proportionate share of any other money available from federal, state or local sources that the school or the pupils who are enrolled in the school are eligible to receive. If a charter school receives special education program units directly from this State, the amount of money for special education that the school district pays to the charter school may be reduced proportionately by the amount of money the charter school received from this State for that purpose.

2. All money received by the charter school from this State or from the board of trustees of a school district must be deposited in an account with a bank, credit union or other financial institution in this State. The governing body of a charter school may negotiate with the board of trustees of the school district and the State Board for additional money to pay for services which the governing body wishes to offer.

3. Upon completion of each school quarter, the sponsor of a charter school may request reimbursement from the governing body of the charter school for the administrative costs associated with sponsorship for that school quarter if the sponsor provided administrative services during that school quarter. The request must include an itemized list of those costs. Unless a delay is granted pursuant to subsection ~~9~~ **10**, upon receipt of such a request, the governing body shall pay the reimbursement to the board of trustees of the school district if the board of trustees sponsors the charter school, to the Department if the State Board sponsors the charter school or to the college or university within the Nevada System of Higher Education if that institution sponsors the charter school. If a governing body fails to pay the reimbursement pursuant to this subsection or pursuant to a plan approved by the Superintendent of Public Instruction in accordance with subsection ~~9, the~~ **10**:

*(a) The charter school shall be deemed to have violated its written charter and the sponsor may take such action to revoke the written charter pursuant to NRS 386.535 as it deems necessary ~~†~~ ; and*

*(b) The Superintendent of Public Instruction may, pursuant to section 2 of this act, deduct the amount due the sponsor from the quarterly apportionment otherwise payable to the charter school pursuant to NRS 387.124 and transfer that amount to the sponsor.*

4. If the board of trustees of a school district is the sponsor of a charter school, the amount of money that may be paid to the sponsor pursuant to



~~¶¶~~ subsection 3 for administrative expenses in 1 school year must not exceed:

(a) For the first year of operation of the charter school, 2 percent of the total amount of money apportioned to the charter school during the year pursuant to NRS 387.124, as adjusted by the final computation of apportionment pursuant to subsection 4 of NRS 387.1243.

(b) For any year after the first year of operation of the charter school, 1 percent of the total amount of money apportioned to the charter school during the year pursuant to NRS 387.124, as adjusted by the final computation of apportionment pursuant to subsection 4 of NRS 387.1243.

~~¶¶~~ 5. If the State Board or a college or university within the Nevada System of Higher Education is the sponsor of a charter school, the amount of money that may be paid to the Department or to the institution, as applicable, pursuant to subsection 3 for administrative expenses in 1 school year must not exceed:

(a) For the first year of operation of the charter school, 2 percent of the total amount of money apportioned to the charter school during the year pursuant to NRS 387.124, as adjusted by the final computation of apportionment pursuant to subsection 4 of NRS 387.1243.

(b) For any year after the first year of operation of the charter school, 1.5 percent of the total amount of money apportioned to the charter school during the year pursuant to NRS 387.124, as adjusted by the final computation of apportionment pursuant to subsection 4 of NRS 387.1243.

~~¶¶~~ 6. To determine the amount of money for distribution to a charter school in its first year of operation, the count of pupils who are enrolled in the charter school must initially be determined 30 days before the beginning of the school year of the school district, based on the number of pupils whose applications for enrollment have been approved by the charter school. The count of pupils who are enrolled in the charter school must be revised on the last day of the first school month of the school district in which the charter school is located for the school year, based on the actual number of pupils who are enrolled in the charter school. Pursuant to subsection 5 of NRS 387.124, the governing body of a charter school may request that the apportionments made to the charter school in its first year of operation be paid to the charter school 30 days before the apportionments are otherwise required to be made.

~~¶¶~~ 7. If a charter school ceases to operate as a charter school during a school year, the remaining apportionments that would have been made to the charter school pursuant to NRS 387.124 for that year must be paid on a proportionate basis to the school districts where the pupils who were enrolled in the charter school reside.

~~¶¶~~ 8. The governing body of a charter school may solicit and accept donations, money, grants, property, loans, personal services or other assistance for purposes relating to education from members of the general public, corporations or agencies. The governing body may comply with

applicable federal laws and regulations governing the provision of federal grants for charter schools. The State Board may assist a charter school that operates exclusively for the enrollment of pupils who receive special education in identifying sources of money that may be available from the Federal Government or this State for the provision of educational programs and services to such pupils.

~~18.1~~ **9.** If a charter school uses money received from this State to purchase real property, buildings, equipment or facilities, the governing body of the charter school shall assign a security interest in the property, buildings, equipment and facilities to the State of Nevada.

~~19.1~~ **10.** The governing body of a charter school may submit to the Superintendent of Public Instruction a written request to delay a quarterly payment of a reimbursement for the administrative costs that a charter school owes pursuant to this section. The written request must be in the form prescribed by the Superintendent and must include, without limitation, documentation that a financial hardship exists for the charter school and a plan for the payment of the reimbursement. The Superintendent may approve or deny the request and shall notify the governing body and the sponsor of the charter school of the approval or denial of the request.

**Sec. 2.** Chapter 387 of NRS is hereby amended by adding thereto a new section to read as follows:

**1. *The Superintendent of Public Instruction may deduct from an apportionment otherwise payable to a school district, charter school or university school for profoundly gifted pupils pursuant to NRS 387.124 if the school district, charter school or university school:***

***(a) Fails to repay an amount due pursuant to subsection 5 of NRS 387.1243. The amount of the deduction from the quarterly apportionment must correspond to the amount due.***

***(b) Fails to repay an amount due the Department as a result of a determination that an expenditure was made which violates the terms of a grant administered by the Department. The amount of the deduction from the quarterly apportionment must correspond to the amount due.***

***(c) Pays a claim determined to be unearned, illegal or unreasonably excessive as a result of an investigation conducted pursuant to NRS 385.315. The amount of the deduction from the quarterly apportionment must correspond to the amount of the claim which is determined to be unearned, illegal or unreasonably excessive.***

***↪ More than one deduction from a quarterly apportionment otherwise payable to a school district, charter school or university school for profoundly gifted pupils may be made pursuant to this subsection if grounds exist for each such deduction.***

**2. *In addition to a deduction from an apportionment to a charter school authorized by subsection 1, the Superintendent of Public Instruction may deduct from an apportionment otherwise payable to the charter school pursuant to NRS 387.124 if the charter school fails to pay an amount due***

*the sponsor of the charter school for the administrative costs associated with sponsorship, as required by NRS 386.570, including, without limitation, failure to make delayed payments approved by the Superintendent pursuant to subsection 10 of NRS 386.570. The amount of the deduction from the quarterly apportionment must correspond to the amount of the administrative costs which have not been paid. The Department shall transfer the amount deducted to the sponsor of the charter school as payment on the claim.*

*3. The Superintendent of Public Instruction may authorize the withholding of the entire amount of an apportionment otherwise payable to a school district, charter school or university school for profoundly gifted pupils pursuant to NRS 387.124, or a portion thereof, if the school district, charter school or university school for profoundly gifted pupils fails to submit a report or other information that is required to be submitted to the Superintendent, State Board or Department pursuant to a statute ~~or regulation~~. If a charter school fails to submit a report or other information that is required to be submitted to the Superintendent, State Board or Department through the sponsor of the charter school pursuant to a statute, the Superintendent may only authorize the withholding of the apportionment otherwise payable to the charter school and may not authorize the withholding of the apportionment otherwise payable to the sponsor of the charter school. Before authorizing ~~such~~ a withholding, ~~it~~ pursuant to this subsection, the Superintendent of Public Instruction shall provide notice to the school district, charter school or university school for profoundly gifted pupils of the report or other information that is due and provide the school district, charter school or university school with an opportunity to comply with the statute ~~or regulation~~. Any amount withheld pursuant to this subsection must be accounted for separately in the State Distributive School Account, does not revert to the State General Fund at the end of a fiscal year and must be carried forward to the next fiscal year.*

*4. If, after an amount is withheld pursuant to subsection 3, the school district, charter school or university school for profoundly gifted pupils subsequently submits the report or other information required by a statute ~~or regulation~~ for which the withholding was made, the Superintendent of Public Instruction shall immediately authorize the payment of the amount withheld to the school district, charter school or university school for profoundly gifted pupils.*

*5. A school district, charter school or university school for profoundly gifted pupils may appeal to the State Board a decision of the Superintendent of Public Instruction to deduct or withhold from a quarterly apportionment pursuant to this section. The Secretary of the State Board shall place the subject of the appeal on the agenda of the next meeting for consideration by the State Board.*

Sec. 3. NRS 387.1233 is hereby amended to read as follows:

387.1233 1. Except as otherwise provided in subsection 2, basic support of each school district must be computed by:

(a) Multiplying the basic support guarantee per pupil established for that school district for that school year by the sum of:

(1) Six-tenths the count of pupils enrolled in the kindergarten department on the last day of the first school month of the school district for the school year, including, without limitation, the count of pupils who reside in the county and are enrolled in any charter school on the last day of the first school month of the school district for the school year.

(2) The count of pupils enrolled in grades 1 to 12, inclusive, on the last day of the first school month of the school district for the school year, including, without limitation, the count of pupils who reside in the county and are enrolled in any charter school on the last day of the first school month of the school district for the school year and the count of pupils who are enrolled in a university school for profoundly gifted pupils located in the county.

(3) The count of pupils not included under subparagraph (1) or (2) who are enrolled full-time in a program of distance education provided by that school district or a charter school located within that school district on the last day of the first school month of the school district for the school year.

(4) The count of pupils who reside in the county and are enrolled:

(I) In a public school of the school district and are concurrently enrolled part-time in a program of distance education provided by another school district or a charter school on the last day of the first school month of the school district for the school year, expressed as a percentage of the total time services are provided to those pupils per school day in proportion to the total time services are provided during a school day to pupils who are counted pursuant to subparagraph (2).

(II) In a charter school and are concurrently enrolled part-time in a program of distance education provided by a school district or another charter school on the last day of the first school month of the school district for the school year, expressed as a percentage of the total time services are provided to those pupils per school day in proportion to the total time services are provided during a school day to pupils who are counted pursuant to subparagraph (2).

(5) The count of pupils not included under subparagraph (1), (2), (3) or (4), who are receiving special education pursuant to the provisions of NRS 388.440 to 388.520, inclusive, on the last day of the first school month of the school district for the school year, excluding the count of pupils who have not attained the age of 5 years and who are receiving special education pursuant to subsection 1 of NRS 388.490 on that day.

(6) Six-tenths the count of pupils who have not attained the age of 5 years and who are receiving special education pursuant to subsection 1 of NRS 388.490 on the last day of the first school month of the school district for the school year.

(7) The count of children detained in facilities for the detention of children, alternative programs and juvenile forestry camps receiving instruction pursuant to the provisions of NRS 388.550, 388.560 and 388.570 on the last day of the first school month of the school district for the school year.

(8) The count of pupils who are enrolled in classes for at least one semester pursuant to subsection 4 of NRS 386.560, subsection 5 of NRS 386.580 or subsection 3 of NRS 392.070, expressed as a percentage of the total time services are provided to those pupils per school day in proportion to the total time services are provided during a school day to pupils who are counted pursuant to subparagraph (2).

(b) Multiplying the number of special education program units maintained and operated by the amount per program established for that school year.

(c) Adding the amounts computed in paragraphs (a) and (b).

2. ~~¶¶~~ ***Except as otherwise provided in subsection 4, if*** the enrollment of pupils in a school district or a charter school that is located within the school district on the last day of the first school month of the school district for the school year is less than or equal to 95 percent of the enrollment of pupils in the same school district or charter school on the last day of the first school month of the school district for the immediately preceding school year, the largest number from among the immediately preceding 2 school years must be used for purposes of apportioning money from the State Distributive School Account to that school district or charter school pursuant to NRS 387.124.

3. ~~¶¶~~ ***Except as otherwise provided in subsection 4, if*** the enrollment of pupils in a school district or a charter school that is located within the school district on the last day of the first school month of the school district for the school year is more than 95 percent of the enrollment of pupils in the same school district or charter school on the last day of the first school month of the school district for the immediately preceding school year, the larger enrollment number from the current year or the immediately preceding school year must be used for purposes of apportioning money from the State Distributive School Account to that school district or charter school pursuant to NRS 387.124.

4. ***If the Department determines that a school district or charter school deliberately causes a decline in the enrollment of pupils in the school district or charter school to receive a higher apportionment pursuant to subsection 2 or 3, including, without limitation, by eliminating grades or moving into smaller facilities, the enrollment number from the current school year must be used for purposes of apportioning money from the State Distributive School Account to that school district or charter school pursuant to NRS 387.124.***

5. Pupils who are excused from attendance at examinations or have completed their work in accordance with the rules of the board of trustees must be credited with attendance during that period.

~~5.1~~ 6. Pupils who are incarcerated in a facility or institution operated by the Department of Corrections must not be counted for the purpose of computing basic support pursuant to this section. The average daily attendance for such pupils must be reported to the Department of Education.

~~6.1~~ 7. Pupils who are enrolled in courses which are approved by the Department as meeting the requirements for an adult to earn a high school diploma must not be counted for the purpose of computing basic support pursuant to this section.

**Sec. 4.** NRS 387.124 is hereby amended to read as follows:

387.124 Except as otherwise provided in this section and NRS 387.528:

1. On or before August 1, November 1, February 1 and May 1 of each year, the Superintendent of Public Instruction shall apportion the State Distributive School Account in the State General Fund among the several county school districts, charter schools and university schools for profoundly gifted pupils in amounts approximating one-fourth of their respective yearly apportionments less any amount set aside as a reserve. ~~The~~ **Except as otherwise provided in section 2 of this act, the** apportionment to a school district, computed on a yearly basis, equals the difference between the basic support and the local funds available pursuant to NRS 387.1235, minus all the funds attributable to pupils who reside in the county but attend a charter school, all the funds attributable to pupils who reside in the county and are enrolled full-time or part-time in a program of distance education provided by another school district or a charter school and all the funds attributable to pupils who are enrolled in a university school for profoundly gifted pupils located in the county. No apportionment may be made to a school district if the amount of the local funds exceeds the amount of basic support.

2. Except as otherwise provided in subsection 3 ~~1~~ **and section 2 of this act**, the apportionment to a charter school, computed on a yearly basis, is equal to the sum of the basic support per pupil in the county in which the pupil resides plus the amount of local funds available per pupil pursuant to NRS 387.1235 and all other funds available for public schools in the county in which the pupil resides minus all the funds attributable to pupils who are enrolled in the charter school but are concurrently enrolled part-time in a program of distance education provided by a school district or another charter school. If the apportionment per pupil to a charter school is more than the amount to be apportioned to the school district in which a pupil who is enrolled in the charter school resides, the school district in which the pupil resides shall pay the difference directly to the charter school.

3. ~~The~~ **Except as otherwise provided in section 2 of this act, the** apportionment to a charter school that is sponsored by the State Board or by a college or university within the Nevada System of Higher Education, computed on a yearly basis, is equal to the sum of the basic support per pupil in the county in which the pupil resides plus the amount of local funds available per pupil pursuant to NRS 387.1235 and all other funds available for public schools in the county in which the pupil resides, minus all funds

attributable to pupils who are enrolled in the charter school but are concurrently enrolled part-time in a program of distance education provided by a school district or another charter school.

4. ~~It~~ ***Except as otherwise provided in section 2 of this act, in*** addition to the apportionments made pursuant to this section, an apportionment must be made to a school district or charter school that provides a program of distance education for each pupil who is enrolled part-time in the program. The amount of the apportionment must be equal to the percentage of the total time services are provided to the pupil through the program of distance education per school day in proportion to the total time services are provided during a school day to pupils who are counted pursuant to subparagraph (2) of paragraph (a) of subsection 1 of NRS 387.1233 for the school district in which the pupil resides.

5. The governing body of a charter school may submit a written request to the Superintendent of Public Instruction to receive, in the first year of operation of the charter school, an apportionment 30 days before the apportionment is required to be made pursuant to subsection 1. Upon receipt of such a request, the Superintendent of Public Instruction may make the apportionment 30 days before the apportionment is required to be made. A charter school may receive all four apportionments in advance in its first year of operation.

6. ~~The~~ ***Except as otherwise provided in section 2 of this act, the*** apportionment to a university school for profoundly gifted pupils, computed on a yearly basis, is equal to the sum of the basic support per pupil in the county in which the university school is located plus the amount of local funds available per pupil pursuant to NRS 387.1235 and all other funds available for public schools in the county in which the university school is located. If the apportionment per pupil to a university school for profoundly gifted pupils is more than the amount to be apportioned to the school district in which the university school is located, the school district shall pay the difference directly to the university school. The governing body of a university school for profoundly gifted pupils may submit a written request to the Superintendent of Public Instruction to receive, in the first year of operation of the university school, an apportionment 30 days before the apportionment is required to be made pursuant to subsection 1. Upon receipt of such a request, the Superintendent of Public Instruction may make the apportionment 30 days before the apportionment is required to be made. A university school for profoundly gifted pupils may receive all four apportionments in advance in its first year of operation.

7. The Superintendent of Public Instruction shall apportion, on or before August 1 of each year, the money designated as the "Nutrition State Match" pursuant to NRS 387.105 to those school districts that participate in the National School Lunch Program, 42 U.S.C. §§ 1751 et seq. The apportionment to a school district must be directly related to the district's reimbursements for the Program as compared with the total amount of

reimbursements for all school districts in this State that participate in the Program.

8. If the State Controller finds that such an action is needed to maintain the balance in the State General Fund at a level sufficient to pay the other appropriations from it, the State Controller may pay out the apportionments monthly, each approximately one-twelfth of the yearly apportionment less any amount set aside as a reserve. If such action is needed, the State Controller shall submit a report to the Department of Administration and the Fiscal Analysis Division of the Legislative Counsel Bureau documenting reasons for the action.

**Sec. 5.** NRS 387.1243 is hereby amended to read as follows:

387.1243 1. The first apportionment based on an estimated number of pupils and special education program units and succeeding apportionments are subject to adjustment from time to time as the need therefor may appear ~~to~~, ***including, without limitation, an adjustment made for a pupil who is not properly enrolled in or attending a public school, as determined through an independent audit or other examination conducted pursuant to NRS 387.126 or through an annual audit of the count of pupils conducted pursuant to subsection 1 of NRS 387.304.***

2. The apportionments to a school district may be adjusted during a fiscal year by the Department of Education, upon approval by the State Board of Examiners and the Interim Finance Committee, if the Department of Taxation and the county assessor in the county in which the school district is located certify to the Department of Education that the school district will not receive the tax levied pursuant to subsection 1 of NRS 387.195 on property of the Federal Government located within the county if:

(a) The leasehold interest, possessory interest, beneficial interest or beneficial use of the property is subject to taxation pursuant to NRS 361.157 and 361.159 and one or more lessees or users of the property are delinquent in paying the tax; and

(b) The total amount of tax owed but not paid for the fiscal year by any such lessees and users is at least 5 percent of the proceeds that the school district would have received from the tax levied pursuant to subsection 1 of NRS 387.195.

↪ If a lessee or user pays the tax owed after the school district's apportionment has been increased in accordance with the provisions of this subsection to compensate for the tax owed, the school district shall repay to the State Distributive School Account in the State General Fund an amount equal to the tax received from the lessee or user for the year in which the school district received an increased apportionment, not to exceed the increase in apportionments made to the school district pursuant to this subsection.

3. On or before August 1 of each year, the board of trustees of a school district shall provide to the Department, in a format prescribed by the Department, the count of pupils calculated pursuant to subparagraph (8) of



paragraph (a) of subsection 1 of NRS 387.1233 who completed at least one semester during the immediately preceding school year. The count of pupils submitted to the Department must be included in the final adjustment computed pursuant to subsection 4.

4. A final adjustment for each school district, charter school and university school for profoundly gifted pupils must be computed as soon as practicable following the close of the school year, but not later than August 25. The final computation must be based upon the actual counts of pupils required to be made for the computation of basic support and the limits upon the support of special education programs, except that for any year when the total enrollment of pupils and children in a school district, a charter school located within the school district or a university school for profoundly gifted pupils located within the school district described in paragraphs (a), (b), (c) and (e) of subsection 1 of NRS 387.123 is greater on the last day of any school month of the school district after the second school month of the school district and the increase in enrollment shows at least:

(a) A 3-percent gain, basic support as computed from first-month enrollment for the school district, charter school or university school for profoundly gifted pupils must be increased by 2 percent.

(b) A 6-percent gain, basic support as computed from first-month enrollment for the school district, charter school or university school for profoundly gifted pupils must be increased by an additional 2 percent.

5. If the final computation of apportionment for any school district, charter school or university school for profoundly gifted pupils exceeds the actual amount paid to the school district, charter school or university school for profoundly gifted pupils during the school year, the additional amount due must be paid before September 1. If the final computation of apportionment for any school district, charter school or university school for profoundly gifted pupils is less than the actual amount paid to the school district, charter school or university school for profoundly gifted pupils during the school year, the difference must be repaid to the State Distributive School Account in the State General Fund by the school district, charter school or university school for profoundly gifted pupils before September 25.

**Sec. 6.** NRS 387.185 is hereby amended to read as follows:

387.185 1. Except as otherwise provided in subsection 2 and NRS 387.528, ***unless the Superintendent of Public Instruction authorizes a withholding pursuant to section 2 of this act***, all school money due each county school district must be paid over by the State Treasurer to the county treasurer on August 1, November 1, February 1 and May 1 of each year or as soon thereafter as the county treasurer may apply for it, upon the warrant of the State Controller drawn in conformity with the apportionment of the Superintendent of Public Instruction as provided in NRS 387.124.

2. Except as otherwise provided in NRS 387.528, ***unless the Superintendent of Public Instruction authorizes a withholding pursuant to section 2 of this act***, if the board of trustees of a school district establishes

and administers a separate account pursuant to the provisions of NRS 354.603, all school money due that school district must be paid over by the State Treasurer to the school district on August 1, November 1, February 1 and May 1 of each year or as soon thereafter as the school district may apply for it, upon the warrant of the State Controller drawn in conformity with the apportionment of the Superintendent of Public Instruction as provided in NRS 387.124.

3. No county school district may receive any portion of the public school money unless that school district has complied with the provisions of this title and regulations adopted pursuant thereto.

4. Except as otherwise provided in this subsection, *unless the Superintendent of Public Instruction authorizes a withholding pursuant to section 2 of this act*, all school money due each charter school must be paid over by the State Treasurer to the governing body of the charter school on August 1, November 1, February 1 and May 1 of each year or as soon thereafter as the governing body may apply for it, upon the warrant of the State Controller drawn in conformity with the apportionment of the Superintendent of Public Instruction as provided in NRS 387.124. If the Superintendent of Public Instruction has approved, pursuant to subsection 5 of NRS 387.124, a request for payment of an apportionment 30 days before the apportionment is otherwise required to be made, the money due to the charter school must be paid by the State Treasurer to the governing body of the charter school on July 1, October 1, January 1 or April 1, as applicable.

5. Except as otherwise provided in this subsection, *unless the Superintendent of Public Instruction authorizes a withholding pursuant to section 2 of this act*, all school money due each university school for profoundly gifted pupils must be paid over by the State Treasurer to the governing body of the university school on August 1, November 1, February 1 and May 1 of each year or as soon thereafter as the governing body may apply for it, upon the warrant of the State Controller drawn in conformity with the apportionment of the Superintendent of Public Instruction as provided in NRS 387.124. If the Superintendent of Public Instruction has approved, pursuant to subsection 6 of NRS 387.124, a request for payment of an apportionment 30 days before the apportionment is otherwise required to be made, the money due to the university school must be paid by the State Treasurer to the governing body of the university school on July 1, October 1, January 1 or April 1, as applicable.

**Sec. 7.** This act becomes effective on July 1, 2011.

Senator Denis moved the adoption of the amendment.

Remarks by Senator Denis.

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

Amendment No. 292 to Senate Bill No. 38 clarifies that any withholding of an apportionment authorized under the provisions of the bill that are the result of a charter school failing to submit a report through the sponsor, would not apply to regulatory matters and would only be for the amount due the charter school itself, not that due to the sponsor of the charter school.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 106.

Bill read second time and ordered to third reading.

Senate Bill No. 130.

Bill read second time.

The following amendment was proposed by the Committee on Transportation:

Amendment No. 98.

"SUMMARY—Revises certain provisions governing ~~the titling and registration of~~ off-highway vehicles. (BDR S-210)"

"AN ACT relating to off-highway vehicles; **authorizing the Department of Motor Vehicles to release certain personal information relating to off-highway vehicles**; revising the prospective terms of the members of the Commission on Off-Highway Vehicles; revising the effective date of certain other provisions governing the titling and registration of off-highway vehicles; **repealing the prospective transfer of authority to approve the designation of portions of state highways for off-highway vehicle use from the Department of Transportation to the Department of Motor Vehicles**; and providing other matters properly relating thereto."

**Legislative Counsel's Digest:**

**Existing law authorizes the Department of Motor Vehicles to release certain personal information relating to the driver's license, identification card, or title or registration of a vehicle of a person and to charge and collect a fee from a person who makes use of files and records of the Department or its various divisions for a private purpose. (NRS 481.063) Section 1 of this bill authorizes the Department to release such personal information relating to off-highway vehicles by clarifying that for purposes of those actions, the term "vehicle" includes an off-highway vehicle.**

In 2009, the provisions of Senate Bill No. 394 were enacted, which provide for the issuance of a certificate of title and registration for an off-highway vehicle by the Department, ~~of Motor Vehicles.~~ (Chapter 504, Statutes of Nevada 2009, pp. 3076-3106) Those provisions also: (1) create the Revolving Account for the Assistance of the Department, into which must be deposited all money received by the Department from the Federal Government or any other source to assist the Department in carrying out the provisions of that bill relating to the titling and registration of off-highway vehicles; (2) create the Commission on Off-Highway Vehicles, consisting of 11 members appointed by the Governor; **(3) transfer responsibility from the Department of Transportation to the Department of Motor Vehicles to approve the designation of any portion of a state highway as permissible for off-highway vehicle use**; and ~~(3)~~ **(4)** require the Interim Finance Committee, after determining that at least \$500,000 is available in

the Revolving Account for the Assistance of the Department, to notify the Department of that fact. (Chapter 504, Statutes of Nevada 2009, pp. 3082-85, 3105) The following provisions of that bill became effective upon passage and approval: (1) the provisions creating the Revolving Account for the Assistance of the Department; (2) the provisions governing the appointment of the members of the Commission on Off-Highway Vehicles by the Governor; and (3) the provisions authorizing the Department to adopt regulations to carry out that bill. The remaining provisions of that bill will become effective on July 1, 2011, or 1 year after the date the Interim Finance Committee issues the notice concerning the Revolving Account for the Assistance of the Department, whichever occurs first. If the Interim Finance Committee fails to issue that notice before July 1, 2011, the provisions of that bill expire by limitation on that date. (Chapter 504, Statutes of Nevada 2009, p. 3105)

**Section ~~4~~ 2** of this bill requires the Governor, as soon as practicable after July 1, 2011, to appoint: (1) four members of the Commission on Off-Highway Vehicles to terms that expire on January 1, 2013; (2) four members of the Commission to terms that expire on January 1, 2014; and (3) three members of the Commission to terms that expire on January 1, 2015. **Section ~~4~~ 3** of this bill extends the effective date for most of the remaining provisions of Senate Bill No. 394 by ~~changing July 1, 2011, to~~ **making those provisions effective on July 1, 2012, ~~4~~, or 30 days after the Department of Motor Vehicles publishes on its website a statement indicating that it has completed the preparatory administrative tasks that are necessary to carry out the provisions of that bill, whichever occurs first.**

**Section 4 of this bill repeals the provision transferring authority to approve designation of any portion of a state highway as permissible for off-highway vehicle use from the Department of Transportation to the Department of Motor Vehicles, and thus returns the authority to approve such designations to the Department of Transportation.**

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

**Section 1. NRS 481.063 is hereby amended to read as follows:**

481.063 1. The Director may charge and collect reasonable fees for official publications of the Department and from persons making use of files and records of the Department or its various divisions for a private purpose. All money so collected must be deposited in the State Treasury for credit to the Motor Vehicle Fund.

2. Except as otherwise provided in subsection 5, the Director may release personal information, except a photograph, from a file or record relating to the driver's license, identification card, or title or registration of a vehicle of a person if the requester submits a written release from the person who holds a lien on the vehicle, or an agent of that person, or the person about whom the

information is requested which is dated not more than 90 days before the date of the request. The written release must be in a form required by the Director.

3. Except as otherwise provided in subsection 2, the Director shall not release to any person who is not a representative of the Division of Welfare and Supportive Services of the Department of Health and Human Services or an officer, employee or agent of a law enforcement agency, an agent of the public defender's office or an agency of a local government which collects fines imposed for parking violations, who is not conducting an investigation pursuant to NRS 253.0415 or 253.220, who is not authorized to transact insurance pursuant to chapter 680A of NRS or who is not licensed as a private investigator pursuant to chapter 648 of NRS and conducting an investigation of an insurance claim:

(a) A list which includes license plate numbers combined with any other information in the records or files of the Department;

(b) The social security number of any person, if it is requested to facilitate the solicitation of that person to purchase a product or service; or

(c) The name, address, telephone number or any other personally identifiable information if the information is requested by the presentation of a license plate number.

↪ When such personally identifiable information is requested of a law enforcement agency by the presentation of a license plate number, the law enforcement agency shall conduct an investigation regarding the person about whom information is being requested or, as soon as practicable, provide the requester with the requested information if the requester officially reports that the motor vehicle bearing that license plate was used in a violation of NRS 205.240, 205.345, 205.380 or 205.445.

4. Except as otherwise provided in subsections 2 and 5 and NRS 483.294, 483.855 and 483.937, the Director shall not release any personal information from a file or record relating to a driver's license, identification card, or title or registration of a vehicle.

5. Except as otherwise provided in paragraph (a) and subsection 6, if a person or governmental entity provides a description of the information requested and its proposed use and signs an affidavit to that effect, the Director may release any personal information, except a photograph, from a file or record relating to a driver's license, identification card, or title or registration of a vehicle for use:

(a) By any governmental entity, including, but not limited to, any court or law enforcement agency, in carrying out its functions, or any person acting on behalf of a federal, state or local governmental agency in carrying out its functions. The personal information may include a photograph from a file or record relating to a driver's license, identification card, or title or registration of a vehicle.

(b) In connection with any civil, criminal, administrative or arbitration proceeding before any federal or state court, regulatory body, board, commission or agency, including, but not limited to, use for service of

process, investigation in anticipation of litigation, and execution or enforcement of judgments and orders, or pursuant to an order of a federal or state court.

(c) In connection with matters relating to:

- (1) The safety of drivers of motor vehicles;
- (2) Safety and thefts of motor vehicles;
- (3) Emissions from motor vehicles;
- (4) Alterations of products related to motor vehicles;
- (5) An advisory notice relating to a motor vehicle or the recall of a motor vehicle;
- (6) Monitoring the performance of motor vehicles;
- (7) Parts or accessories of motor vehicles;
- (8) Dealers of motor vehicles; or
- (9) Removal of nonowner records from the original records of motor vehicle manufacturers.

(d) By any insurer, self-insurer or organization that provides assistance or support to an insurer or self-insurer or its agents, employees or contractors, in connection with activities relating to the rating, underwriting or investigation of claims or the prevention of fraud.

(e) In providing notice to the owners of vehicles that have been towed, repossessed or impounded.

(f) By an employer or its agent or insurer to obtain or verify information relating to a holder of a commercial driver's license who is employed by or has applied for employment with the employer.

(g) By a private investigator, private patrol officer or security consultant who is licensed pursuant to chapter 648 of NRS, for any use permitted pursuant to this section.

(h) By a reporter or editorial employee who is employed by or affiliated with any newspaper, press association or commercially operated, federally licensed radio or television station for a journalistic purpose. The Department may not make any inquiries regarding the use of or reason for the information requested other than whether the information will be used for a journalistic purpose.

(i) In connection with an investigation conducted pursuant to NRS 253.0415 or 253.220.

(j) In activities relating to research and the production of statistical reports, if the personal information will not be published or otherwise redisclosed, or used to contact any person.

(k) In the bulk distribution of surveys, marketing material or solicitations, if the Director has adopted policies and procedures to ensure that:

- (1) The information will be used or sold only for use in the bulk distribution of surveys, marketing material or solicitations;
- (2) Each person about whom the information is requested has clearly been provided with an opportunity to authorize such a use; and

(3) If the person about whom the information is requested does not authorize such a use, the bulk distribution will not be directed toward that person.

6. Except as otherwise provided in paragraph (j) of subsection 5, a person who requests and receives personal information may sell or disclose that information only for a use permitted pursuant to subsection 5. Such a person shall keep and maintain for 5 years a record of:

- (a) Each person to whom the information is provided; and
- (b) The purpose for which that person will use the information.

↪ The record must be made available for examination by the Department at all reasonable times upon request.

7. Except as otherwise provided in subsection 2, the Director may deny any use of the files and records if the Director reasonably believes that the information taken may be used for an unwarranted invasion of a particular person's privacy.

8. Except as otherwise provided in NRS 485.316, the Director shall not allow any person to make use of information retrieved from the system created pursuant to NRS 485.313 for a private purpose and shall not in any other way release any information retrieved from that system.

9. The Director shall adopt such regulations as the Director deems necessary to carry out the purposes of this section. In addition, the Director shall, by regulation, establish a procedure whereby a person who is requesting personal information may establish an account with the Department to facilitate the person's ability to request information electronically or by written request if the person has submitted to the Department proof of employment or licensure, as applicable, and a signed and notarized affidavit acknowledging that the person:

- (a) Has read and fully understands the current laws and regulations regarding the manner in which information from the Department's files and records may be obtained and the limited uses which are permitted;
- (b) Understands that any sale or disclosure of information so obtained must be in accordance with the provisions of this section;
- (c) Understands that a record will be maintained by the Department of any information he or she requests; and
- (d) Understands that a violation of the provisions of this section is a criminal offense.

10. It is unlawful for any person to:

- (a) Make a false representation to obtain any information from the files or records of the Department.
- (b) Knowingly obtain or disclose any information from the files or records of the Department for any use not permitted by the provisions of this chapter.

11. As used in this section ~~the term "personnel"~~:

**(a) "Personal information"** means information that reveals the identity of a person, including, without limitation, his or her photograph, social security number, driver's license number, identification card number, name, address,

telephone number or information regarding a medical condition or disability. The term does not include the zip code of a person when separate from his or her full address, information regarding vehicular accidents or driving violations in which he or she has been involved or other information otherwise affecting his or her status as a driver.

**(b) "Vehicle" includes, without limitation, an off-highway vehicle as defined in NRS 490.060.**

~~Section 1~~ **Sec. 2.** Section 62 of chapter 504, Statutes of Nevada 2009, at page 3105, is hereby amended to read as follows:

Sec. 62. 1. As soon as practicable after passage and approval of this act, the Governor shall solicit applications for the appointment of the members of the Commission on Off-Highway Vehicles created by section 16 of this act.

2. As soon as practicable after July 1, ~~2010,~~ **2011**, the Governor shall, after considering each application received pursuant to subsection 1, appoint the members of the Commission on Off-Highway Vehicles who are qualified pursuant to section 16 of this act to initial terms as follows:

(a) Four members to terms that expire on January 1, ~~2012,~~ **2013.**

(b) Four members to terms that expire on January 1, ~~2013,~~ **2014.**

(c) Three members to terms that expire on January 1, ~~2014,~~ **2015.**

~~Sec. 2~~ **Sec. 3.** Section 63 of chapter 504, Statutes of Nevada 2009, at page 3105, is hereby amended to read as follows:

Sec. 63. 1. This section and sections 19.5 and 62.5 of this act become effective upon passage and approval.

2. Sections 1 to 19, inclusive, and 20 to **56, inclusive, and 58 to 62, inclusive,** of this act become effective:

(a) Upon passage and approval for purposes of:

(1) The appointment by the Governor of the members of the Commission on Off-Highway Vehicles created by section 16 of this act; and

(2) The adoption of regulations to carry out the provisions of this act.

(b) On July 1, ~~2011,~~ **2012**, or ~~1 year,~~ **30 days** after the date **on which** the ~~Interim Finance Committee issues a notice to the~~ Department of Motor Vehicles ~~pursuant to section 62.5 of this act,~~ **publishes on its website a statement indicating that it has completed the preparatory administrative tasks that are necessary to carry out the provisions of this act,** whichever occurs first, for all other purposes.

3. This section and sections 1 to **56, inclusive, and 58 to 62.5,** inclusive, of this act expire by limitation on July 1, ~~2011,~~ **2012**, if the



Interim Finance Committee has not issued a notice to the Department of Motor Vehicles pursuant to section 62.5 of this act before that date.

4. Except as otherwise provided in subsection 3, sections 24 and 25 of this act expire by limitation on the date on which the provisions of 42 U.S.C. § 666 requiring each state to establish procedures under which the state has authority to withhold or suspend, or restrict the use of professional, occupational and recreational licenses of persons who:

(a) Have failed to comply with a subpoena or warrant relating to a proceeding to determine the paternity of a child or to establish or enforce an obligation for the support of a child; or

(b) Are in arrears in the payment for the support of one or more children,

↪ are repealed by the Congress of the United States.

**Sec. 4. Section 57 of chapter 504, Statutes of Nevada 2009, at page 3103, is hereby repealed.**

~~Sec. 3.~~ **Sec. 5.** This act becomes effective upon passage and approval.

**TEXT OF REPEALED SECTION**

**Section 57 of chapter 504, Statutes of Nevada 2009:**

Sec. 57. NRS 490.100 is hereby amended to read as follows:

490.100 1. Except as otherwise provided in subsection 2, a city or county may designate any portion of a highway within the city or county as permissible for the operation of off-highway vehicles for the purpose of allowing off-highway vehicles to reach a private or public area that is open for use by off-highway vehicles. If a city or county designates any portion a state highway as permissible for the operation of off-highway vehicles pursuant to this subsection, the city or county must obtain approval for the designation from the Department . ~~of Transportation.~~ The Department ~~of Transportation~~ shall issue a timely decision concerning the request for approval and must not unreasonably deny the request.

2. The highway designated for operation of off-highway vehicles pursuant to subsection 1 may not consist of any portion of an interstate highway.

3. If a city or county designates a highway for the operation of off-highway vehicles, the city or county may adopt an ordinance requiring a person who is less than 16 years of age and who is operating the off-highway vehicle on a designated highway to be under the direct visual supervision of a person who is at least 18 years of age.

4. A person operating an off-highway vehicle on a highway designated for operation of off-highway vehicles pursuant to subsection 1 may not operate the off-highway vehicle on the highway for any purpose other than to travel to or from the private or public area as described in subsection 1.

Senator Breeden moved the adoption of the amendment.

Remarks by Senator Breeden.

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

Amendment No. 98 to Senate Bill No. 130 authorizes the Department of Motor Vehicles to release certain personal information relating to the title and registration of off-highway vehicles; the release of this information is already allowed under existing law for other types of vehicles. The amendment transfers responsibility to approve the designation of any portion of a state highway as permissible for off-highway vehicle use from the Department of Motor Vehicles to the Department of Transportation. Finally, the amendment specifies that the effective date of the bill is July 1, 2012, or 30 days after the date the Department of Motor Vehicles notifies the public it is ready to begin the off-highway vehicle titling program, whichever is first.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 142.

Bill read second time.

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

Amendment No. 209.

"SUMMARY—Makes various changes concerning the towing and storage of motor vehicles. (BDR 58-924)"

"AN ACT relating to motor vehicles; prohibiting operators of tow cars from imposing certain fees under certain circumstances; ~~requiring the use of competitive bidding for local government contracts for towing services;~~ authorizing an insurer to ~~tow and store~~ **take possession of** a motor vehicle upon ~~notification to its~~ **obtaining the consent of the owner that** of the motor vehicle ~~has been declared a total loss;~~ **or the authorized agent of the owner under certain circumstances;** and providing other matters properly relating thereto."

**Legislative Counsel's Digest:**

Existing law prohibits a tow car operator who stores a motor vehicle that was towed at the request of a law enforcement officer following an accident involving the vehicle from charging the owner of the vehicle a fee for the towing and storage of the vehicle for more than 21 days after placing the vehicle in storage. (NRS 706.4479) ~~Section 1.5~~ of this bill also prohibits a tow car operator who tows and stores such a vehicle from imposing any administrative or processing fee, or any fee relating to the auction of the vehicle, for the first ~~4~~ **4 business** days after the date on which the vehicle was placed in storage, but provides no limitation on the period during which those fees may be imposed.

~~Under existing law, local governments are required to use competitive bidding when contracting for the purchase of certain goods and services. (Chapter 332 of NRS) Section 2 of this bill requires local governments to use competitive bidding when contracting with tow car operators for towing services.~~

**Section 3** of this bill provides that the owner of a motor vehicle who makes a claim under an insurance policy for damages to the vehicle ~~is deemed to have given permission~~ **or the authorized agent of the owner may give consent** for the insurer **; (1) to tow and store the vehicle at the insurer's expense upon receipt of notice from the insurer if the insurer provides notice to the owner** that it has declared the vehicle a total loss. ~~The insurer is not required to obtain any other release from the owner before towing and storing the vehicle.~~ **; or (2) to tow the vehicle to a repair shop designated by the owner if the vehicle is a repairable vehicle. Section 1 of this bill provides that an insurer may obtain possession of a motor vehicle from a tow car operator if the insurer provides the operator with a form which indicates that the owner of the motor vehicle or his or her agent has consented to the release of the motor vehicle. Section 1 requires the Commissioner of Insurance to adopt a standard consent form, which must include: (1) the name of the owner of the motor vehicle or his or her agent from whom the insurer obtained consent; (2) the name of the insurer or his or her agent who obtained the consent and the date on which the consent was obtained; (3) a statement that the insurer obtained the consent of the owner or his or her agent pursuant to section 3; (4) the policy number of the policy of motor vehicle insurance applicable to the motor vehicle; (5) the vehicle identification number of the motor vehicle; (6) the model year and make of the motor vehicle; (7) a statement that the insurer will indemnify the operator for any liability relating to the release of the motor vehicle to the insurer; and (8) any other information required by the Commissioner. Section 1 also provides that a tow car operator who releases a motor vehicle to an insurer upon receipt of a consent form which complies with the requirements established by the Commissioner is not liable in any civil or criminal action for any act related to the release of the motor vehicle to the insurer.**

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

**Section 1. Chapter 706 of NRS is hereby amended by adding thereto a new section to read as follows:**

**1. If a motor vehicle is towed at the request of someone other than the owner or an authorized agent of the owner, an insurer may obtain possession of the motor vehicle from the operator of the tow car if the insurer:**

**(a) Obtains the consent of the owner or authorized agent of the owner pursuant to section 3 of this act; and**

**(b) Provides to the operator of the tow car a consent form which satisfies the requirements of subsection 2.**

**2. The Commissioner of Insurance shall, by regulation, establish a standard consent form for the purposes of this section, which must include, without limitation:**

(a) The name of the owner of the motor vehicle or the authorized agent of the owner from whom the insurer obtained consent pursuant to section 3 of this act;

(b) The name of the insurer or his or her agent who obtained the consent of the owner or the authorized agent of the owner pursuant to section 3 of this act and the date on which the consent was obtained;

(c) A statement that the insurer obtained the consent of the owner or the authorized agent of the owner pursuant to section 3 of this act;

(d) The policy number of the policy of motor vehicle insurance applicable to the motor vehicle;

(e) The vehicle identification number of the motor vehicle;

(f) The model year and make of the motor vehicle;

(g) A statement that the insurer will indemnify the operator of the tow car for any liability relating to the release of the motor vehicle to the insurer; and

(h) Any other information required by the Commissioner of Insurance.

3. An operator of a tow car is not liable in any civil or criminal action for any act related to the release of a motor vehicle to an insurer pursuant to a consent form provided to the operator of the tow car by an insurer pursuant to subsection 1.

**Sec. 1.1. NRS 706.011 is hereby amended to read as follows:**

706.011 As used in NRS 706.011 to 706.791, inclusive, **and section 1 of this act**, unless the context otherwise requires, the words and terms defined in NRS 706.013 to 706.146, inclusive, have the meanings ascribed to them in those sections.

**Sec. 1.2. NRS 706.166 is hereby amended to read as follows:**

706.166 The Authority shall:

1. Subject to the limitation provided in NRS 706.168 and to the extent provided in this chapter, supervise and regulate:

(a) Every fully regulated carrier and broker of regulated services in this State in all matters directly related to those activities of the motor carrier and broker actually necessary for the transportation of persons or property, including the handling and storage of that property, over and along the highways.

(b) Every operator of a tow car concerning the rates and charges assessed for towing services performed without the prior consent of the operator of the vehicle or the person authorized by the owner to operate the vehicle and pursuant to the provisions of NRS 706.011 to 706.791, inclusive ~~§~~, **and section 1 of this act**.

2. Supervise and regulate the storage of household goods and effects in warehouses and the operation and maintenance of such warehouses in accordance with the provisions of this chapter and chapter 712 of NRS.

3. Enforce the standards of safety applicable to the employees, equipment, facilities and operations of those common and contract carriers subject to the Authority or the Department by:

- (a) Providing training in safety;
- (b) Reviewing and observing the programs or inspections of the carrier relating to safety; and
- (c) Conducting inspections relating to safety at the operating terminals of the carrier.

4. To carry out the policies expressed in NRS 706.151, adopt regulations providing for agreements between two or more fully regulated carriers or two or more operators of tow cars relating to:

- (a) Fares of fully regulated carriers;
- (b) All rates of fully regulated carriers and rates of operators of tow cars for towing services performed without the prior consent of the owner of the vehicle or the person authorized by the owner to operate the vehicle;
- (c) Classifications;
- (d) Divisions;
- (e) Allowances; and
- (f) All charges of fully regulated carriers and charges of operators of tow cars for towing services performed without the prior consent of the owner of the vehicle or the person authorized by the owner to operate the vehicle, including charges between carriers and compensation paid or received for the use of facilities and equipment.

↪ These regulations may not provide for collective agreements which restrain any party from taking free and independent action.

5. Review decisions of the Taxicab Authority appealed to the Authority pursuant to NRS 706.8819.

**Sec. 1.3. NRS 706.321 is hereby amended to read as follows:**

706.321 1. Except as otherwise provided in subsection 2, every common or contract motor carrier shall file with the Authority:

(a) Within a time to be fixed by the Authority, schedules and tariffs that must:

- (1) Be open to public inspection; and
- (2) Include all rates, fares and charges which the carrier has established and which are in force at the time of filing for any service performed in connection therewith by any carrier controlled and operated by it.

(b) As a part of that schedule, all regulations of the carrier that in any manner affect the rates or fares charged or to be charged for any service and all regulations of the carrier that the carrier has adopted to comply with the provisions of NRS 706.011 to 706.791, inclusive ~~11~~, **and section 1 of this act.**

2. Every operator of a tow car shall file with the Authority:

(a) Within a time to be fixed by the Authority, schedules and tariffs that must:

- (1) Be open to public inspection; and
- (2) Include all rates and charges for towing services performed without the prior consent of the owner of the vehicle or the person authorized by the

owner to operate the vehicle which the operator has established and which are in force at the time of filing.

(b) As a part of that schedule, all regulations of the operator of the tow car which in any manner affect the rates charged or to be charged for towing services performed without the prior consent of the owner of the vehicle or the person authorized by the owner to operate the vehicle and all regulations of the operator of the tow car that the operator has adopted to comply with the provisions of NRS 706.011 to 706.791, inclusive, ~~§~~, **and section 1 of this act.**

3. No changes may be made in any schedule, including schedules of joint rates, or in the regulations affecting any rates or charges, except upon 30 days' notice to the Authority, and all those changes must be plainly indicated on any new schedules filed in lieu thereof 30 days before the time they are to take effect. The Authority, upon application of any carrier, may prescribe a shorter time within which changes may be made. The 30 days' notice is not applicable when the carrier gives written notice to the Authority 10 days before the effective date of its participation in a tariff bureau's rates and tariffs, provided the rates and tariffs have been previously filed with and approved by the Authority.

4. The Authority may at any time, upon its own motion, investigate any of the rates, fares, charges, regulations, practices and services filed pursuant to this section and, after hearing, by order, make such changes as may be just and reasonable.

5. The Authority may dispense with the hearing on any change requested in rates, fares, charges, regulations, practices or service filed pursuant to this section.

6. All rates, fares, charges, classifications and joint rates, regulations, practices and services fixed by the Authority are in force, and are prima facie lawful, from the date of the order until changed or modified by the Authority, or pursuant to NRS 706.2883.

7. All regulations, practices and service prescribed by the Authority must be enforced and are prima facie reasonable unless suspended or found otherwise in an action brought for the purpose, or until changed or modified by the Authority itself upon satisfactory showing made.

**Sec. 1.4. NRS 706.4463 is hereby amended to read as follows:**

706.4463 1. In addition to the other requirements of this chapter, each operator of a tow car shall, to protect the health, safety and welfare of the public:

(a) Obtain a certificate of public convenience and necessity from the Authority before the operator provides any services other than those services which the operator provides as a private motor carrier of property pursuant to the provisions of this chapter;

(b) Use a tow car of sufficient size and weight which is appropriately equipped to transport safely the vehicle which is being towed; and

(c) Comply with the provisions of NRS 706.011 to 706.791, inclusive, ~~H.~~ **and section 1 of this act.**

2. A person who wishes to obtain a certificate of public convenience and necessity to operate a tow car must file an application with the Authority.

3. The Authority shall issue a certificate of public convenience and necessity to an operator of a tow car if it determines that the applicant:

(a) Complies with the requirements of paragraphs (b) and (c) of subsection 1;

(b) Complies with the requirements of the regulations adopted by the Authority pursuant to the provisions of this chapter;

(c) Has provided evidence that the applicant has filed with the Authority a liability insurance policy, a certificate of insurance or a bond of a surety and bonding company or other surety required for every operator of a tow car pursuant to the provisions of NRS 706.291; and

(d) Has provided evidence that the applicant has filed with the Authority schedules and tariffs pursuant to subsection 2 of NRS 706.321.

4. An applicant for a certificate has the burden of proving to the Authority that the proposed operation will meet the requirements of subsection 3.

5. The Authority may hold a hearing to determine whether an applicant is entitled to a certificate only if:

(a) Upon the expiration of the time fixed in the notice that an application for a certificate of public convenience and necessity is pending, a petition to intervene has been granted by the Authority; or

(b) The Authority finds that after reviewing the information provided by the applicant and inspecting the operations of the applicant, it cannot make a determination as to whether the applicant has complied with the requirements of subsection 3.

~~Section 1.1~~ **Sec. 1.5.** NRS 706.4479 is hereby amended to read as follows:

706.4479 1. If a motor vehicle is towed at the request of someone other than the owner, or authorized agent of the owner, of the motor vehicle, the operator **of the tow car** shall, in addition to the requirements set forth in the provisions of chapter 108 of NRS:

(a) Notify the registered and legal owner of the motor vehicle by certified mail not later than 21 days after placing the motor vehicle in storage if the motor vehicle was towed at the request of a law enforcement officer following an accident involving the motor vehicle or not later than 15 days after placing any other vehicle in storage:

(1) Of the location where the motor vehicle is being stored;

(2) Whether the storage is inside a locked building, in a secured, fenced area or in an unsecured, open area;

(3) Of the charge for towing and storage;

(4) Of the date and time the vehicle was placed in storage;

(5) Of the actions that the registered and legal owner of the vehicle may take to recover the vehicle while incurring the lowest possible liability in accrued assessments, fees, penalties or other charges; and

(6) Of the opportunity to rebut the presumptions set forth in NRS 487.220 and 706.4477.

(b) If the identity of the registered and legal owner is not known or readily available, make every reasonable attempt and use all resources reasonably necessary, as evidenced by written documentation, to obtain the identity of the owner and any other necessary information from the agency charged with the registration of the motor vehicle in this State or any other state within:

(1) Twenty-one days after placing the motor vehicle in storage if the motor vehicle was towed at the request of a law enforcement officer following an accident involving the motor vehicle; or

(2) Fifteen days after placing any other motor vehicle in storage.

↪ The operator shall attempt to notify the owner of the vehicle by certified mail as soon as possible, but in no case later than 15 days after identification of the owner is obtained for any motor vehicle.

2. If an operator includes in the operator's tariff a fee to be charged to the registered and legal owner of a vehicle for the towing and storage of the vehicle, the fee may not be charged:

(a) For more than 21 days after placing the motor vehicle in storage if the motor vehicle was towed at the request of a law enforcement officer following an accident involving the motor vehicle; or

(b) For more than 15 days after placing any other vehicle in storage,  
↪ unless the operator complies with the requirements set forth in subsection 1.

**3. *If a motor vehicle that is placed in storage was towed at the request of a law enforcement officer following an accident involving the motor vehicle, the operator shall not:***

***(a) Satisfy any lien or impose any administrative fee or processing fee with respect to the motor vehicle ~~for any fee relating to the auction of the motor vehicle~~ for the period ending ~~++~~ 4 business days after the date on which the motor vehicle was placed in storage ~~++~~; or***

***(b) Impose any fee relating to the auction of the motor vehicle until after the operator complies with the notice requirements set forth in NRS 108.265 to 108.367, inclusive.***

**Sec. 1.6. NRS 706.4483 is hereby amended to read as follows:**

706.4483 1. The Authority shall act upon complaints regarding the failure of an operator of a tow car to comply with the provisions of NRS 706.011 to 706.791, inclusive, **++**, **and section 1 of this act.**

2. In addition to any other remedies that may be available to the Authority to act upon complaints, the Authority may order the release of towed motor vehicles, cargo or personal property upon such terms and conditions as the Authority determines to be appropriate.



Sec. 2. ~~Chapter 332 of NRS is hereby amended by adding thereto a new section to read as follows:~~

~~1. A contract with a tow car operator for towing services is subject to the requirements of this chapter for competitive bidding.~~

~~2. As used in this section, "towing services" has the meaning ascribed to it in NRS 706.132.~~ **(Deleted by amendment.)**

Sec. 3. Chapter 690B of NRS is hereby amended by adding thereto a new section to read as follows:

*The owner of a motor vehicle or the authorized agent of the owner who makes a claim under a policy of insurance for damages to the motor vehicle ~~shall be deemed to have given~~ may give his or her consent for:*

*1. If the insurer provides notice to the owner or the authorized agent of the owner that the motor vehicle is a total loss vehicle as that term is defined in NRS 487.790, the motor vehicle to be towed and placed in storage at the direction and expense of the insurer ~~upon being given notice that the insurer has declared the vehicle a total loss. The insurer is not required to obtain any other form of release from the owner of the motor vehicle to have the motor vehicle towed and placed in storage.~~; or*

*2. If the insurer provides notice to the owner or the authorized agent of the owner that the motor vehicle is a repairable vehicle, the motor vehicle to be towed to a repair shop designated by the owner or the authorized agent of the owner.*

Senator Settelmeyer moved the adoption of the amendment.

Remarks by Senator Settelmeyer.

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

Amendment No. 209 to Senate Bill No. 142 authorizes an insurer to obtain possession of a motor vehicle from a tow car operator if the insurer provides the operator with a consent form that satisfies the requirements established by the Commissioner of Insurance.

The amendment specifies when a tow car operator may satisfy a lien or impose fees relating to the auction of a towed vehicle.

The amendment deletes the provision requiring competitive bidding of a tow car service contract by a local government.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 144.

Bill read second time and ordered to third reading.

Senate Bill No. 154.

Bill read second time and ordered to third reading.

Senate Bill No. 182.

Bill read second time.

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

Amendment No. 195.

"SUMMARY—Makes various changes concerning renewable energy systems. (BDR 58-286)"

"AN ACT relating to renewable energy; revising certain provisions governing the Solar Thermal Systems Demonstration Program; ~~revising the prospective expiration dates of the Wind Energy Systems Demonstration Program and the Waterpower Energy Systems Demonstration Program; revising the capacity goals of the Wind Energy Systems Demonstration Program and the Waterpower Energy Systems Demonstration Program; requiring the Public Utilities Commission of Nevada to establish categories of participation in the Waterpower Energy Systems Demonstration Program for mining uses, municipalities and Indian tribes and tribal organizations;~~ and providing other matters properly relating thereto."

**Legislative Counsel's Digest:**

~~{This bill revises various provisions governing incentive programs for renewable energy.}~~ **Section 1** of this bill revises provisions governing the Solar Thermal Systems Demonstration Program to remove the requirement that each solar thermal system have a meter or other measuring device installed. ~~{In addition, section 1 requires the Public Utilities Commission of Nevada to adopt regulations which identify the classifications and subclassifications of licenses which an installer must hold to install solar thermal systems pursuant to the Solar Thermal Systems Demonstration Program.}~~ **Section 2** of this bill revises provisions governing the performance certifications which must be obtained to establish eligibility for a rebate from **a utility under** the Solar Thermal Systems Demonstration Program.

~~{ Section 3 of this bill increases the capacity goal for the Wind Energy Systems Demonstration Program from 5 megawatts of installed capacity by 2012 to 25 megawatts of installed capacity by 2016. Section 5 of this bill increases the capacity goal for the Waterpower Energy Systems Demonstration Program from 500 kilowatts of installed capacity by 2012 to 20 megawatts of installed capacity by 2016.~~

~~The Waterpower Energy Systems Demonstration Program was established for agricultural uses. (NRS 701B.820) Section 4 of this bill additionally requires the Commission to establish categories of participation in the Waterpower Energy Systems Demonstration Program for: (1) mining uses by operators of mines that are customers of a public utility which supplies electricity in this State; (2) municipalities that are customers of a public utility which supplies electricity in this State; and (3) Indian tribes or tribal organizations that are customers of a public utility which supplies electricity in this State.~~

~~Sections 6-8 of this bill revise the prospective expiration dates of the Wind Energy Systems Demonstration Program and the Waterpower Energy Systems Demonstration Program from June 30, 2011, to June 30, 2013.~~

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

**Section 1.** NRS 701B.336 is hereby amended to read as follows:

701B.336 1. The Commission shall establish the Solar Thermal Systems Demonstration Program to carry out the intent of the Legislature to promote the installation of at least 3,000 solar thermal systems in homes, businesses, schools and other governmental buildings throughout this State by 2019.

2. The Demonstration Program must have four categories of participants as follows:

- (a) School property;
- (b) Public and other property;
- (c) Private residential property; and
- (d) Small business property.

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

- (a) Apply to a utility on a form prescribed by the Commission;
- (b) Meet the qualifications established pursuant to subsection 5 and be approved by the utility;

(c) When installing a solar thermal system, use an installer who has been issued ~~to~~ ~~classification C-1 license with~~ ~~the appropriate [subclassification]~~ ~~license~~ by the State Contractors' Board; ~~pursuant to the regulations adopted by the Board;~~ ~~with a classification and subclassification which have been determined by the Commission pursuant to subsection 5 to be appropriate for installing solar thermal systems pursuant to the Demonstration Program;~~ and

(d) If the person participates in the category of school property or public and other property, provide for the public display of the solar thermal system, including, without limitation, providing for public demonstrations of the solar thermal system and for hands-on experience of the solar thermal system by the public.

4. The utility shall notify each applicant who is approved to participate in the Demonstration Program not later than 10 days after the approval.

5. The Commission shall adopt regulations which must include, without limitation, provisions which:

(a) Establish the qualifications an applicant must meet to qualify to participate in the Demonstration Program.

(b) Establish specifications for the design, installation, energy output and displacement standards of the solar thermal systems that qualify for the Demonstration Program.

(c) Require that the components of any solar thermal system be new and unused.

(d) Require that any solar thermal collector have a warranty against defects and undue degradation of not less than 10 years.

(e) Require that a solar thermal system be installed in a building which is connected to the existing distribution system of a utility in this State.

(f) ~~Require that a solar thermal system have a meter or other measuring device installed to monitor and measure the performance of the system and the quantity of energy generated or displaced by the system.~~

~~(g)~~ Require that a solar thermal system be installed in conformity with the manufacturer's specifications and all applicable codes and standards.

~~(h)~~ (g) Establish siting and installation requirements for solar thermal systems to ensure efficient and appropriate installation and to promote maximized performance of such systems.

~~f (h) Identify the classifications and subclassifications of licenses issued by the State Contractors' Board which the Commission determines are appropriate for installing solar thermal systems pursuant to the Demonstration Program.]~~

6. As used in this section, "applicant" means a person who applies to the utility to participate in the Demonstration Program.

**Sec. 2.** NRS 701B.342 is hereby amended to read as follows:

701B.342 1. The Commission shall adopt regulations establishing program milestones and a rebate program for a participant who installs a solar thermal system. The rebates provided by ~~the Commission~~ a utility pursuant to this section must:

- (a) Decline over time as the program milestones are reached;
- (b) Be structured to reduce the cost of solar thermal systems; and
- (c) Be based on the actual energy savings or predicted energy savings of the solar thermal system as determined by the Commission.

2. The regulations must require that to be eligible for a rebate pursuant to the Demonstration Program, a solar thermal system must have received an **OG-100 or OG-300** performance certification from the Solar Rating and Certification Corporation ~~or~~ **or any other performance certification approved by the Commission.**

3. In determining the amount of the rebates provided through the Demonstration Program, the Commission shall consider any federal tax credits and other incentives available to participants.

**Sec. 3.** ~~NRS 701B.590 is hereby amended to read as follows:~~

~~701B.590 The Commission shall adopt regulations necessary to carry out the provisions of the Wind Energy Systems Demonstration Program Act, including, without limitation, regulations that establish:~~

~~1. The capacity goals for the Program, which must be designed to meet the goal of the Legislature of the installation of not less than [5] 25 megawatts of wind energy systems in this State by [2012] 2016 and the goals for each category of the Program.~~

~~2. A system of incentives that are based on rebates that decline as the capacity goals for the Program and the goals for each category of the Program are met. The rebates must be based on predicted energy savings.~~

~~3. The procedure for claiming incentives, including, without limitation, the form and content of the incentive claim form.] (Deleted by amendment.)~~

**Sec. 4.** ~~NRS 701B.820 is hereby amended to read as follows:~~

~~701B.820 1. The Waterpower Energy Systems Demonstration Program is hereby created.~~

~~2. [The Waterpower Demonstration Program is created for agricultural uses.~~

~~3.] To be eligible to participate in the Waterpower Demonstration Program, a person must meet the qualifications established pursuant to subsection [4.] 3, apply to a utility and be selected by the utility for inclusion in the Waterpower Demonstration Program.~~

~~[4.] 3. The Commission shall adopt regulations providing for the qualifications an applicant must meet to qualify to participate in the Waterpower Demonstration Program. The regulations must establish categories of participation in the Waterpower Demonstration Program for:~~

- ~~(a) Agricultural uses;~~
- ~~(b) Mining uses by operators of mines that are customers of a utility;~~
- ~~(c) Municipalities that are customers of a utility; and~~
- ~~(d) Indian tribes and tribal organizations that are customers of a utility.]~~

**(Deleted by amendment.)**

~~Sec. 5. [NRS 701B.840 is hereby amended to read as follows:~~

~~701B.840 The Commission shall adopt regulations that establish:~~

~~1. The capacity goals for the Program, which must be designed to meet the goal of the Legislature of the installation of not less than [500 kilowatts] 20 megawatts of waterpower energy systems in this State by [2012] 2016 and the goals for each category of the Program.~~

~~2. A system of incentives that are based on rebates that decline as the capacity goals for the Program and the goals for each category of the Program are met. The rebates must be based on predicted energy savings.~~

~~3. The procedure for claiming incentives, including, without limitation, the form and content of the incentive claim form.] (Deleted by amendment.)~~

~~Sec. 6. [Section 113 of chapter 509, Statutes of Nevada 2007, at page 2999, is hereby amended to read as follows:~~

~~Sec. 113. 1. This act becomes effective:~~

~~(a) Upon passage and approval for the purposes of adopting regulations and taking such other actions as are necessary to carry out the provisions of this act; and~~

~~(b) For all other purposes besides those described in paragraph (a):~~

~~(1) For this section and sections 1, 30, 32, 36 to 46, inclusive, 49, 51 to 61, inclusive, 107, 109, 110 and 111 of this act, upon passage and approval.~~

~~(2) For sections 1.5 to 29, inclusive, 43.5, 47, 51.3, 51.7, 108, 112 and 112.5 of this act, on July 1, 2007.~~

~~(3) For sections 62 to 106, inclusive, of this act, on October 1, 2007.~~

~~(4) For sections 31, 32.3, 32.5, 32.7, 33, 34 and 35 of this act, on January 1, 2009.~~

~~(5) For section 48 of this act, on January 1, 2010.~~

~~(6) For section 50 of this act, on January 1, 2011.~~

~~2. Sections 62 to 106, inclusive, of this act expire by limitation on June 30, [2011.] 2013. (Deleted by amendment.)~~

~~Sec. 7. Section 13 of chapter 246, Statutes of Nevada 2009, at page 1002, is hereby amended to read as follows:~~

~~Sec. 13. 1. This act becomes effective on July 1, 2009.~~

~~2. Sections 2 and 3 of this act expire by limitation on June 30, [2011.] 2013. (Deleted by amendment.)~~

~~Sec. 8. Section 21 of chapter 321, Statutes of Nevada 2009, at page 1410, is hereby amended to read as follows:~~

~~Sec. 21. 1. This section and sections 1 to 1.51, inclusive, 1.55 to 19.7, inclusive, and 19.9 to 20.9, inclusive, of this act become effective upon passage and approval.~~

~~2. Sections 1.51, 1.85, 1.87, 1.92, 1.93, 1.95, 4.3 to 9, inclusive, and 19.4 of this act expire by limitation on June 30, [2011.] 2013.~~

~~3. Sections 1.53 and 19.8 of this act become effective on July 1, [2011.] 2013. (Deleted by amendment.)~~

~~Sec. 9. The Public Utilities Commission of Nevada shall adopt ~~the~~ any regulations necessary to carry out the provisions of this act on or before December 31, 2011.~~

~~Sec. 10. 1. This section and sections 6 to 9, inclusive, of this act become effective upon passage and approval.~~

~~2. Sections 1 to 5, inclusive, of this act become effective upon passage and approval for the purposes of adopting regulations and on July 1, 2011, for all other purposes.~~ **This act becomes effective upon passage and approval for the purposes of adopting regulations and on July 1, 2011, for all other purposes.**

~~3. Sections 3, 4 and 5 of this act expire by limitation on June 30, 2013.~~

Senator Settelmeyer moved the adoption of the amendment.

Remarks by Senator Settelmeyer.

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

Amendment No. 195 to Senate Bill No. 182 removes the references to specific categories of acceptable State Contractors' Board licenses for performing solar thermal system installations. Instead, the amendment simply provides that an installer shall use "an appropriate" license as determined by the Board. This approach provides flexibility for possible future license category changes but still leaves the determination of the correct license to the Board.

The amendment makes similar changes in regard to the proper performance certification required for the solar thermal systems themselves. The Public Utilities Commission is given authority to specify the most appropriate certification.

Finally, the amendment deletes the provisions relating to the expansion and extension of the wind and waterpower energy systems rebate programs; those programs will be addressed in a different bill.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 238.

Bill read second time.

The following amendment was proposed by the Committee on Transportation:

Amendment No. 125.

"SUMMARY—Revises provisions concerning the Advisory Board on Automotive Affairs. (BDR 43-994)"

"AN ACT relating to motor vehicles; increasing the membership and revising the duties of the Advisory Board on Automotive Affairs; establishing certain qualifications for membership on the Board; and providing other matters properly relating thereto."

**Legislative Counsel's Digest:**

The Advisory Board on Automotive Affairs consists of seven members appointed by the Governor. One member represents the Department of Motor Vehicles, the general public is represented by two members, and body shops, automobile wreckers, garages and salvage pools are each represented by one member. The Board's duties include: (1) studying the regulation of the businesses and industries that are represented on the Board; (2) analyzing and advising the Department with respect to consumer complaints relating to those businesses and industries; and (3) making recommendations to the Department for regulations or legislation concerning those businesses and industries. Before each regular session of the Legislature, the Board prepares a report of its activities and recommendations for submission to the Governor and the Legislature. (NRS 487.002)

This bill increases the membership of the Board to ~~nine~~ **10** members. ~~The number of members representing the general public is reduced from two to one, and three~~ **Three** new members are added, one to represent each of the following businesses or industries: (1) authorized emissions stations; (2) insurers of motor vehicles; and (3) new or used motor vehicle dealers. This bill also establishes certain qualifications for membership on the Board. Every member must have been a resident of this state for at least 5 years immediately preceding his or her appointment. **This bill also requires that at least one of the two members appointed to represent the general public be a resident of a county whose population is less than 55,000 (currently counties other than Clark and Washoe Counties and Carson City).** In addition, each member appointed to represent a business or industry must hold the appropriate license or registration to engage in that business or industry and must have been actively engaged in that business or industry for at least 3 of the 5 years immediately preceding his or her appointment. Finally, this bill requires the Board to extend the scope of its existing duties to include all the businesses and industries that are represented on the Board.

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

**Section 1.** NRS 487.002 is hereby amended to read as follows:

487.002 1. The Advisory Board on Automotive Affairs, consisting of ~~seven~~ ~~nine~~ **10** members appointed by the Governor, is hereby created within the Department.

2. The Governor shall appoint to the Board:

(a) One representative of the Department;

- (b) One representative of licensed operators of body shops;
  - (c) One representative of licensed automobile wreckers;
  - (d) One representative of registered garage operators;
  - (e) One representative of licensed operators of salvage pools; ~~and~~
  - (f) ~~Two representatives~~ **One representative of licensed operators of authorized emissions stations;**
  - (g) **One representative of licensed insurers of motor vehicles;**
  - (h) **One representative of licensed new or used motor vehicle dealers;**
- and

(i) ~~One representative~~ **Two representatives of the general public** ~~This~~ **, at least one of whom must be a resident of a county whose population is less than 55,000. A member appointed pursuant to this paragraph must not be:**

(1) **A holder of a license or registration identified in paragraphs (b) to (h), inclusive; or**

(2) **The spouse or the parent or child, by blood, marriage or adoption, of a holder of such a license or registration.**

3. **Each member appointed must, at the time of his or her appointment, have been a resident of this State for at least 5 years immediately preceding the appointment. Each member who is appointed to represent a business or industry specified in paragraphs (b) to (h), inclusive, of subsection 2, must, at the time of his or her appointment:**

(a) **Hold a license or registration to engage in the business or industry that the member is appointed to represent; and**

(b) **Have been actively engaged in the business or industry that the member is appointed to represent for at least 3 of the 5 years immediately preceding the appointment.**

4. After the initial terms, each member of the Board serves a term of 4 years. The members of the Board shall annually elect from among their number a Chair and a Vice Chair. **The Chair is not entitled to a vote except to break a tie.** The Department shall provide secretarial services for the Board.

~~4.~~ 5. The Board shall meet regularly at least twice each year and may meet at other times upon the call of the Chair ~~or a majority of the members of the Board.~~ **Six members of the Board constitute a quorum, and a quorum may exercise all the power and authority conferred on the Board.** Each member of the Board is entitled to the per diem allowance and travel expenses provided for state officers and employees generally ~~or~~

~~5.~~ **while attending meetings of the Board.**

6. The Board shall:

(a) Study the regulation of garage operators, automobile wreckers, ~~and~~ operators of body shops ~~and~~, **operators of salvage pools, operators of authorized emissions stations, insurers of motor vehicles and new and used motor vehicle dealers,** including, without limitation, the registration or



licensure of such persons and the methods of disciplinary action against such persons;

(b) Analyze and advise the Department relating to any consumer complaints received by the Department concerning garage operators, automobile wreckers, ~~and~~ operators of body shops, ~~and~~ *operators of salvage pools*, *operators of authorized emissions stations, insurers of motor vehicles and new and used motor vehicle dealers;*

(c) Make recommendations to the Department for any necessary regulations or proposed legislation pertaining to paragraph (a) or (b);

(d) On or before January 15 of each odd-numbered year, prepare and submit a report concerning its activities and recommendations to the Governor and to the Director of the Legislative Counsel Bureau for transmission to the Legislature ~~and~~ *and the Chairs of the Senate and Assembly Standing Committees on Transportation;* and

(e) Perform any other duty assigned by the Department.

**7. As used in this section, "authorized emissions stations" means stations licensed by the Department pursuant to NRS 445B.775 to inspect, repair, adjust or install devices for the control of emissions of motor vehicles.**

**Sec. 2.** 1. The terms of the current members of the Advisory Board on Automotive Affairs appointed pursuant to paragraph (f) of subsection 2 of NRS 487.002 expire on June 30, 2011.

2. As soon as practicable after July 1, 2011, the Governor shall appoint to the Advisory Board on Automotive Affairs the members required by paragraphs (f) to (i), inclusive, of subsection 2 of NRS 487.002, as amended by section 1 of this act. The initial term of the members appointed pursuant to paragraphs (f) and (g) of subsection 2 of NRS 487.002 as amended by section 1 of this act expire on June 30, 2013. The initial ~~terms~~ **term** of the ~~members~~ **member** appointed pursuant to ~~paragraphs~~ **paragraph** (h) ~~and~~ ~~(i)~~ of subsection 2 of NRS 487.002 as amended by section 1 of this act ~~expire~~ **expires** on June 30, 2015. **The initial term of one member appointed pursuant to paragraph (i) of subsection 2 of NRS 487.002 as amended by section 1 of this act expires on June 30, 2013, and the initial term of the other member appointed pursuant to paragraph (i) of subsection 2 of NRS 487.002 as amended by section 1 of this act expires on June 30, 2015.**

**Sec. 3.** Notwithstanding the amendatory provisions of this act, a member of the Advisory Board on Automotive Affairs who was appointed pursuant to paragraphs (a) to (e), inclusive, of subsection 2 of NRS 487.002 and who is serving a term on July 1, 2011, is entitled to serve out the remainder of the term to which he or she was appointed.

**Sec. 4.** 1. This section and section 2 of this act become effective upon passage and approval.

2. Sections 1 and 3 of this act become effective on July 1, 2011.

Senator Breeden moved the adoption of the amendment.

Remarks by Senator Breeden.

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

Amendment No. 125 to Senate Bill No. 238 increases the number of members on the Advisory Board on Automotive Affairs from nine to ten. It provides that at least one of the public members of the Board reside in a rural area, outlines the terms of office for the new members, and specifies the number of members required for a quorum. The amendment also makes the Chair of the Board a non-voting member unless the vote is needed to break a tie.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 248.

Bill read second time and ordered to third reading.

Senate Bill No. 259.

Bill read second time.

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

Amendment No. 193.

"SUMMARY—Revises provisions governing ~~licensed family~~ **certain** trust companies. (BDR 55-629)"

"AN ACT relating to ~~licensed family~~ trust companies; revising provisions governing the management of a trust by a **family trust company or** licensed family trust company; specifying the applicability of the Uniform Prudent Investor Act to a trust managed by a **family trust company or** licensed family trust company; ~~requiring a licensed family trust company to administer a trust in this State except under certain circumstances;~~ authorizing a **family trust company or** licensed family trust company to engage in certain transactions involving the assets of the trust or take certain actions if the transaction or action is in the interest of the beneficiaries and complies with certain other requirements; authorizing a **family trust company or** licensed family trust company and an interested person to enter into a nonjudicial settlement agreement to resolve any matter related to the management, administration or interpretation of a trust; requiring a **family trust company and** licensed family trust company to provide an annual report **or certain information in lieu of an annual report** to certain persons concerning the management of a trust; and providing other matters properly relating thereto."

**Legislative Counsel's Digest:**

Existing law requires a trust company that has been appointed as the fiduciary of a trust to invest and manage the assets of the trust according to the Uniform Prudent Investor Act. (NRS 164.700-164.775) The prudent investor rule requires, among other things, that a fiduciary of a trust diversify the assets of the trust through various investments. (NRS 164.750) Existing law places further restrictions on the types of transactions that a trust company may engage in with the assets of a trust for which it is a fiduciary.

(NRS 669A.230) ~~Existing law also requires a trust company to obtain a court order to transfer the principal place of administration of the trust to a jurisdiction outside of this State. (NRS 164.130)~~

~~Sections 4 and 15 of this bill provide that a trust that is managed by a licensed family trust company is subject only to certain~~ **Section 15 of this bill provides an exception to the** provisions of the Uniform Prudent Investor Act as it applies to the management of ~~the a trust and those provisions of the Uniform Prudent Investor Act which are specifically incorporated by a term of the trust.~~ **by a family trust company or licensed family trust company.** **Section 7** of this bill authorizes a **family trust company or** licensed family trust company to engage in activities and transactions involving the assets of a trust, including the acquisition of concentrated holdings of stocks, bonds, securities or other assets, which might otherwise be prohibited by the Uniform Prudent Investor Act. **Section 7** requires that such transactions or actions by a **family trust company or** licensed family trust company be for a fair price, if applicable, be in the interest of the beneficiaries and comply with the terms of the trust, a written consent agreement, ~~for~~ a court order, ~~or~~ **or a notice of proposed action.** Furthermore, the transactions authorized by **section 7** are not prohibited by a conflict of interest between the parties to the transaction.

**Section 8** of this bill authorizes a **family trust company or** licensed family trust company and an interested person to enter into a nonjudicial settlement agreement with respect to any matter related to the management, administration or interpretation of a trust. **Section 8** also authorizes a **family trust company or** licensed family trust company or an interested person to petition a court to approve a nonjudicial settlement agreement or to make certain other determinations related to the nonjudicial settlement agreement. **Section 9** of this bill requires a **family trust company or** licensed family trust company that intends to execute a nonjudicial settlement agreement to meet certain notice requirements before executing the nonjudicial settlement agreement and also requires an interested person who receives such notice to object within a certain period to preserve the right to bring certain actions relating to the nonjudicial settlement agreement. **Section 9** also authorizes a **family trust company or** licensed family trust company or an interested person who timely objects to petition the court to approve, disapprove, enforce or modify the nonjudicial settlement agreement. **Section 10** of this bill authorizes a **family trust company or** licensed family trust company to refrain from taking an action that is authorized by a nonjudicial settlement agreement under certain circumstances.

~~Section 6 of this bill requires that a trust managed by a licensed family trust company be administered in this State and pursuant to any applicable laws of this State except under certain circumstances.~~ **Section 11** of this bill requires a **family trust company and** licensed family trust company to provide annual reports to certain persons outlining any transactions taken by the **family trust company or** licensed family trust company while acting as

the fiduciary of a trust ~~††~~ **and further authorizes the trust company to provide an interested person with certain other information in lieu of an annual report.**

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

**Section 1.** Chapter 669A of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 11, inclusive, of this act.

**Sec. 2.** *"Interested person" means a person, other than the grantor of a trust, who is:*

*1. A person who would be a necessary party to a judicial proceeding involving a trust; or*

*2. An authorized representative pursuant to NRS 164.038.*

**Sec. 3.** ~~††~~ *Notwithstanding the provisions of any law to the contrary, a family trust company or licensed family trust company, or an employee or agent of a family trust company or licensed family trust company, is not liable to an interested person for any transaction, decision to act or decision to not act if the family trust company or licensed family trust company ~~††~~ or employee or agent thereof acted in good faith and in reasonable reliance on the express terms of a trust instrument, a written consent agreement or a court order.*

**Sec. 4.** ~~††~~ *Except as otherwise provided in this chapter or by specific statute, a family trust company or licensed family trust company is subject to the provisions of this chapter only to the extent that the family trust company or licensed family trust company is engaged in the business of a family trust company or licensed family trust company ~~†~~*

~~2. A trust that is managed by a licensed family trust company pursuant to this chapter is subject only to the provisions of NRS 164.700 to 164.775, inclusive, which are specifically incorporated by a term of the trust or which govern:~~

~~(a) The requirements for creating a trust;~~

~~(b) The requirement that a trust and its terms be for the benefit of its beneficiaries;~~

~~(c) The requirement that a trust have a purpose that is lawful and possible to achieve;~~

~~(d) The duty of a fiduciary to act in good faith and in accordance with the terms and purposes of the trust;~~

~~(e) The duty of a fiduciary to act in the interest of the beneficiaries; and~~

~~(f) The power of the court to take any action or exercise its jurisdiction as provided by law.†, respectively.~~

**Sec. 5.** *While acting as the fiduciary of a trust, a family trust company or licensed family trust company:*

*1. Shall administer and manage the trust in accordance with the terms of the trust;*

*2. Shall administer and manage the trust in the interest of the beneficiaries of the trust;*

3. Shall administer and manage the trust in accordance with the provisions of this chapter; and

4. May administer and manage the trust by the exercise of discretionary power of administration given to the fiduciary by the terms of the trust instrument.

Sec. 6. ~~1. Except as otherwise provided in subsection 2 and section 4 of this act, a licensed family trust company that is the fiduciary of a trust shall administer the trust in this State pursuant to the provisions of chapter 164 of NRS and any other applicable laws of this State.~~

~~2. A licensed family trust company that is the fiduciary of a trust may administer the trust in a jurisdiction outside of this State if:~~

~~(a) The terms of the trust instrument authorize the fiduciary to administer the trust in a jurisdiction outside of this State;~~

~~(b) The terms of the trust instrument require the trust to be interpreted pursuant to the laws of a jurisdiction outside of this State; or~~

~~(c) A court of competent jurisdiction in this State issues an order transferring supervision of the administration of the trust to a court outside of this State.~~ **(Deleted by amendment.)**

Sec. 7. 1. ~~[Notwithstanding]~~ In addition to the transactions authorized by NRS 669A.230 and notwithstanding the provisions of any other law to the contrary, while acting as the fiduciary of a trust, a family trust company or licensed family trust company may:

(a) Invest in a security of an investment company or investment trust for which the family trust company or licensed family trust company, or a family affiliate, provides services in a capacity other than as a fiduciary;

(b) Place a security transaction using a broker that is a family affiliate;

(c) Invest in an investment contract that is purchased from an insurance company or carrier owned by or affiliated with the family trust company or licensed family trust company, or a family affiliate;

(d) Enter into an agreement with a beneficiary or grantor of a trust with respect to the appointment or compensation of the fiduciary or a family affiliate;

(e) Transact with another trust, estate, guardianship or conservatorship for which the family trust company or licensed family trust company is a fiduciary or in which a beneficiary has an interest;

(f) Make an equity investment in a closely held entity that may or may not be marketable and that is owned or controlled, either directly or indirectly, by one or more beneficiaries, family members or family affiliates;

(g) Deposit trust money in a financial institution that is owned or operated by a family affiliate;

(h) Delegate the authority to conduct any transaction or action pursuant to this section to an agent of the family trust company or licensed family trust company, or a family affiliate;

(i) Purchase, sell, hold, own or invest in any security, bond, real or personal property, stock or other asset of a family affiliate;

(j) Loan money to or borrow money from:

(1) A family member of the trust or his or her legal representative;

(2) Another trust managed by the family trust company or licensed family trust company; or

(3) A family affiliate;

(k) ~~Enter into a nonjudicial settlement agreement pursuant to section 8 of this act;~~

~~(l)~~ Act as proxy in voting any shares of stock which are assets of the trust;

~~(m)~~ (l) Exercise any powers of control with respect to any interest in a company that is an asset of the trust, including, without limitation, the appointment of officers or directors who are family affiliates; and

~~(n)~~ (m) Receive reasonable compensation for its services or the services of a family affiliate.

2. A transaction or action authorized pursuant to subsection 1 must:

(a) Be for a fair price, if applicable;

(b) Be in the interest of the beneficiaries; and

(c) Comply with:

(1) The terms of the trust instrument establishing the fiduciary relationship;

(2) A judgment, decree or court order; ~~for~~

(3) The written consent of each interested person ~~for~~; or

(4) A notice of proposed action issued pursuant to NRS 164.725.

3. Except as otherwise provided in subsection 2, nothing in this section prohibits a family trust company or licensed family trust company from transacting business with or investing in any asset of:

(a) A trust, estate, guardianship or conservatorship for which the family trust company or licensed family trust company is a fiduciary;

(b) A family affiliate; or

(c) Any other company, agent, entity or person for which a conflict of interest may exist.

4. A conflict of interest between the fiduciary duty and personal interest of a family trust company or licensed family trust company does not void a transaction or action that:

(a) Complies with the provisions of this section; or

(b) Occurred before the family trust company or licensed family trust company entered into a fiduciary relationship pursuant to a trust instrument.

5. A transaction by or action of a family trust company or licensed family trust company authorized by this section is not voidable if:

(a) The transaction or action was authorized by the terms of the trust;

(b) The transaction or action was approved by a court or pursuant to a court order;

(c) No interested person commenced a legal action relating to the transaction or action pursuant to subsection 6;

(d) The transaction or action was authorized by a valid consent agreement, ~~for~~ release ~~for~~ or pursuant to the issuance of a notice of proposed action issued pursuant to NRS 164.725; or

(e) The transaction or action occurred before the family trust company or licensed family trust company entered into a fiduciary relationship pursuant to a trust instrument.

6. A legal action by an interested person alleging that a transaction or action by a family trust company or licensed family trust company is voidable because of the existence of a conflict of interest must be commenced within 1 year after the date on which the interested person discovered, or by the exercise of due diligence should have discovered, the facts in support of his or her claim.

7. Notwithstanding the provisions of any other law to the contrary, a family trust company or licensed family trust company is not required to obtain court approval for any transaction that otherwise complies with the provisions of this section.

Sec. 8. 1. A family trust company or licensed family trust company and an interested person may enter into a nonjudicial settlement agreement with respect to any matter involving the management, administration or interpretation of a trust that is managed pursuant to this chapter.

2. A nonjudicial settlement agreement that is entered into pursuant to this section must not contain:

- (a) Terms that violate a material purpose of the trust; or
- (b) Terms or conditions that could not be approved by a court.

3. The matters that may be resolved by a nonjudicial settlement agreement which is entered into pursuant to this section include, without limitation:

(a) Those pertaining to any transaction or action authorized pursuant to paragraphs (a) to ~~(n)~~ (m), inclusive, of subsection 1 of section 7 of this act;

- (b) The investment or use of trust assets;
- (c) The lending or borrowing of money;
- (d) The addition, deletion or modification of a term or condition of the trust;
- (e) The interpretation or construction of a term or condition of the trust;
- (f) The designation or transfer of the principal place of administration of the trust;

(g) The approval of a report or accounting that is provided pursuant to section 11 of this act;

(h) Direction to a fiduciary to refrain from performing a particular act or the grant to a fiduciary of any necessary or desirable power;

- (i) The resignation or appointment of a fiduciary;

(j) *The liability of a fiduciary for an action related to the management of the trust; and*

(k) *The termination of the trust.*

4. *After notice has been provided pursuant to section 9 of this act, a family trust company or licensed family trust company or an interested person may petition a court to approve a nonjudicial settlement agreement, to determine whether the nonjudicial settlement agreement was accurately represented to each interested person or to determine whether the nonjudicial settlement agreement contains terms or conditions that the court could approve. A family trust company or licensed family trust company is not liable to an interested person for taking an action that is authorized by a nonjudicial settlement agreement which has been approved by a court.*

Sec. 9. 1. *A family trust company or licensed family trust company shall provide written notice by personal service or by certified mail to each interested person who is a necessary party to a nonjudicial settlement agreement entered into pursuant to section 8 of this act. A family trust company or licensed family trust company is not required to provide notice to any interested person who has consented in writing to the nonjudicial settlement agreement.*

2. *The notice provided pursuant to this section must:*

(a) *Be provided at least 15 days before the execution of the nonjudicial settlement agreement;*

(b) *Include a true and correct copy of the nonjudicial settlement agreement;*

(c) *State that the notice is provided pursuant to this section and section 8 of this act;*

(d) *State the name and mailing address of the family trust company or licensed family trust company;*

(e) *State the date by which an objection to the nonjudicial settlement agreement must be made; and*

(f) *State the date on which the nonjudicial settlement agreement is to be executed.*

3. *An interested person who receives notice pursuant to this section may object to any term or condition of, or any act that is authorized by, the nonjudicial settlement agreement by submitting his or her objection in writing to the family trust company or licensed family trust company within 1 year after the date on which the interested person received the notice. Except as otherwise provided in subsection 5, if an interested person does not object within 1 year after receiving notice, his or her objection is waived, and the interested person may not bring any action relating to the terms and conditions of, or any act taken pursuant to, the nonjudicial settlement agreement.*

4. *An interested person who objects within the period specified in subsection 3 may petition the court for an order to approve, disapprove,*



*enforce or modify the nonjudicial settlement agreement. The burden is on the interested person to prove that the nonjudicial settlement agreement should be approved, disapproved, enforced or modified.*

*5. The provisions of subsection 3 do not prohibit an interested person who has received notice pursuant to this section and who fails to object to the nonjudicial settlement agreement within 1 year after receiving the notice from bringing an action alleging that the nonjudicial settlement agreement was procured fraudulently, or entered into by the family trust company or licensed family trust company in bad faith or in willful violation of the terms of the trust. A person who brings such an action has the burden of proving by clear and convincing evidence that the nonjudicial settlement agreement was procured fraudulently, in bad faith or in willful violation of the terms of the trust.*

*6. Except as otherwise provided in subsection 5, if no interested person who is entitled to receive notice pursuant to this section objects to the nonjudicial settlement agreement within 1 year after receiving the notice, a family trust company or licensed family trust company is not liable to any interested person for taking any action that is authorized by the nonjudicial settlement agreement.*

*Sec. 10. 1. A family trust company or licensed family trust company may refrain from taking an action that is authorized by a nonjudicial settlement agreement if the family trust company or licensed family trust company determines in good faith that the action is not in the interest of the beneficiaries of the trust.*

*2. A family trust company or licensed family trust company that refrains from taking an action pursuant to subsection 1 shall provide written notice to each interested person within 15 days after its decision not to take the action and include in the notice the reasons for not taking the action.*

*3. An interested person who receives notice pursuant to subsection 2 may petition the court for an order requiring the family trust company or licensed family trust company to take the action authorized by the nonjudicial settlement agreement. The burden is on the beneficiary to prove that the proposed action is in the interest of the beneficiaries of the trust and should be taken.*

*4. A family trust company or licensed family trust company is not liable to an interested person for not taking an action that is authorized by a nonjudicial settlement agreement if the family trust company or licensed family trust company acted in good faith in not taking the action.*

*Sec. 11. 1. Except as otherwise provided in subsection 4, a family trust company or licensed family trust company, while acting as the fiduciary of a trust, shall provide an annual report to each interested person for each year of the existence of the trust until the trust is terminated, at which time the trust company shall provide to each interested person a final report.*

2. A report that is provided pursuant to this section must, for the year immediately preceding the report, provide an accounting of:

- (a) Each asset and liability of the trust and its current market value or amount, if known;
- (b) Each disbursement of income or principal, including the amount of the disbursement and to whom the disbursement was made;
- (c) All payments of compensation from any source to the family trust company or licensed family trust company or any other person for services rendered; and
- (d) Any other transaction involving an asset of the trust.

3. An interested person who is entitled to a report pursuant to this section may waive his or her right to the report by submitting a written waiver to the family trust company or licensed family trust company. An interested person who waives his or her right to a report may withdraw the waiver by submitting to the family trust company or licensed family trust company a written request for a report.

4. A family trust company or licensed family trust company is not required to provide a report pursuant to this section if the terms of the trust provide an exception to this requirement.

5. A family trust company or licensed family trust company may require an interested person who is entitled to receive confidential information pursuant to this section to execute a confidentiality agreement before providing the person with any confidential information.

6. In lieu of the information that a trustee is required to provide to an interested person pursuant to subsection 2, a trustee may provide to an interested person a statement indicating the accounting period and a financial report of the trust which is prepared by a certified public accountant and which summarizes the information required by paragraphs (a) to (d), inclusive, of subsection 2. Upon request, the trustee shall make all the information used in the preparation of the financial report available to each interested person who was provided a copy of the financial report pursuant to this subsection.

7. For the purposes of this chapter, information provided by a trustee to an interested person pursuant to subsection 6 is deemed an annual report.

8. A trustee may provide an annual report to an interested person via electronic mail or through a secure Internet website.

Sec. 12. NRS 669A.020 is hereby amended to read as follows:

669A.020 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 669A.030 to 669A.090, inclusive, **and section 2 of this act** have the meanings ascribed to them in those sections.

Sec. 13. NRS 669A.060 is hereby amended to read as follows:

669A.060 "Family affiliate" means a company or other entity with respect to which ~~it~~ **one or more** family ~~member possesses,~~ **members or affiliates own, directly or indirectly, a material interest in the company or**

*entity, or possess*, directly or indirectly, the power to direct or cause the direction of the management and policies of that company or entity, whether through the ownership of voting securities, by contract, power of direction or otherwise.

**Sec. 13.5. NRS 669A.230 is hereby amended to read as follows:**

669A.230 1. Except as otherwise provided in subsection 2, the assets forming the minimum capital of a licensed family trust company pursuant to NRS 669A.160 must:

(a) Consist of:

(1) Cash;

(2) Governmental obligations or insured deposits that mature within 3 years after acquisition;

(3) Readily marketable securities or other liquid, secure assets, bonds, sureties or insurance; or

(4) Any combination thereof.

(b) Have an aggregate market value that equals or exceeds 100 percent of the company's required stockholders' equity.

2. A licensed family trust company may purchase or rent real or personal property for use in the conduct of the business and other activities of the company.

3. ~~Notwithstanding~~ **Except as otherwise provided in section 7 of this act, and notwithstanding** any other provisions of law to the contrary, a licensed family trust company may invest its funds for its own account, other than those required or permitted to be maintained by subsection 1 or 2, in any type or character of equity securities, debt securities or other asset provided the investment complies with the prudent investor standards set forth in NRS 164.700 to 164.775, inclusive.

4. ~~Notwithstanding~~ **Except as otherwise provided in section 7 of this act and notwithstanding** the provisions of any other law to the contrary, a family trust company is authorized while acting as a fiduciary to purchase for the fiduciary estate, directly from underwriters or distributors or in the secondary market:

(a) Bonds or other securities underwritten or distributed by the family trust company or an affiliate thereof or by a syndicate which includes the family trust company, provided that the family trust company discloses in any written communication or account statement reflecting the purchase of those bonds or securities the nature of the interest of the family trust company in the underwriting or distribution of those bonds and securities and whether the family trust company received any fee in connection with the purchase; and

(b) Securities of any investment company ~~as defined under the Investment Company Act of 1940~~ for which the family trust company acts as advisor, custodian, distributor, manager, registrar, shareholder servicing agent, sponsor or transfer agent, or provided the family trust company discloses in any written communication or account statement reflecting the

purchase of the securities the nature of the relationship and whether the family trust company received any fee for providing those services.

5. ~~The~~ **Except as otherwise provided in section 7 of this act, the** authority granted in subsection 4 may be exercised only if:

(a) The investment is not expressly prohibited by the instrument, judgment, decree or order establishing the fiduciary relationship;

(b) The family trust company discloses in writing to the person or persons to whom it sends account statements its intent to exercise the authority granted in subsection 4 before the first exercise of that authority; and

(c) The family trust company procures in writing the consent of its cofiduciaries with discretionary investment powers, if any, to the investment.

6. ~~At~~ **Except as otherwise provided in section 7 of this act, a** family trust company may:

(a) Invest in the securities of an investment company ~~as defined under the federal Investment Company Act of 1940~~ or investment trust, to which the family trust company or its affiliate provides services in a capacity other than as trustee. The investment is not presumed to be affected by a conflict between personal and fiduciary interests if the investment complies with the prudent investor standards set forth in NRS 164.700 to 164.775, inclusive.

(b) Be compensated by an investment company or investment trust described in paragraph (a) for providing services in a capacity other than as trustee if the family trust company discloses at least annually to each person to whom it sends account statements the rate and method by which the compensation was determined.

7. ~~Nothing~~ **Except as otherwise provided in section 7 of this act, nothing** in subsections 4, 5 and 6 shall affect the degree of prudence which is required of fiduciaries under the laws of this State. Any bonds or securities purchased under authority of this section are not presumed to be affected by a conflict between the fiduciary's personal and fiduciary interest if the purchase of the bonds or securities:

(a) Is at a fair price;

(b) Is in accordance with:

(1) The interest of the beneficiaries; and

(2) The purposes of the trusts; and

(c) Complies with:

(1) The prudent investor standards set forth in NRS 164.700 to 164.775, inclusive; and

(2) The terms of the instrument, judgment, decree or order establishing the fiduciary relationship.

8. ~~Notwithstanding~~ **Except as otherwise provided in section 7 of this act and notwithstanding** the provisions of subsections 4 to 7, inclusive, a family trust company which is authorized to exercise trust powers in this State and which is acting as a fiduciary shall not purchase for the fiduciary estate any fixed income or equity security issued by the family trust company or an affiliate thereof unless:

- (a) The family trust company is expressly authorized to do so by:
- (1) The terms of the instrument creating the trust;
  - (2) A court order;
  - (3) The written consent of the grantor of the trust; or
  - (4) The written consent of every adult beneficiary of the trust who, at the time notice is provided pursuant to paragraph (b) of subsection 5, receives or is entitled to receive income under the trust or who would be entitled to receive a distribution of principal if the trust were terminated; or
- (b) The purchase of the security:
- (1) Is at a fair price; and
  - (2) Complies with:
    - (I) The prudent investor standards set forth in NRS 164.700 to 164.775, inclusive; and
    - (II) The terms of the instrument, judgment, decree or order establishing the fiduciary relationship.

**9. As used in this section:**

**(a) "Face-amount certificate" has the meaning ascribed to it in 15 U.S.C. § 80a-2(a)(15).**

**(b) "Government securities" has the meaning ascribed to it in 15 U.S.C. § 80a-2(a)(16).**

**(c) "Investment company" means any issuer which:**

**(1) Is or holds itself out as being engaged primarily, or proposes to engage primarily, in the business of investing, reinvesting or trading in securities;**

**(2) Is engaged or proposes to engage in the business of issuing face-amount certificates of the installment type, or has been engaged in such business and has any such certificate outstanding; or**

**(3) Is engaged or proposes to engage in the business of investing, reinvesting, owning, holding or trading in securities, and owns or proposes to acquire investment securities having a value exceeding 40 percent of the value of the total assets of the issuer, exclusive of government securities and cash items, on an unconsolidated basis.**

**(d) "Issuer" has the meaning ascribed to it in 15 U.S.C. § 80a-2(a)(22).**

**Sec. 14.** NRS 90.250 is hereby amended to read as follows:

90.250 "Investment adviser" means any person who, for compensation, engages in the business of advising others as to the value of securities or as to the advisability of investing in, purchasing or selling securities, or who, for compensation and as a part of a regular business, issues or promulgates analyses or reports concerning securities. The term does not include:

1. An employee of an adviser;
2. A depository institution;
3. A lawyer, accountant, engineer or teacher whose performance of investment advisory services is solely incidental to the practice of the person's profession;

4. A broker-dealer whose performance of investment advisory services is solely incidental to the conduct of business as a broker-dealer and who receives no special compensation for the investment advisory services;

5. A publisher, employee or columnist of a newspaper, news magazine or business or financial publication, or an owner, operator, producer or employee of a cable, radio or television network, station or production facility if, in either case, the financial or business news published or disseminated is made available to the general public and the content does not consist of rendering advice on the basis of the specific investment situation of each client;

6. A person whose advice, analyses or reports relate only to securities exempt under paragraph (a) of subsection 2 of NRS 90.520; ~~for~~

7. *A family trust company or licensed family trust company or an employee or agent of a family trust company or licensed family trust company that is engaged in the business of a family trust company or licensed family trust company pursuant to chapter 669A of NRS ~~##~~, and that is exempt from registration as an investment adviser pursuant to the federal Investment Advisers Act of 1940; or*

8. Any other person the Administrator by regulation or order designates.

**Sec. 15.** NRS 164.740 is hereby amended to read as follows:

164.740 ~~1A~~ *Except as otherwise provided in chapter 669A of NRS, a trustee who invests and manages trust property owes a duty to the beneficiaries of the trust to comply with the prudent investor rule as set forth in NRS 164.700 to 164.775, inclusive, but a trustee is not liable to a beneficiary to the extent that the trustee acted in reasonable reliance on the terms of the trust.*

Senator Settlemeyer moved the adoption of the amendment.

Remarks by Senator Settlemeyer.

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

Amendment No. 193 to Senate Bill No. 259 adds family trust companies to the provisions of the bill regarding licensed family trust companies.

The amendment deletes provisions that exempt licensed family trusts from compliance with certain statutory requirements. It also deletes provisions authorizing a licensed family trust that is the fiduciary of trust from administering the trust in a jurisdiction outside of this state.

The amendment authorizes a trustee to provide certain accounting information to an interested person in lieu of providing an annual report.

Finally, the amendment defines certain terms relating to securities and investments.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 273.

Bill read second time.

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

Amendment No. 194.

"SUMMARY—Revises various provisions governing the practice of osteopathic medicine. (BDR 54-959)"

"AN ACT relating to osteopathic medicine; authorizing an osteopathic physician to engage in telemedicine under certain circumstances; authorizing the State Board of Osteopathic Medicine to place any condition, limitation or restriction on a license under certain circumstances; requiring an osteopathic physician who performs an autopsy to submit a written report of the findings of the autopsy to the Board under certain circumstances; requiring the Board to submit to the Governor and to the Director of the Legislative Counsel Bureau certain reports compiling disciplinary action taken by the Board against physician assistants; revising provisions governing applications for licensure by the Board; revising provisions governing the requirements for licensure by the Board; revising certain provisions relating to the renewal of a license ~~to practice osteopathic medicine;~~ by the Board; revising provisions relating to certain continuing education requirements for licensees; authorizing the Board to prorate the initial license fee for certain licenses; expanding the authority of the Board to discipline a physician assistant for certain conduct; revising provisions requiring certain persons to report information relating to certain malpractice claims to the Board; expanding the authority of the Board to investigate a physician assistant for certain conduct; revising provisions governing certain complaints filed with the Board; authorizing the Board summarily to suspend the license of a physician assistant under certain circumstances; authorizing the Board to seek injunctive relief against an osteopathic physician or physician assistant for engaging in certain conduct; providing a penalty; and providing other matters properly relating thereto."

**Legislative Counsel's Digest:**

Existing law authorizes the State Board of Osteopathic Medicine to issue, renew and suspend a license to practice osteopathic medicine and to issue and renew a license to practice as a physician assistant in this State. (NRS 633.305-633.501)

**Section 2** of this bill authorizes an osteopathic physician to engage in telemedicine if the osteopathic physician is properly licensed and meets certain other criteria. **Section 34** of this bill authorizes the Board to seek injunctive relief against an osteopathic physician for engaging in telemedicine without a required license. **Section 3** of this bill authorizes the Board to place any condition, limitation or restriction on a license issued by the Board under certain circumstances. **Section 4** of this bill requires an osteopathic physician who performs an autopsy and who determines that the death of the decedent is the result of an overdose of a controlled substance or dangerous drug to submit a written report of such findings to the Board.

**Section 6** of this bill expands the scope of unprofessional conduct, which is subject to regulation by the Board, to include certain actions of a physician assistant. **Section 9** of this bill authorizes the Board to reject an application for licensure as an osteopathic physician or physician assistant if the Board

has cause to believe that information submitted with the application by the applicant is false, misleading, deceptive or fraudulent. **Section 9.5 of this bill revises provisions governing the requirements for licensure by the Board.** **Section 11** of this bill authorizes an osteopathic physician to apply for another temporary license after the expiration of one such license. **Section 14** of this bill authorizes the Board to prorate the initial license fee for a new license to practice as an osteopathic physician and physician assistant. **Sections 11.7 and 13 of this bill require a physician assistant to meet certain continuing education requirements before renewing his or her license to practice as a physician assistant in this State.** **Section 12** of this bill shortens certain procedural deadlines with respect to the renewal of a license to practice osteopathic medicine ~~or~~ **or a license to practice as a physician assistant.** **Sections 15 and 29** of this bill expand the scope of the authority of the Board to discipline a physician assistant.

**Sections 16, 17 and 21** of this bill require the reporting of information relating to certain malpractice claims to the Board, and **sections 20 and 21** of this bill expand the scope of certain reporting requirements to include the conduct or investigation of physician assistants. **Sections 17 and 29** also expand the applicability of certain administrative fines imposed by the Board.

**Sections 19, 22 and 23** of this bill authorize the Board to order a physician assistant to undergo a competency examination under certain circumstances. **Section 24** of this bill authorizes the immediate suspension of the license of a physician assistant under certain circumstances. **Sections 26 and 34** of this bill authorize the Board to seek injunctive relief against a physician assistant for certain conduct. **Section 36** of this bill provides that a person who practices as a physician assistant without a valid license or uses the identity of another person to do so is guilty of a category D felony.

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

**Section 1.** Chapter 633 of NRS is hereby amended by adding thereto the provisions set forth as sections 2, 3 and 4 of this act.

**Sec. 2. 1.** *An osteopathic physician may engage in telemedicine in this State if he or she possesses an unrestricted license to practice osteopathic medicine in this State pursuant to this chapter. If an osteopathic physician engages in telemedicine with a patient who is physically located in another state or territory of the United States, the osteopathic physician shall, before engaging in telemedicine with the patient, take any steps necessary to be authorized or licensed to practice osteopathic medicine in the other state or territory of the United States in which the patient is physically located.*

**2.** *Except as otherwise provided in subsections 3 and 4, before an osteopathic physician may engage in telemedicine pursuant to this section:*

*(a) A bona fide relationship between the osteopathic physician and the patient must exist which must include, without limitation, a history and*



*physical examination or consultation which occurred in person and which was sufficient to establish a diagnosis and identify any underlying medical conditions of the patient.*

*(b) The osteopathic physician must obtain informed, written consent from the patient or the legal representative of the patient to engage in telemedicine with the patient. The osteopathic physician shall maintain the consent form as part of the permanent medical record of the patient.*

*(c) The osteopathic physician must inform the patient, both orally and in writing:*

*(1) That the patient or the legal representative of the patient may withdraw the consent provided pursuant to paragraph (b) at any time;*

*(2) Of the potential risks, consequences and benefits of telemedicine;*

*(3) Whether the osteopathic physician has a financial interest in the Internet website used to engage in telemedicine or in the products or services provided to the patient via telemedicine;*

*(4) That the transmission of any confidential medical information while engaged in telemedicine is subject to all applicable federal and state laws with respect to the protection of and access to confidential medical information; and*

*(5) That the osteopathic physician will not release any confidential medical information without the express, written consent of the patient or the legal representative of the patient.*

*3. An osteopathic physician is not required to comply with the provisions of paragraph (a) of subsection 2 if the osteopathic physician engages in telemedicine for the purposes of making a diagnostic interpretation of a medical examination, study or test of the patient.*

*4. An osteopathic physician is not required to comply with the provisions of paragraph (a) or (c) of subsection 2 in an emergency medical situation.*

*5. The provisions of this section must not be interpreted or construed to:*

*(a) Modify, expand or alter the scope of practice of an osteopathic physician pursuant to this chapter; or*

*(b) Authorize the practice of osteopathic medicine or delivery of care by an osteopathic physician in a setting that is not authorized by law or in a manner that violates the standard of care required of an osteopathic physician pursuant to this chapter.*

*6. As used in this section, "telemedicine" means the practice of osteopathic medicine through the synchronous or asynchronous transfer of medical data or information using interactive audio, video or data communication, other than through a standard telephone, facsimile transmission or electronic mail message.*

*Sec. 3. 1. The Board may place any condition, limitation or restriction on any license issued pursuant to this chapter if the Board*

*determines that such action is necessary to protect the public health, safety or welfare.*

*2. The Board shall not report any condition, limitation or restriction placed on a license pursuant to this section to the National Practitioner Data Bank unless the licensee fails to comply with the condition, limitation or restriction placed on the license. The Board may, upon request, report any such information to an agency of another state which regulates the practice of osteopathic medicine in that State.*

*3. The Board may modify any condition, limitation or restriction placed on a license pursuant to this section if the Board determines that the modification is necessary to protect the public health, safety or welfare.*

*4. Any condition, limitation or restriction placed on a license pursuant to this section is not a disciplinary action pursuant to NRS 633.651.*

**Sec. 4. 1.** *Any osteopathic physician who performs an autopsy in this State and who determines that the death of the decedent is the result of an overdose of a controlled substance or a dangerous drug shall, within 30 days after making the determination, submit to the Board a written report of the findings of the autopsy, and provide to the Board any other information requested by the Board.*

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

*3. As used in this section, "dangerous drug" has the meaning ascribed to it in NRS 454.201.*

**Sec. 5.** NRS 633.071 is hereby amended to read as follows:

633.071 "Malpractice" means failure on the part of an osteopathic physician *or physician assistant* to exercise the degree of care, diligence and skill ordinarily exercised by osteopathic physicians *or physician assistants* in good standing in the community in which he or she practices.

**Sec. 6.** NRS 633.131 is hereby amended to read as follows:

633.131 1. "Unprofessional conduct" includes:

(a) Willfully making a false or fraudulent statement or submitting a forged or false document in applying for a license to practice osteopathic medicine *or to practice as a physician assistant*, or in applying for *the* renewal of a license to practice osteopathic medicine ~~+~~ *or to practice as a physician assistant*.

(b) Failure of a ~~licensee of the~~ *person who is licensed to practice* ~~to~~ osteopathic medicine to ~~designate his or her school of practice in the professional use of his or her name by~~ *identify himself or herself professionally by using* the term D.O., osteopathic physician, doctor of osteopathy or a similar term.

(c) Directly or indirectly giving to or receiving from any person, corporation or other business organization any fee, commission, rebate or other form of compensation for sending, referring or otherwise inducing a

person to communicate with an osteopathic physician in his or her professional capacity or for any professional services not actually and personally rendered, except as otherwise provided in subsection 2.

(d) Employing, directly or indirectly, any suspended or unlicensed person in the practice of osteopathic medicine ~~or~~ ***or in practice as a physician assistant***, or the aiding or abetting of any unlicensed person to practice osteopathic medicine ~~or~~ ***or to practice as a physician assistant***.

(e) Advertising the practice of osteopathic medicine in a manner which does not conform to the guidelines established by regulations of the Board.

(f) Engaging in any:

(1) Professional conduct which is intended to deceive or which the Board by regulation has determined is unethical; or

(2) Medical practice harmful to the public or any conduct detrimental to the public health, safety or morals which does not constitute gross or repeated malpractice or professional incompetence.

(g) Administering, dispensing or prescribing any controlled substance or any dangerous drug as defined in chapter 454 of NRS, otherwise than in the course of legitimate professional practice or as authorized by law.

(h) Habitual drunkenness or habitual addiction to the use of a controlled substance.

(i) Performing, assisting in or advising an unlawful abortion or the injection of any liquid silicone substance into the human body, other than the use of silicone oil to repair a retinal detachment.

(j) Willful disclosure of a communication privileged pursuant to a statute or court order.

(k) Willful disobedience of the regulations of the State Board of Health, the State Board of Pharmacy or the State Board of Osteopathic Medicine.

(l) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of or conspiring to violate any prohibition made in this chapter.

(m) Failure of a licensee to maintain timely, legible, accurate and complete medical records relating to the diagnosis, treatment and care of a patient.

(n) Making alterations to the medical records of a patient that the licensee knows to be false.

(o) Making or filing a report which the licensee knows to be false.

(p) Failure of a licensee to file a record or report as required by law, or willfully obstructing or inducing any person to obstruct such filing.

(q) Failure of a licensee to make medical records of a patient available for inspection and copying as provided by NRS 629.061.

***(r) Providing false, misleading or deceptive information to the Board in connection with an investigation conducted by the Board.***

2. It is not unprofessional conduct:

(a) For persons holding valid licenses to practice osteopathic medicine issued pursuant to this chapter to practice osteopathic medicine in partnership

under a partnership agreement or in a corporation or an association authorized by law, or to pool, share, divide or apportion the fees and money received by them or by the partnership, corporation or association in accordance with the partnership agreement or the policies of the board of directors of the corporation or association;

(b) For two or more persons holding valid licenses to practice osteopathic medicine issued pursuant to this chapter to receive adequate compensation for concurrently rendering professional care to a patient and dividing a fee if the patient has full knowledge of this division and if the division is made in proportion to the services performed and the responsibility assumed by each ~~††~~ *person*; or

(c) For a person licensed to practice osteopathic medicine pursuant to the provisions of this chapter to form an association or other business relationship with an optometrist pursuant to the provisions of NRS 636.373.

**Sec. 7.** NRS 633.221 is hereby amended to read as follows:

633.221 ~~††~~ The Board shall elect from its members a President, a Vice President and a Secretary-Treasurer, who shall hold their respective offices at ~~its~~ *the* pleasure ~~†~~

~~2.—The Board may fix and pay a salary to the Secretary-Treasurer.† of the Board.~~

**Sec. 8.** NRS 633.286 is hereby amended to read as follows:

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

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

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

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

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

**Sec. 9.** NRS 633.305 is hereby amended to read as follows:

633.305 1. Every applicant for a license shall:

(a) File an application with the Board in the manner prescribed by regulations of the Board;

(b) Submit verified proof satisfactory to the Board that the applicant meets any age, citizenship and educational requirements prescribed by this chapter; and

(c) Pay in advance to the Board the application and initial license fee specified in ~~this chapter~~ **NRS 633.501**.

2. An application filed with the Board pursuant to subsection 1 must include all information required to complete the application.

3. The Board may hold hearings and conduct investigations into any matter related to the application and, in addition to the proofs required by subsection 1, may take such further evidence and require such other documents or proof of qualifications as it deems proper.

4. The Board may reject an application if ~~it appears~~ **the Board has cause to believe** that any credential **or information** submitted **by the applicant** is false ~~or~~, **misleading, deceptive or fraudulent**.

**Sec. 9.5. NRS 633.311 is hereby amended to read as follows:**

633.311 Except as otherwise provided in NRS 633.315, an applicant for a license to practice osteopathic medicine may be issued a license by the Board if:

1. The applicant is 21 years of age or older;
2. The applicant is a citizen of the United States or is lawfully entitled to remain and work in the United States;
3. The applicant is a graduate of a school of osteopathic medicine;
4. The applicant:

(a) Has graduated from a school of osteopathic medicine before 1995 and has completed:

(1) A hospital internship; or

(2) One year of postgraduate training that complies with the standards of intern training established by the American Osteopathic Association;

(b) Has completed 3 years **, or such other length of time as required by a specific program,** of postgraduate medical education as a resident in the United States or Canada in a program approved by the Board, the Bureau of Professional Education of the American Osteopathic Association or the Accreditation Council for Graduate Medical Education; or

(c) Is a resident who is enrolled in a postgraduate training program in this State, has completed 24 months of the program and has committed, in writing, that he or she will complete the program;

5. The applicant applies for the license as provided by law;

6. The applicant passes:

(a) All parts of the licensing examination of the National Board of Osteopathic Medical Examiners;

(b) All parts of the licensing examination of the Federation of State Medical Boards of the United States, Inc.;

(c) All parts of the licensing examination of the Board, a state, territory or possession of the United States, or the District of Columbia, and is certified

by a specialty board of the American Osteopathic Association or by the American Board of Medical Specialties; or

(d) A combination of the parts of the licensing examinations specified in paragraphs (a), (b) and (c) that is approved by the Board;

7. The applicant pays the fees provided for in this chapter; and

8. The applicant submits all information required to complete an application for a license.

**Sec. 10.** NRS 633.351 is hereby amended to read as follows:

633.351 ~~Any~~ **An** unsuccessful applicant may appeal to the district court to review the action of the Board, if the applicant files the appeal within ~~6 months from~~ **30 days after** the date ~~of the rejection of~~ **on which the order rejecting** the application **is issued** by the Board. Upon appeal, the applicant has the burden of showing that the action of the Board is erroneous or unlawful.

**Sec. 11.** NRS 633.391 is hereby amended to read as follows:

633.391 1. The Board may issue **to a qualified person** a temporary license to practice osteopathic medicine in ~~order to authorize a~~ **this State which authorizes the** person ~~who is qualified to practice osteopathic medicine in this State~~ to serve as a substitute for ~~—~~

~~(a) A~~ **a** physician licensed pursuant to chapter 630 of NRS ~~—~~ or

~~(b) An~~ **an** osteopathic physician licensed pursuant to this chapter ~~—~~ who is absent from his or her practice.

2. Each applicant for ~~such~~ a **temporary** license ~~shall~~ **issued pursuant to this section must** pay the temporary license fee specified in this chapter.

3. A temporary license to practice osteopathic medicine is valid for not more than 6 months after issuance and is not renewable. **Upon the expiration of a temporary license, an osteopathic physician may apply for a new temporary license in accordance with the provisions of this section.**

**Sec. 11.3. NRS 633.400 is hereby amended to read as follows:**

633.400 1. Except as otherwise provided in NRS 633.315, the Board shall, except for good cause, issue a license by endorsement to a person who has been issued a license to practice osteopathic medicine by the District of Columbia or any state or territory of the United States if:

(a) At the time the person files an application with the Board, the license is in effect and unrestricted; and

(b) The applicant:

(1) Is currently certified by either a specialty board of the American Board of Medical Specialties or a specialty board of the American Osteopathic Association, ~~and~~ **or** was certified or recertified within the past 10 years;

(2) Has had no adverse actions reported to the National Practitioner Data Bank within the past 5 years;

(3) Has been continuously and actively engaged in the practice of osteopathic medicine within his or her specialty for the past 5 years;

(4) Is not involved in and does not have pending any disciplinary action concerning a license to practice osteopathic medicine in the District of Columbia or any state or territory of the United States;

(5) Provides information on all the medical malpractice claims brought against him or her, without regard to when the claims were filed or how the claims were resolved; and

(6) Meets all statutory requirements to obtain a license to practice osteopathic medicine in this State except that the applicant is not required to meet the requirements set forth in NRS 633.311.

2. Any person applying for a license pursuant to this section shall pay in advance to the Board the application and initial license fee specified in this chapter.

3. A license by endorsement may be issued at a meeting of the Board or between its meetings by its President and Executive Director. Such action shall be deemed to be an action of the Board.

**Sec. 11.5. NRS 633.434 is hereby amended to read as follows:**

633.434 The Board shall adopt regulations regarding the licensure of a physician assistant, including, without limitation:

1. The educational and other qualifications of applicants.
2. The required academic program for applicants.
3. The procedures for applications for and the issuance of licenses.
4. The tests or examinations of applicants by the Board.

5. The medical services which a physician assistant may perform, except that a physician assistant may not perform osteopathic manipulative therapy or those specific functions and duties delegated or restricted by law to persons licensed as dentists, chiropractors, doctors of Oriental medicine, podiatric physicians, optometrists and hearing aid specialists under chapters 631, 634, 634A, 635, 636 and 637A, respectively, of NRS.

~~6. The duration, renewal and termination of licenses.~~

~~7.~~ The grounds and procedures respecting disciplinary actions against physician assistants.

~~8.~~ 7. The supervision of medical services of a physician assistant by a supervising osteopathic physician.

**Sec. 11.7. NRS 633.471 is hereby amended to read as follows:**

633.471 1. Except as otherwise provided in subsection 4 and NRS 633.491, every holder of a license ~~to practice osteopathic medicine~~ issued under this chapter, except a temporary or a special license, may renew the license on or before January 1 of each calendar year after its issuance by:

- (a) Applying for renewal on forms provided by the Board;
- (b) Paying the annual license renewal fee specified in this chapter;
- (c) Submitting a list of all actions filed or claims submitted to arbitration or mediation for malpractice or negligence against the holder during the previous year;

(d) Submitting an affidavit to the Board that in the year preceding the application for renewal the holder has attended courses or programs of

continuing education approved by the Board totaling a number of hours established by the Board which must not be less than 35 hours nor more than that set in the requirements for continuing medical education of the American Osteopathic Association; and

(e) Submitting all information required to complete the renewal.

2. The Secretary of the Board shall notify each licensee ~~of the practice of osteopathic medicine~~ of the requirements for renewal not less than 30 days before the date of renewal.

3. The Board shall request submission of verified evidence of completion of the required number of hours of continuing medical education annually from no fewer than one-third of the applicants for renewal of a license to practice osteopathic medicine ~~or~~ or a license to practice as a physician assistant. Upon a request from the Board, an applicant for renewal of a license to practice osteopathic medicine or a license to practice as a physician assistant shall submit verified evidence satisfactory to the Board that in the year preceding the application for renewal the applicant attended courses or programs of continuing medical education approved by the Board totaling the number of hours established by the Board.

4. Members of the Armed Forces of the United States and the United States Public Health Service are exempt from payment of the annual license renewal fee during their active duty status.

**Sec. 12.** NRS 633.481 is hereby amended to read as follows:

633.481 1. Except as otherwise provided in subsection 2, if a licensee ~~of the person licensed to practice of~~ ~~of osteopathic medicine~~ fails to comply with the requirements of NRS 633.471 within ~~30~~ **10** days after the renewal date, the Board shall give ~~30~~ **15** days' notice of ~~the~~ failure to renew ~~the license~~ and of ~~the revocation~~ expiration of the license by certified mail to the licensee at the licensee's last **known** address ~~that is~~ registered with the Board. If the license is not renewed ~~before the expiration of the 30 days~~ within 15 days after receiving notice, the license ~~is~~ expires automatically ~~revoked~~ without any further notice or a hearing and the Board shall file a copy of the notice with the Drug Enforcement Administration of the United States Department of Justice or its successor agency.

2. A licensee ~~of the person licensed to practice of~~ ~~of osteopathic medicine~~ who fails to meet the continuing education requirements for license renewal may apply to the Board for a waiver of the requirements. The Board may grant a waiver for that year only if ~~it~~ **the Board** finds that the failure is due to ~~the licensee's~~ **a** disability, military service, ~~or~~ absence from the United States, or ~~to~~ circumstances beyond the control of the licensee which are deemed by the Board to excuse the failure.

3. A person whose license ~~is revoked~~ has expired under this section may apply to the Board for restoration of the license upon:

(a) Payment of all past due renewal fees and the late payment fee specified in ~~this chapter;~~ **NRS 633.501;**



(b) Producing verified evidence satisfactory to the Board of completion of the total number of hours of continuing education required for the year preceding the renewal date and for each year succeeding the date of ~~revocation;~~ expiration;

(c) Stating under oath in writing that he or she has not withheld information from the Board which if disclosed would ~~furnish~~ **constitute** grounds for disciplinary action under this chapter; and

(d) Submitting ~~all~~ **any other** information **that is** required **by the Board** to ~~complete the restoration of~~ **restore** the license.

**Sec. 13.** NRS 633.491 is hereby amended to read as follows:

633.491 1. A licensee ~~of the~~ ~~person licensed to practice~~ ~~of~~ ~~osteopathic medicine~~ who retires from ~~such~~ practice ~~need not~~ **is not required** annually **to** renew his or her license after filing with the Board an affidavit stating the date on which he or she retired from practice and ~~such~~ **any other** ~~facts~~ **evidence that the Board may require** to verify the retirement. ~~as the Board deems necessary.~~

2. ~~A retired licensee of the~~ **An osteopathic physician or physician assistant who retires from** practice ~~of osteopathic medicine~~ **and** who desires to return to practice may apply to renew his or her license by paying all back annual license renewal fees from the date of retirement and submitting verified evidence satisfactory to the Board that the licensee has attended continuing education courses or programs approved by the Board which total:

(a) Twenty-five hours if the licensee has been retired 1 year or less.

(b) Fifty hours within 12 months of the date of the application if the licensee has been retired for more than 1 year.

3. A licensee ~~of the~~ ~~person licensed to practice~~ ~~of~~ ~~osteopathic medicine~~ who wishes to have a license placed on inactive status must provide the Board with an affidavit stating the date on which the licensee will cease the practice of osteopathic medicine **or cease to practice as a physician assistant** in Nevada and any other ~~facts~~ **evidence** that the Board may require. The Board shall place the license of the licensee on inactive status upon receipt of:

(a) The affidavit required pursuant to this subsection; and

(b) Payment of the inactive license fee prescribed by NRS 633.501.

4. ~~A licensee of the practice of~~ **An osteopathic** ~~medicine~~ **physician or physician assistant** whose license has been placed on inactive status:

(a) ~~Need~~ **Is not required to** annually renew the license.

(b) Shall annually pay the inactive license fee prescribed by NRS 633.501.

(c) Shall not ~~engage in the~~ practice ~~of~~ osteopathic medicine **or practice as a physician assistant** in this State.

5. ~~A licensee of the practice of~~ **An osteopathic** ~~medicine~~ **physician or physician assistant** whose license is on inactive status and who wishes to renew ~~the~~ **his or her** license to practice osteopathic medicine **or license to practice as a physician assistant** must:

(a) Provide to the Board verified evidence satisfactory to the Board of completion of the total number of hours of continuing medical education required for:

- (1) The year preceding the date of the application for renewal of the license ; ~~to practice osteopathic medicine;~~ and
- (2) Each year ~~succeeding~~ **after** the date the license was placed on inactive status.

(b) Provide to the Board an affidavit stating that the applicant has not withheld from the Board any information which would ~~provide~~ **constitute** grounds for disciplinary action pursuant to this chapter.

(c) Comply with all other requirements for renewal.

**Sec. 14.** NRS 633.501 is hereby amended to read as follows:  
633.501 ~~The~~

**1. Except as otherwise provided in subsection 2, the** Board shall charge and collect fees not to exceed the following amounts:

<del>1-1</del> (a) Application and initial license fee for an osteopathic physician.....	\$800
<del>1-2</del> (b) Annual license renewal fee for an osteopathic physician.....	500
<del>1-3</del> (c) Temporary license fee .....	500
<del>1-4</del> (d) Special or authorized facility license fee.....	200
<del>1-5</del> (e) Special event license fee.....	200
<del>1-6</del> (f) Special or authorize facility license renewal fee.....	200
<del>1-7</del> (g) Reexamination fee.....	200
<del>1-8</del> (h) Late payment fee.....	300
<del>1-9</del> (i) Application and initial license fee for a physician assistant .....	400
<del>1-10</del> (j) Annual license renewal fee for a physician assistant.....	400
<del>1-11</del> (k) Inactive license fee .....	200

**2. The Board may prorate the initial license fee for a new license issued pursuant to paragraph (a) or (i) of subsection 1 which expires less than 6 months after the date of issuance.**

**3. The cost of any special meeting called at the request of a licensee, an institution, an organization, a state agency or an applicant for licensure must be paid by the person or entity requesting the special meeting. Such a special meeting must not be called until the person or entity requesting the meeting has paid a cash deposit with the Board sufficient to defray all expenses of the meeting.**

**Sec. 15.** NRS 633.511 is hereby amended to read as follows:  
633.511 The grounds for initiating disciplinary action pursuant to this

chapter are:

- 1. Unprofessional conduct.
- 2. Conviction of:

(a) A violation of any federal or state law regulating the possession, distribution or use of any controlled substance or any dangerous drug as defined in chapter 454 of NRS;

(b) A felony relating to the practice of osteopathic medicine ~~+~~ **or practice as a physician assistant;**

(c) A violation of any of the provisions of NRS 616D.200, 616D.220, 616D.240 or 616D.300 to 616D.440, inclusive;

(d) Murder, voluntary manslaughter or mayhem;

(e) Any felony involving the use of a firearm or other deadly weapon;

(f) Assault with intent to kill or to commit sexual assault or mayhem;

(g) Sexual assault, statutory sexual seduction, incest, lewdness, indecent exposure or any other sexually related crime;

(h) Abuse or neglect of a child or contributory delinquency; or

(i) Any offense involving moral turpitude.

3. The suspension of ~~the~~ **a** license to practice osteopathic medicine **or to practice as a physician assistant** by any other jurisdiction.

4. Malpractice or gross malpractice, which may be evidenced by a claim of malpractice settled against a ~~practitioner~~ **licensee.**

5. Professional incompetence.

6. Failure to comply with the requirements of NRS 633.527.

7. Failure to comply with the requirements of subsection 3 of NRS 633.471.

8. Failure to comply with the provisions of NRS 633.694.

9. Operation of a medical facility, as defined in NRS 449.0151, at any time during which:

(a) The license of the facility is suspended or revoked; or

(b) An act or omission occurs which results in the suspension or revocation of the license pursuant to NRS 449.160.

↪ This subsection applies to an owner or other principal responsible for the operation of the facility.

10. Failure to comply with the provisions of subsection 2 of NRS 633.322.

11. Signing a blank prescription form.

12. Attempting, directly or indirectly, by intimidation, coercion or deception, to obtain or retain a patient or to discourage the use of a second opinion.

13. Terminating the medical care of a patient without adequate notice or without making other arrangements for the continued care of the patient.

14. In addition to the provisions of subsection 3 of NRS 633.524, making or filing a report which the licensee knows to be false, failing to file a record or report that is required by law or willfully obstructing or inducing another to obstruct the making or filing of such a record or report.

15. Failure to report any person the licensee knows, or has reason to know, is in violation of the provisions of this chapter or the regulations of the

Board within 30 days after the date the licensee knows or has reason to know of the violation.

16. Failure by a licensee or applicant to report in writing, within 30 days, any criminal action taken or conviction obtained against the licensee or applicant, other than a minor traffic violation, in this State or any other state or by the Federal Government, a branch of the Armed Forces of the United States or any local or federal jurisdiction of a foreign country.

17. Engaging in any act that is unsafe in accordance with regulations adopted by the Board.

**18. Failure to comply with the provisions of section 2 of this act.**

**Sec. 16.** NRS 633.526 is hereby amended to read as follows:

633.526 1. The insurer of an osteopathic physician *or physician assistant* licensed under this chapter shall report to the Board:

(a) Any action for malpractice against the osteopathic physician *or physician assistant* not later than 45 days after the osteopathic physician *or physician assistant* receives service of a summons and complaint for the action;

(b) Any claim for malpractice against the osteopathic physician *or physician assistant* that is submitted to arbitration or mediation not later than 45 days after the claim is submitted to arbitration or mediation; and

(c) Any settlement, award, judgment or other disposition of any action or claim described in paragraph (a) or (b) not later than 45 days after the settlement, award, judgment or other disposition.

2. The Board shall report any failure to comply with subsection 1 by an insurer licensed in this State to the Division of Insurance of the Department of Business and Industry. If, after a hearing, the Division of Insurance determines that any such insurer failed to comply with the requirements of subsection 1, the Division may impose an administrative fine of not more than \$10,000 against the insurer for each such failure to report. If the administrative fine is not paid when due, the fine must be recovered in a civil action brought by the Attorney General on behalf of the Division.

**Sec. 17.** NRS 633.527 is hereby amended to read as follows:

633.527 1. An osteopathic physician *or physician assistant* shall report to the Board:

(a) Any action for malpractice against the osteopathic physician *or physician assistant* not later than 45 days after the osteopathic physician *or physician assistant* receives service of a summons and complaint for the action;

(b) Any claim for malpractice against the osteopathic physician *or physician assistant* that is submitted to arbitration or mediation not later than 45 days after the claim is submitted to arbitration or mediation;

(c) Any settlement, award, judgment or other disposition of any action or claim described in paragraph (a) or (b) not later than 45 days after the settlement, award, judgment or other disposition; and

(d) Any sanctions imposed against the osteopathic physician *or physician assistant* that are reportable to the National Practitioner Data Bank not later than 45 days after the sanctions are imposed.

2. If the Board finds that an osteopathic physician *or physician assistant* has violated any provision of this section, the Board may impose a fine of not more than \$5,000 against the osteopathic physician *or physician assistant* for each violation, in addition to any other fines or penalties permitted by law.

3. All reports made by an osteopathic physician *or physician assistant* pursuant to this section are public records.

**Sec. 18.** NRS 633.528 is hereby amended to read as follows:

633.528 If the Board receives a report pursuant to the provisions of NRS 633.526, 633.527, 690B.250 or 690B.260 indicating that a judgment has been rendered or an award has been made against an osteopathic physician *or physician assistant* regarding an action or claim for malpractice or that such an action or claim against the osteopathic physician *or physician assistant* has been resolved by settlement, the Board shall conduct an investigation to determine whether to ~~impose disciplinary action against~~ *discipline* the osteopathic physician *or physician assistant* regarding the action or claim, unless the Board has already commenced or completed such an investigation regarding the action or claim before it receives the report.

**Sec. 19.** NRS 633.529 is hereby amended to read as follows:

633.529 1. Notwithstanding the provisions of chapter 622A of NRS, if the Board receives a report pursuant to the provisions of NRS 633.526, 633.527, 690B.250 or 690B.260 indicating that a judgment has been rendered or an award has been made against an osteopathic physician *or physician assistant* regarding an action or claim for malpractice, or that such an action or claim against the osteopathic physician *or physician assistant* has been resolved by settlement, the Board may order ~~that~~ the osteopathic physician *or physician assistant* to undergo a mental or physical examination or ~~an~~ *any other* examination ~~testing~~ *designated by the Board to test* his or her competence to practice *osteopathic* medicine *or to practice as a physician assistant, as applicable. An examination conducted pursuant to this subsection must be conducted* by osteopathic physicians ~~for other examinations~~ *designated by the Board .* ~~to assist the Board or any investigative committee of the Board in determining the fitness of the osteopathic physician to practice medicine.~~

2. For the purposes of this section:

(a) ~~Every~~ *An* osteopathic physician *or physician assistant* who applies for a license or who holds a license under this chapter ~~shall be~~ *is* deemed to have given consent to submit to a mental or physical examination or an examination testing his or her competence to practice *osteopathic* medicine ~~when ordered to do so in writing~~ *or to practice as a physician assistant, as applicable, pursuant to a written order* by the Board.

(b) The testimony or reports of the examining osteopathic physician are not privileged communications.

**Sec. 20.** NRS 633.531 is hereby amended to read as follows:

633.531 1. The Board or any of its members, ~~any~~ **or a** medical review panel of a hospital or medical society, which becomes aware ~~{that any one or combination of the}~~ **of any conduct by an osteopathic physician or physician assistant that may constitute** grounds for initiating disciplinary action ~~{may exist as to a person practicing osteopathic medicine in this State}~~ shall, and any other person who is so aware may, file a written complaint specifying the relevant facts with the Board.

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

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

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

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

3. Any hospital, clinic or other medical facility licensed in this State, or medical society, shall **file a written** report ~~{to}~~ **with** the Board **of** any change in ~~{an osteopathic physician's}~~ **the** privileges **of an osteopathic physician to practice osteopathic medicine or a physician assistant to practice as a physician assistant** while the osteopathic physician **or physician assistant** is under investigation, and the outcome of any disciplinary action taken by ~~{that}~~ **the** facility or society against the osteopathic physician **or physician assistant** concerning the care of a patient or the competency of the osteopathic physician **or physician assistant**, within 30 days after the change in privileges is made or disciplinary action is taken. The Board shall report any failure to comply with this subsection by a hospital, clinic or other medical facility licensed in this State to the Health Division of the Department of Health and Human Services. If, after a hearing, the Health Division determines that any such facility or society failed to comply with the requirements of this subsection, the **Health** Division may impose an administrative fine of not more than \$10,000 against the facility or society for each such failure to report. If the administrative fine is not paid when due, the fine must be recovered in a civil action brought by the Attorney General on behalf of the **Health** Division.

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

- (a) Is ~~is a person with mental illness;~~ **mentally ill;**
- (b) Is ~~is a person with mental incompetence;~~ **mentally incompetent;**
- (c) Has been convicted of a felony or any law governing controlled substances or dangerous drugs;
- (d) Is guilty of abuse or fraud under any state or federal program providing medical assistance; or
- (e) Is liable for damages for malpractice or negligence,  
 ↪ within 45 days after ~~such a~~ **the** finding, judgment or determination . ~~is made.~~

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

**Sec. 22.** NRS 633.561 is hereby amended to read as follows:

633.561 1. Notwithstanding the provisions of chapter 622A of NRS, if the Board or a member of the Board designated to review a complaint pursuant to NRS 633.541 has reason to believe that the conduct of an osteopathic physician **or physician assistant** has raised a reasonable question as to his or her competence to practice osteopathic medicine **or to practice as a physician assistant, as applicable,** with reasonable skill and safety to patients, the Board or the member designated by the Board may require the osteopathic physician **or physician assistant** to submit to a mental or physical examination **conducted** by physicians designated by the Board. If the osteopathic physician **or physician assistant** participates in a diversion program, the diversion program may exchange with any authorized member of the staff of the Board any information concerning the recovery and participation of the osteopathic physician **or physician assistant** in the diversion program. As used in this subsection, "diversion program" means a program approved by the Board to correct an osteopathic physician's **or physician assistant's** alcohol or drug dependence or any other impairment.

2. For the purposes of this section:

(a) ~~Every~~ **An osteopathic physician or physician assistant** who is licensed under this chapter **and** who accepts the privilege of practicing osteopathic medicine **or practicing as a physician assistant** in this State ~~shall be~~ **is** deemed to have given consent to submit to a mental or physical examination ~~if directed to do so in writing~~ **pursuant to a written order** by the Board.

(b) The testimony or examination reports of the examining physicians are not privileged communications.

3. Except in extraordinary circumstances, as determined by the Board, the failure of ~~at~~ **an osteopathic physician or physician assistant** who is

licensed under this chapter to submit to an examination ~~if directed as provided in~~ **pursuant to** this section constitutes an admission of the charges against the **osteopathic physician ~~or~~ or physician assistant**.

**Sec. 23.** NRS 633.571 is hereby amended to read as follows:

633.571 Notwithstanding the provisions of chapter 622A of NRS, if the Board has reason to believe that the conduct of any osteopathic physician **or physician assistant** has raised a reasonable question as to his or her competence to practice osteopathic medicine **or to practice as a physician assistant, as applicable**, with reasonable skill and safety to patients, the Board may ~~cause a medical competency examination of~~ **require** the **osteopathic physician or physician assistant to submit to an examination for the** purposes of determining his or her ~~fitness~~ **competence** to practice osteopathic medicine **or to practice as a physician assistant, as applicable**, with reasonable skill and safety to patients.

**Sec. 24.** NRS 633.581 is hereby amended to read as follows:

633.581 1. If an investigation by the Board ~~regarding~~ **of** an osteopathic physician **or physician assistant** reasonably determines that the health, safety or welfare of the public or any patient served by the osteopathic physician **or physician assistant** is at risk of imminent or continued harm, the Board may summarily suspend the license of the osteopathic physician ~~or~~ **or physician assistant**. The order of summary suspension may be issued by the Board, an investigative committee of the Board or the Executive Director of the Board after consultation with the President, Vice President or Secretary-Treasurer of the Board.

2. If the Board issues an order summarily suspending the license of an osteopathic physician **or physician assistant** pursuant to subsection 1, the Board shall hold a hearing regarding the matter not later than 45 days after the date on which the Board issues the order summarily suspending the license unless the Board and the licensee mutually agree to a longer period.

3. Notwithstanding the provisions of chapter 622A of NRS, if the Board issues an order summarily suspending the license of an osteopathic physician **or physician assistant** pending ~~proceedings~~ **a proceeding** for disciplinary action and requires the **osteopathic physician or physician assistant** to submit to a mental or physical examination or a medical competency examination, the examination ~~shall~~ **must** be conducted and the results **must be** obtained not later than 60 days after the Board issues ~~its~~ **the** order.

**Sec. 25.** NRS 633.591 is hereby amended to read as follows:

633.591 Notwithstanding the provisions of chapter 622A of NRS, if the Board issues an order summarily suspending the license of an osteopathic physician **or physician assistant** pending proceedings for disciplinary action, including, without limitation, a summary suspension pursuant to NRS 233B.127, the court shall not stay that order unless the Board fails to institute and determine such proceedings as promptly as the requirements for investigation of the case reasonably allow.

**Sec. 26.** NRS 633.601 is hereby amended to read as follows:



633.601 1. In addition to any other remedy provided by law, the Board, through ~~its President or Secretary~~ **an officer of the Board** or the Attorney General, may apply to any court of competent jurisdiction to enjoin any unprofessional conduct of an osteopathic physician **or physician assistant** which is harmful to the public or to limit the ~~physician's~~ practice **of the osteopathic physician or physician assistant** or suspend his or her license to practice **osteopathic medicine or to practice as a physician assistant, as applicable**, as provided in this section.

2. The court in a proper case may issue a temporary restraining order or a preliminary injunction for such purposes:

(a) Without proof of actual damage sustained by any person, this provision being a preventive as well as punitive measure; and

(b) Pending proceedings for disciplinary action by the Board. Notwithstanding the provisions of chapter 622A of NRS, such proceedings shall be instituted and determined as promptly as the requirements for investigation of the case reasonably allow.

**Sec. 27.** NRS 633.631 is hereby amended to read as follows:

633.631 Except as otherwise provided in chapter 622A of NRS:

1. Service of process made under this chapter ~~shall~~ **must** be either personal or by registered or certified mail with return receipt requested, addressed to the osteopathic physician **or physician assistant** at his or her last known address, as indicated ~~on~~ **in** the records of the Board. ~~It is possible.~~ If personal service cannot be made and if mail notice is returned undelivered, the Secretary of the Board shall cause **a** notice of hearing to be published once a week for 4 consecutive weeks in a newspaper published in the county of the ~~physician's~~ last known address **of the osteopathic physician or physician assistant** or, if no newspaper is published in that county, ~~then~~ in a newspaper widely distributed in that county.

2. Proof of service of process or publication of notice made under this chapter ~~shall~~ **must** be filed with the Secretary of the Board and ~~shall~~ **must** be recorded in the minutes of the Board.

**Sec. 28.** NRS 633.641 is hereby amended to read as follows:

633.641 Notwithstanding the provisions of chapter 622A of NRS, in any disciplinary proceeding before the Board, a hearing officer or a panel:

1. Proof of actual injury need not be established where the formal complaint charges deceptive or unethical professional conduct or medical practice harmful to the public.

2. A certified copy of the record of a court or a licensing agency showing a conviction or the suspension or revocation of a license to practice osteopathic medicine **or to practice as a physician assistant** is conclusive evidence of its occurrence.

**Sec. 29.** NRS 633.651 is hereby amended to read as follows:

633.651 1. If the Board finds a person guilty in a disciplinary proceeding, it shall by order take one or more of the following actions:

- (a) Place the person on probation for a specified period or until further order of the Board.
  - (b) Administer to the person a public reprimand.
  - (c) Limit the practice of the person to, or by the exclusion of, one or more specified branches of osteopathic medicine.
  - (d) Suspend the license of the person to practice osteopathic medicine **or to practice as a physician assistant** for a specified period or until further order of the Board.
  - (e) Revoke the license of the person to practice osteopathic medicine ~~†~~ **or to practice as a physician assistant.**
  - (f) Impose a fine not to exceed \$5,000 for each violation.
  - (g) Require supervision of the practice of the person.
  - (h) Require the person to perform community service without compensation.
  - (i) Require the person to complete any training or educational requirements specified by the Board.
  - (j) Require the person to participate in a program to correct alcohol or drug dependence or any other impairment.
- ➔ The order of the Board may contain any other terms, provisions or conditions as the Board deems proper and which are not inconsistent with law.

2. The Board shall not administer a private reprimand.

3. An order that imposes discipline and the findings of fact and conclusions of law supporting that order are public records.

**Sec. 30.** NRS 633.671 is hereby amended to read as follows:

633.671 1. Any person who has been placed on probation or whose license has been limited, suspended or revoked by the Board is entitled to judicial review of the Board's order as provided by law.

2. Every order of the Board which limits the practice of **osteopathic medicine or the practice of a physician assistant** or suspends or revokes a license is effective from the date ~~the Secretary certifies~~ **on which the order is issued by the Board** until the date the order is modified or reversed by a final judgment of the court.

3. The district court shall give a petition for judicial review of the Board's order priority over other civil matters which are not expressly given priority by law.

**Sec. 31.** NRS 633.681 is hereby amended to read as follows:

633.681 1. Any person:

- (a) Whose practice of osteopathic medicine **or practice as a physician assistant** has been limited; or
- (b) Whose license to practice osteopathic medicine **or to practice as a physician assistant** has been:
  - (1) Suspended until further order; or
  - (2) Revoked,

↪ may apply to the Board after a reasonable period for removal of the limitation or suspension or may apply to the Board pursuant to the provisions of chapter 622A of NRS for reinstatement of the revoked license.

2. In hearing the application, the Board:

(a) May require the person to submit to a mental or physical examination by physicians whom it designates and submit such other evidence of changed conditions and of fitness as it deems proper;

(b) Shall determine whether under all the circumstances the time of the application is reasonable; and

(c) May deny the application or modify or rescind its order as it deems the evidence and the public safety warrants.

**Sec. 32.** NRS 633.691 is hereby amended to read as follows:

633.691 1. In addition to any other immunity provided by the provisions of chapter 622A of NRS, the Board, a medical review panel of a hospital, a hearing officer, a panel of the Board, an employee or volunteer of a diversion program specified in NRS 633.561, or any person who or other organization which initiates or assists in any lawful investigation or proceeding concerning the discipline of an osteopathic physician *or physician assistant* for gross malpractice, malpractice, professional incompetence or unprofessional conduct is immune from any civil action for such initiation or assistance or any consequential damages, if the person or organization acted in good faith.

2. The Board shall not commence an investigation, impose any disciplinary action or take any other adverse action against an osteopathic physician *or physician assistant* for:

(a) Disclosing to a governmental entity a violation of a law, rule or regulation by an applicant for a license to practice osteopathic medicine or *to practice as a physician assistant, or* by an osteopathic physician ~~or~~ *or physician assistant;* or

(b) Cooperating with a governmental entity that is conducting an investigation, hearing or inquiry into such a violation, including, without limitation, providing testimony concerning the violation.

3. As used in this section, "governmental entity" includes, without limitation:

(a) A federal, state or local officer, employee, agency, department, division, bureau, board, commission, council, authority or other subdivision or entity of a public employer;

(b) A federal, state or local employee, committee, member or commission of the Legislative Branch of Government;

(c) A federal, state or local representative, member or employee of a legislative body or a county, town, village or any other political subdivision or civil division of the State;

(d) A federal, state or local law enforcement agency or prosecutorial office, or any member or employee thereof, or police or peace officer; and

(e) A federal, state or local judiciary, or any member or employee thereof, or grand or petit jury.

**Sec. 33.** NRS 633.701 is hereby amended to read as follows:

633.701 The filing and review of a complaint and any subsequent disposition by the Board, the member designated by the Board to review a complaint pursuant to NRS 633.541 or any reviewing court do not preclude:

1. Any measure by a hospital or other institution to limit or terminate the privileges of an osteopathic physician *or physician assistant* according to its rules or the custom of the profession. No civil liability attaches to any such action taken without malice even if the ultimate disposition of the complaint is in favor of the *osteopathic* physician ~~or physician assistant~~.

2. Any appropriate criminal prosecution by the Attorney General or a district attorney based upon the same or other facts.

**Sec. 34.** NRS 633.711 is hereby amended to read as follows:

633.711 1. The Board, through ~~its President or Secretary~~ *an officer of the Board* or the Attorney General, may maintain in any court of competent jurisdiction a suit for an injunction against any person ~~practicing~~:

(a) *Practicing* osteopathic medicine *or practicing as a physician assistant* without a *valid* license to practice osteopathic medicine ~~valid under this chapter~~ *or to practice as a physician assistant; or*

(b) *Engaging in telemedicine without a valid license pursuant to section 2 of this act.*

2. ~~Such an~~ *An* injunction ~~is~~ *issued pursuant to subsection 1:*

(a) May be issued without proof of actual damage sustained by any person, this provision being a preventive as well as a punitive measure.

(b) ~~Shall~~ *Must* not relieve such person from criminal prosecution for practicing without such a license.

**Sec. 35.** NRS 633.721 is hereby amended to read as follows:

633.721 In a criminal complaint charging any person with practicing osteopathic medicine *or practicing as a physician assistant* without a *valid* license ~~to practice osteopathic medicine~~ *issued by the Board*, it is sufficient to charge that the person did, upon a certain day, and in a certain county of this State, engage in ~~the~~ *such* practice ~~of osteopathic medicine~~ without having a valid license to do so, without averring any further or more particular facts concerning the violation.

**Sec. 36.** NRS 633.741 is hereby amended to read as follows:

633.741 A person who:

1. Except as otherwise provided in NRS 629.091, practices ~~osteopathic~~:

(a) *Osteopathic* medicine ~~or~~

~~(a) Without~~ *without* a *valid* license to practice osteopathic medicine ~~valid~~ under this chapter; ~~or~~

(b) *As a physician assistant without a valid license under this chapter;*  
*or*

(c) Beyond the limitations ordered upon his or her practice by the Board or the court;

2. Presents as his or her own the diploma, license or credentials of another;

3. Gives either false or forged evidence of any kind to the Board or any of its members in connection with an application for a license;

4. Files for record the license issued to another, falsely claiming himself or herself to be the person named in the license, or falsely claiming himself or herself to be the person entitled to the license;

5. Practices osteopathic medicine *or practices as a physician assistant* under a false or assumed name or falsely personates another licensee of a like or different name;

6. Holds himself or herself out as a physician assistant or who uses any other term indicating or implying that he or she is a physician assistant, unless the person has been licensed by the Board as provided in this chapter; or

7. Supervises a person as a physician assistant before such person is licensed as provided in this chapter,

↪ is guilty of a category D felony and shall be punished as provided in NRS 193.130.

**Sec. 37.** Section 121 of chapter 413, Statutes of Nevada 2007, as amended by chapter 369, Statutes of Nevada 2009, at page 1856, and chapter 494, Statutes of Nevada 2009, at page 2999, is hereby amended to read as follows:

Sec. 121. 1. This section becomes effective upon passage and approval.

2. Sections 1 to 42.3, inclusive, and 43 to 120, inclusive, of this act become effective:

(a) Upon passage and approval for the purpose of adopting regulations and performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act; and

(b) On January 1, 2008, for all other purposes.

3. ~~Sections 11 and 25~~ **Section 11** ~~and 25~~ of this act ~~expire~~ **expires** by limitation on January 1, 2012.

4. Section 42.3 of this act expires by limitation on the date on which the provisions of 42 U.S.C. § 666 requiring each state to establish procedures under which the state has authority to withhold or suspend, or to restrict the use of professional, occupational and recreational licenses of persons who:

(a) Have failed to comply with a subpoena or warrant relating to a proceeding to determine the paternity of a child or to establish or enforce an obligation for the support of a child; or

(b) Are in arrears in the payment for the support of one or more children,

↪ are repealed by the Congress of the United States.

5. Section 42.7 of this act becomes effective on the date on which the provisions of 42 U.S.C. § 666 requiring each state to establish procedures under which the state has authority to withhold or suspend, or to restrict the use of professional, occupational and recreational licenses of persons who:

(a) Have failed to comply with a subpoena or warrant relating to a proceeding to determine the paternity of a child or to establish or enforce an obligation for the support of a child; or

(b) Are in arrears in the payment for the support of one or more children,

↪ are repealed by the Congress of the United States.

6. Sections 42.7 and 55.5 of this act expire by limitation on the date 2 years after the date on which the provisions of 42 U.S.C. § 666 requiring each state to establish procedures under which the state has authority to withhold or suspend, or to restrict the use of professional, occupational and recreational licenses of persons who:

(a) Have failed to comply with a subpoena or warrant relating to a proceeding to determine the paternity of a child or to establish or enforce an obligation for the support of a child; or

(b) Are in arrears in the payment for the support of one or more children,

↪ are repealed by the Congress of the United States.

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. 194 to Senate Bill No. 273 makes changes to the requirements for post-graduate medical training required for licensure to practice osteopathic medicine.

It also modifies the requirements for licensure by endorsement to practice osteopathic medicine.

The amendment requires osteopathic physician assistants to complete annual continuing medical education courses as a condition of license renewal.

The amendment clarifies that certain statutes relating to osteopathic physicians also apply to osteopathic physician assistants.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 281.

Bill read second time and ordered to third reading.

Senate Bill No. 288.

Bill read second time.

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

Amendment No. 208.

"SUMMARY—Revises provisions governing renewable energy.  
(BDR 58-1026)"

"AN ACT relating to energy; revising the capacity goal and prospective expiration of the Waterpower Energy Systems Demonstration Program; expanding the Program to include Indian tribes and tribal organizations that are customers of a utility; revising provisions governing net metering systems that use waterpower to generate electricity; and providing other matters properly relating thereto."

**Legislative Counsel's Digest:**

Section 1 of this bill expands the Waterpower Energy Systems Demonstration Program to include Indian tribes and tribal organizations that are customers of a utility. Sections ~~11~~ 2 and ~~13-15~~ 9-11 of this bill extend the prospective expiration of the ~~Waterpower Energy Systems Demonstration~~ Program. Section 2 also expands the capacity goal of the Program from 500 kilowatts to 5 megawatts.

Net metering measures the difference between the electricity supplied by a utility to a customer-generator and the electricity generated by a renewable energy system of the customer-generator which is fed back to the utility. Under existing law, an electric utility is required to offer net metering to customer-generators until the cumulative capacity of all net metering systems within the service area of the utility is equal to 1 percent of the utility's peak capacity. Existing law also requires that a net metering system be located on the premises of the customer-generator. (NRS 704.771, 704.773) Section ~~12~~ 6 of this bill removes the requirement that a net metering system be located on the premises of the customer-generator, if the system uses waterpower as its primary source of energy to generate electricity intended primarily to offset part or all of the customer-generator's requirements for electricity on the property of the customer-generator on which the net metering system is located or on contiguous property owned by the customer-generator.

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

**Section 1. NRS 701B.820 is hereby amended to read as follows:**

701B.820 1. The Waterpower Energy Systems Demonstration Program is hereby created.

2. The Waterpower Demonstration Program is created for ~~agricultural~~ :

**(a) Agricultural** uses ~~11~~; and

**(b) Indian tribes and tribal organizations that are customers of a utility.**

3. To be eligible to participate in the Waterpower Demonstration Program, a person must meet the qualifications established pursuant to subsection 4, apply to a utility and be selected by the utility for inclusion in the Waterpower Demonstration Program.

4. The Commission shall adopt regulations providing for the qualifications an applicant must meet to qualify to participate in the Waterpower Demonstration Program.

~~Section 11~~ **Sec. 2.** NRS 701B.840 is hereby amended to read as follows:

701B.840 The Commission shall adopt regulations that establish:

1. The capacity goals for the Program, which must be designed to meet the goal of the Legislature of the installation of not less than ~~{500 kilowatts}~~ **5 megawatts** of waterpower energy systems in this State by ~~{2012}~~ ~~{2014}~~ **2016** and the goals for each category of the Program. **The regulations must provide that not less than 1 megawatt of capacity must be set aside for the installation of waterpower energy systems with a nameplate capacity of 100 kilowatts or less.**

2. A system of incentives that are based on rebates that decline as the capacity goals for the Program and the goals for each category of the Program are met. The rebates must be based on predicted energy savings. **The regulations must provide that the amount of any rebate provided pursuant to the Program must not exceed 50 percent of the total cost of the installation of the waterpower energy system for which the rebate is provided.**

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

**Sec. 3. Chapter 704 of NRS is hereby amended by adding thereto a new section to read as follows:**

**"Contiguous" means either abutting directly on the boundary or separated by a street, alley, public right-of-way, creek, river or the right-of-way of a railroad or other public service corporation.**

**Sec. 4. NRS 704.766 is hereby amended to read as follows:**

704.766 It is hereby declared to be the purpose and policy of the Legislature in enacting NRS 704.766 to 704.775, inclusive, **and section 3 of this act** to:

1. Encourage private investment in renewable energy resources;
2. Stimulate the economic growth of this State;
3. Enhance the continued diversification of the energy resources used in this State; and
4. Streamline the process for customers of a utility to apply for and install net metering systems.

**Sec. 5. NRS 704.767 is hereby amended to read as follows:**

704.767 As used in NRS 704.766 to 704.775, inclusive, **and section 3 of this act**, unless the context otherwise requires, the words and terms defined in NRS 704.768 to 704.772, inclusive, **and section 3 of this act** have the meanings ascribed to them in those sections.

~~{Sec. 2}~~ **Sec. 6. NRS 704.771 is hereby amended to read as follows:**

704.771 1. "Net metering system" means ~~{a}~~ :

~~{a}~~ (a) A facility or energy system for the generation of electricity that:

~~{a}~~ (1) Uses renewable energy as its primary source of energy to generate electricity;

~~{b}~~ (2) Has a generating capacity of not more than 1 megawatt;

~~{c}~~ (3) Is located on the customer-generator's premises;

~~{d}~~ (4) Operates in parallel with the utility's transmission and distribution facilities; and



~~{(e)}~~ (5) Is intended primarily to offset part or all of the customer-generator's requirements for electricity ~~{+}~~; *or*

*(b) A facility or energy system for the generation of electricity that:*

*(1) Uses waterpower as its primary source of energy to generate electricity;*

*(2) Is located on property owned by the customer-generator;*

*(3) Has a generating capacity of not more than 1 megawatt;*

*(4) Generates electricity that is delivered to the transmission and distribution facilities of the utility; and*

*(5) Is intended primarily to offset part or all of the customer-generator's requirements for electricity on that property or contiguous property owned by the customer-generator.*

2. The term does not include a facility or energy system for the generation of electricity which has a generating capacity that exceeds the greater of:

(a) The limit on the demand that the class of customer of the customer-generator may place on the system of the utility; or

(b) One hundred fifty percent of the peak demand of the customer.

**Sec. 7. NRS 704.773 is hereby amended to read as follows:**

704.773 1. A utility shall offer net metering, as set forth in NRS 704.775, to the customer-generators operating within its service area until the cumulative capacity of all such net metering systems is equal to 1 percent of the utility's peak capacity.

2. If the net metering system of a customer-generator who accepts the offer of a utility for net metering has a capacity of not more than 100 kilowatts, the utility:

(a) Shall offer to make available to the customer-generator an energy meter that is capable of registering the flow of electricity in two directions.

(b) May, at its own expense and with the written consent of the customer-generator, install one or more additional meters to monitor the flow of electricity in each direction.

(c) Shall not charge a customer-generator any fee or charge that would increase the customer-generator's minimum monthly charge to an amount greater than that of other customers of the utility in the same rate class as the customer-generator.

3. If the net metering system of a customer-generator who accepts the offer of a utility for net metering has a capacity of more than 100 kilowatts, the utility:

(a) May require the customer-generator to install at its own cost:

(1) An energy meter that is capable of measuring generation output and customer load; and

(2) Any upgrades to the system of the utility that are required to make the net metering system compatible with the system of the utility.

(b) Except as otherwise provided in paragraph (c), may charge the customer-generator any applicable fee or charge charged to other customers

of the utility in the same rate class as the customer-generator, including, without limitation, customer, demand and facility charges.

(c) Shall not charge the customer-generator any standby charge.

↪ At the time of installation or upgrade of any portion of a net metering system, the utility must allow a customer-generator governed by this subsection to pay the entire cost of the installation or upgrade of the portion of the net metering system.

4. **If the net metering system of a customer-generator is a net metering system described in paragraph (b) of subsection 1 of NRS 704.771 and:**

**(a) The system is intended primarily to offset part or all of the customer-generators requirements for electricity on property contiguous to the property on which the net metering system is located; and**

**(b) The customer-generator sells or transfers his or her interest in the contiguous property,**

**↪ the net metering system ceases to be eligible to participate in net metering.**

5. The Commission shall adopt regulations prescribing the form and substance for a net metering tariff and a standard net metering contract. The regulations must include, without limitation:

(a) The particular provisions, limitations and responsibilities of a customer-generator which must be included in a net metering tariff with regard to:

- (1) Metering equipment;
- (2) Net energy metering and billing; and
- (3) Interconnection,

↪ based on the allowable size of the net metering system.

(b) The particular provisions, limitations and responsibilities of a customer-generator and the utility which must be included in a standard net metering contract.

(c) A timeline for processing applications and contracts for net metering applicants.

(d) Any other provisions the Commission finds necessary to carry out the provisions of NRS 704.766 to 704.775, inclusive, ~~11~~, **and section 3 of this act.**

**Sec. 8. NRS 704.7815 is hereby amended to read as follows:**

704.7815 "Renewable energy system" means:

1. A facility or energy system that uses renewable energy or energy from a qualified energy recovery process to generate electricity and:

(a) Uses the electricity that it generates from renewable energy or energy from a qualified recovery process in this State; or

(b) Transmits or distributes the electricity that it generates from renewable energy or energy from a qualified energy recovery process to a provider of electric service for delivery into and use in this State.

2. A solar energy system that reduces the consumption of electricity or any fossil fuel.

3. A net metering system used by a customer-generator pursuant to NRS 704.766 to 704.775, inclusive, ~~§~~, **and section 3 of this act.**

~~§Sec. 3~~ **Sec. 9.** Section 113 of chapter 509, Statutes of Nevada 2007, at page 2999, is hereby amended to read as follows:

Sec. 113. 1. This act becomes effective:

(a) Upon passage and approval for the purposes of adopting regulations and taking such other actions as are necessary to carry out the provisions of this act; and

(b) For all other purposes besides those described in paragraph (a):

(1) For this section and sections 1, 30, 32, 36 to 46, inclusive, 49, 51 to 61, inclusive, 107, 109, 110 and 111 of this act, upon passage and approval.

(2) For sections 1.5 to 29, inclusive, 43.5, 47, 51.3, 51.7, 108, 112 and 112.5 of this act, on July 1, 2007.

(3) For sections 62 to 106, inclusive, of this act, on October 1, 2007.

(4) For sections 31, 32.3, 32.5, 32.7, 33, 34 and 35 of this act, on January 1, 2009.

(5) For section 48 of this act, on January 1, 2010.

(6) For section 50 of this act, on January 1, 2011.

2. Sections 62 to ~~106~~ **86**, inclusive, of this act expire by limitation on June 30, 2011.

**3. Sections 87 to 105, inclusive, of this act expire by limitation on June 30, ~~2013~~ 2016.**

~~§Sec. 4~~ **Sec. 10.** Section 13 of chapter 246, Statutes of Nevada 2009, at page 1002, is hereby amended to read as follows:

Sec. 13. 1. This act becomes effective on July 1, 2009.

2. ~~Sections 2 and 3~~ **Section 2** of this act ~~expire~~ **expires** by limitation on June 30, 2011.

**3. Section 3 of this act expires by limitation on June 30, ~~2013~~ 2016.**

~~§Sec. 5~~ **Sec. 11.** Section 21 of chapter 321, Statutes of Nevada 2009, at page 1410, is hereby amended to read as follows:

Sec. 21. 1. This section and sections 1 to 1.51, inclusive, 1.55 to 19.7, inclusive, and 19.9 to 20.9, inclusive, of this act become effective upon passage and approval.

2. Sections 1.51, 1.85, 1.87, 1.92, 1.93 ~~1.95~~ **and 4.3 to 7**, inclusive, ~~and 19.4~~ of this act expire by limitation on June 30, 2011.

3. ~~Sections 1.53 and 19.8~~ **Section 1.53** of this act ~~become~~ **becomes** effective on July 1, 2011.

**4. Sections 1.95 and 7.1 to 9, inclusive, of this act expire by limitation on June 30, ~~2013~~ 2016.**

**5. Section 19.8 of this act becomes effective on July 1, ~~2013~~ 2016.**

~~{Sec. 6}~~ **Sec. 12.** 1. This section and sections ~~{3, 4 and 5}~~ **9, 10 and 11** of this act become effective upon passage and approval.

2. ~~{Section}~~ **Sections 1 and 2** of this act ~~{becomes}~~ **become** effective on July 1, 2011, and ~~{expires}~~ **expire** by limitation on June 30, ~~{2013}~~ **2016**.

3. ~~{Section 2}~~ **Sections 3 to 8, inclusive,** of this act ~~{becomes}~~ **become** effective on July 1, 2011.

Senator Settlemeyer moved the adoption of the amendment.

Remarks by Senator Settlemeyer.

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

Amendment No. 208 to Senate Bill No. 288 includes Indian tribes and tribal organizations in the Waterpower Energy Systems Demonstration Program.

It also expands the capacity of the program to five watts. At least one megawatt of that amount must be allotted to systems with a capacity of 100 kilowatts or less.

Rebates under the program may not exceed 50 percent of the total cost of a system.

The amendment defines the term "contiguous" for purposes of participation in the net metering program and amends the net metering program to accommodate certain systems serving contiguous property.

Finally, the amendment extends the expiration date of the Waterpower Program until 2016.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 294.

Bill read second time.

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

Amendment No. 214.

"SUMMARY—Establishes provisions governing medical assistants. (BDR 40-16)"

"AN ACT relating to public health; revising provisions governing persons authorized to possess and administer dangerous drugs; ~~{requiring physicians to notify the Board of Medical Examiners or State Board of Osteopathic Medicine of the employment status of medical assistants;}~~ revising provisions regarding certain acts of physicians; and providing other matters properly relating thereto."

**Legislative Counsel's Digest:**

Existing law sets forth the exclusive list of persons who may possess and administer dangerous drugs in this State. (NRS 454.213) **Sections 1 and 7** of this bill authorize medical assistants, under the supervision of a physician, ~~{}~~ **or physician assistant,** to possess and administer dangerous drugs, ~~{}~~ **under certain circumstances. Section 1 also authorizes a veterinary assistant, at the direction of a supervising veterinarian, to possess and administer dangerous drugs.**

**Sections 4 and 10** of this bill authorize ~~{a physician to employ a medical assistant and require the physician to notify}~~ the Board of Medical Examiners ~~{or}~~ **and** the State Board of Osteopathic Medicine, ~~{, as applicable, that the physician has employed a medical assistant. Sections 4 and 10 also require}~~

~~the Board~~ to adopt regulations relating to the ~~employment and~~ supervision of medical assistants, including limitations on the possession and administration of dangerous drugs.

**Sections 6 and 12** of this bill provide that failure to supervise adequately a medical assistant is grounds for disciplinary action.

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

**Section 1.** NRS 454.213 is hereby amended to read as follows:

454.213 A drug or medicine referred to in NRS 454.181 to 454.371, inclusive, may be possessed and administered by:

1. A practitioner.
2. A physician assistant licensed pursuant to chapter 630 or 633 of NRS, at the direction of his or her supervising physician or a licensed dental hygienist acting in the office of and under the supervision of a dentist.
3. Except as otherwise provided in subsection 4, a registered nurse licensed to practice professional nursing or licensed practical nurse, at the direction of a prescribing physician, physician assistant licensed pursuant to chapter 630 or 633 of NRS, dentist, podiatric physician or advanced practitioner of nursing, or pursuant to a chart order, for administration to a patient at another location.
4. In accordance with applicable regulations of the Board, a registered nurse licensed to practice professional nursing or licensed practical nurse who is:
  - (a) Employed by a health care agency or health care facility that is authorized to provide emergency care, or to respond to the immediate needs of a patient, in the residence of the patient; and
  - (b) Acting under the direction of the medical director of that agency or facility who works in this State.
5. Except as otherwise provided in subsection 6, an intermediate emergency medical technician or an advanced emergency medical technician, as authorized by regulation of the State Board of Pharmacy and in accordance with any applicable regulations of:
  - (a) The State Board of Health in a county whose population is less than 100,000;
  - (b) A county board of health in a county whose population is 100,000 or more; or
  - (c) A district board of health created pursuant to NRS 439.362 or 439.370 in any county.
6. An intermediate emergency medical technician or an advanced emergency medical technician who holds an endorsement issued pursuant to NRS 450B.1975, under the direct supervision of a local health officer or a designee of the local health officer pursuant to that section.
7. A respiratory therapist employed in a health care facility. The therapist may possess and administer respiratory products only at the direction of a physician.

8. A dialysis technician, under the direction or supervision of a physician or registered nurse only if the drug or medicine is used for the process of renal dialysis.

9. A medical student or student nurse in the course of his or her studies at an approved college of medicine or school of professional or practical nursing, at the direction of a physician and:

(a) In the presence of a physician or a registered nurse; or

(b) Under the supervision of a physician or a registered nurse if the student is authorized by the college or school to administer the drug or medicine outside the presence of a physician or nurse.

↪ A medical student or student nurse may administer a dangerous drug in the presence or under the supervision of a registered nurse alone only if the circumstances are such that the registered nurse would be authorized to administer it personally.

10. Any person designated by the head of a correctional institution.

11. An ultimate user or any person designated by the ultimate user pursuant to a written agreement.

12. A nuclear medicine technologist, at the direction of a physician and in accordance with any conditions established by regulation of the Board.

13. A radiologic technologist, at the direction of a physician and in accordance with any conditions established by regulation of the Board.

14. A chiropractic physician, but only if the drug or medicine is a topical drug used for cooling and stretching external tissue during therapeutic treatments.

15. A physical therapist, but only if the drug or medicine is a topical drug which is:

(a) Used for cooling and stretching external tissue during therapeutic treatments; and

(b) Prescribed by a licensed physician for:

(1) Iontophoresis; or

(2) The transmission of drugs through the skin using ultrasound.

16. In accordance with applicable regulations of the State Board of Health, an employee of a residential facility for groups, as defined in NRS 449.017, pursuant to a written agreement entered into by the ultimate user.

17. A veterinary technician ***or a veterinary assistant*** at the direction of his or her supervising veterinarian.

18. In accordance with applicable regulations of the Board, a registered pharmacist who:

(a) Is trained in and certified to carry out standards and practices for immunization programs;

(b) Is authorized to administer immunizations pursuant to written protocols from a physician; and

(c) Administers immunizations in compliance with the "Standards ~~for~~ *for* Immunization Practices" recommended and approved by the ~~United States Public Health Service~~ Advisory Committee on Immunization Practices.

19. A person who is enrolled in a training program to become a physician assistant licensed pursuant to chapter 630 or 633 of NRS, dental hygienist, intermediate emergency medical technician, advanced emergency medical technician, respiratory therapist, dialysis technician, nuclear medicine technologist, radiologic technologist, physical therapist or veterinary technician if the person possesses and administers the drug or medicine in the same manner and under the same conditions that apply, respectively, to a physician assistant licensed pursuant to chapter 630 or 633 of NRS, dental hygienist, intermediate emergency medical technician, advanced emergency medical technician, respiratory therapist, dialysis technician, nuclear medicine technologist, radiologic technologist, physical therapist or veterinary technician who may possess and administer the drug or medicine, and under the direct supervision of a person licensed or registered to perform the respective medical art or a supervisor of such a person.

20. *A medical assistant, in accordance with applicable regulations of the:*

*(a) Board of Medical Examiners, at the direction of the prescribing physician and under the supervision of ~~the~~ a physician ~~who employs the medical assistant pursuant to section 4 of this act.~~ or physician assistant.*

*(b) State Board of Osteopathic Medicine, at the direction of the prescribing physician and under the supervision of ~~the~~ a physician ~~who employs the medical assistant pursuant to section 10 of this act.~~ or physician assistant.*

Sec. 2. Chapter 630 of NRS is hereby amended by adding thereto the provisions set forth as sections 3 and 4 of this act.

Sec. 3. 1. *"Medical assistant" means a person who:*

*(a) ~~Is employed by a physician to perform~~ Performs clinical tasks under the supervision of a physician ~~or~~ or physician assistant; and*

*(b) Does not hold a license, certificate or registration issued by a professional licensing or regulatory board in this State to perform such clinical tasks.*

2. *The term does not include a person who ~~is employed by a physician to perform~~ performs only administrative, clerical, executive or other nonclinical tasks.*

Sec. 4. ~~1. A physician may employ or supervise a medical assistant.~~

~~2. A physician who employs a medical assistant shall:~~

~~(a) Notify the Board within 30 days after employing or terminating the employment of a medical assistant.~~

~~(b) Provide adequate supervision for the medical assistant.~~

~~3. The Board shall:~~

~~(a) Maintain a registry of medical assistants employed by each physician;~~

~~(b) Prescribe the form and content of the notice required pursuant to subsection 2, and~~

~~(c) Adopt~~ **may adopt regulations governing the ~~employment and~~ supervision of a medical assistant, including, without limitation, regulations which prescribe limitations on the possession and administration of a dangerous drug by a medical assistant.**

**Sec. 5.** NRS 630.005 is hereby amended to read as follows:

630.005 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 630.007 to 630.026, inclusive, **and section 3 of this act** have the meanings ascribed to them in those sections.

**Sec. 6.** NRS 630.306 is hereby amended to read as follows:

630.306 The following acts, among others, constitute grounds for initiating disciplinary action or denying licensure:

1. Inability to practice medicine with reasonable skill and safety because of illness, a mental or physical condition or the use of alcohol, drugs, narcotics or any other substance.

2. Engaging in any conduct:

(a) Which is intended to deceive;

(b) Which the Board has determined is a violation of the standards of practice established by regulation of the Board; or

(c) Which is in violation of a regulation adopted by the State Board of Pharmacy.

3. Administering, dispensing or prescribing any controlled substance, or any dangerous drug as defined in chapter 454 of NRS, to or for himself or herself or to others except as authorized by law.

4. Performing, assisting or advising the injection of any substance containing liquid silicone into the human body, except for the use of silicone oil to repair a retinal detachment.

5. Practicing or offering to practice beyond the scope permitted by law or performing services which the licensee knows or has reason to know that he or she is not competent to perform or which are beyond the scope of his or her training.

6. Performing, without first obtaining the informed consent of the patient or the patient's family, any procedure or prescribing any therapy which by the current standards of the practice of medicine is experimental.

7. Continual failure to exercise the skill or diligence or use the methods ordinarily exercised under the same circumstances by physicians in good standing practicing in the same specialty or field.

8. Habitual intoxication from alcohol or dependency on controlled substances.

9. Making or filing a report which the licensee or applicant knows to be false or failing to file a record or report as required by law or regulation.

10. Failing to comply with the requirements of NRS 630.254.

11. Failure by a licensee or applicant to report in writing, within 30 days, any disciplinary action taken against the licensee or applicant by another



state, the Federal Government or a foreign country, including, without limitation, the revocation, suspension or surrender of a license to practice medicine in another jurisdiction.

12. Failure by a licensee or applicant to report in writing, within 30 days, any criminal action taken or conviction obtained against the licensee or applicant, other than a minor traffic violation, in this State or any other state or by the Federal Government, a branch of the Armed Forces of the United States or any local or federal jurisdiction of a foreign country.

13. Failure to be found competent to practice medicine as a result of an examination to determine medical competency pursuant to NRS 630.318.

14. Operation of a medical facility at any time during which:

(a) The license of the facility is suspended or revoked; or

(b) An act or omission occurs which results in the suspension or revocation of the license pursuant to NRS 449.160.

↪ This subsection applies to an owner or other principal responsible for the operation of the facility.

15. Failure to comply with the requirements of NRS 630.373.

16. Engaging in any act that is unsafe or unprofessional conduct in accordance with regulations adopted by the Board.

**17. *Failure to supervise adequately a medical assistant pursuant to the regulations of the Board.***

**Sec. 7.** NRS 630.369 is hereby amended to read as follows:

630.369 1. A person, other than a physician, shall not inject a patient with any chemotherapeutic agent classified as a prescription drug unless ~~;~~  
~~the~~

**(a) The person administers the injection under the supervision of a physician and:**

~~(a) (1) The person is licensed or certified to perform medical services pursuant to this title ~~;~~~~

~~(b) The ~~;~~ and ~~the~~~~

**(2) The administration of the injection is within the scope of the person's license or certificate; ~~and~~**

~~(c) The person administers the injection under the supervision of a physician. ~~;~~ or~~

**(b) The person administers the injection under the supervision of a physician or physician assistant and:**

**(1) The person is a medical assistant authorized to administer a dangerous drug pursuant to NRS 454.213 ~~;~~ and ~~the~~**

**(2) The chemotherapeutic agent is classified as a dangerous drug.**

↪ The Board shall prescribe the requirements for supervision pursuant to this subsection.

2. As used in this section:

(a) "Dangerous drug" has the meaning ascribed to it in NRS 454.201.

(b) "Prescription drug" means:

(1) A controlled substance or dangerous drug that may be dispensed to an ultimate user only pursuant to a lawful prescription; and

(2) Any other substance or drug substituted for such a controlled substance or dangerous drug.

**Sec. 8.** Chapter 633 of NRS is hereby amended by adding thereto the provisions set forth as sections 9 and 10 of this act.

**Sec. 9. 1. "Medical assistant" means a person who:**

(a) ~~Is employed by an osteopathic physician to perform~~ **Performs clinical tasks under the supervision of an osteopathic physician, ~~or~~ or physician assistant; and**

(b) **Does not hold a license, certificate or registration issued by a professional licensing or regulatory board in this State to perform such clinical tasks.**

**2. The term does not include a person who ~~is employed by an osteopathic physician to perform~~ performs only administrative, clerical, executive or other nonclinical tasks.**

**Sec. 10. ~~1. An osteopathic physician may employ or supervise a medical assistant.~~**

~~2. An osteopathic physician who employs a medical assistant shall:~~

~~(a) Notify the Board within 30 days after employing or terminating the employment of a medical assistant.~~

~~(b) Provide adequate supervision for the medical assistant.~~

~~3. The Board shall:~~

~~(a) Maintain a registry of medical assistants employed by each osteopathic physician;~~

~~(b) Prescribe the form and content of the notice required pursuant to subsection 2; and~~

~~(c) Adopt~~ **may adopt regulations governing the ~~employment and~~ supervision of a medical assistant, including, without limitation, regulations which prescribe limitations on the possession and administration of a dangerous drug by a medical assistant.**

**Sec. 11.** NRS 633.011 is hereby amended to read as follows:

633.011 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 633.021 to 633.131, inclusive, ***and section 9 of this act*** have the meanings ascribed to them in those sections.

**Sec. 12.** NRS 633.511 is hereby amended to read as follows:

633.511 The grounds for initiating disciplinary action pursuant to this chapter are:

1. Unprofessional conduct.

2. Conviction of:

(a) A violation of any federal or state law regulating the possession, distribution or use of any controlled substance or any dangerous drug as defined in chapter 454 of NRS;

(b) A felony relating to the practice of osteopathic medicine;

- (c) A violation of any of the provisions of NRS 616D.200, 616D.220, 616D.240 or 616D.300 to 616D.440, inclusive;
  - (d) Murder, voluntary manslaughter or mayhem;
  - (e) Any felony involving the use of a firearm or other deadly weapon;
  - (f) Assault with intent to kill or to commit sexual assault or mayhem;
  - (g) Sexual assault, statutory sexual seduction, incest, lewdness, indecent exposure or any other sexually related crime;
  - (h) Abuse or neglect of a child or contributory delinquency; or
  - (i) Any offense involving moral turpitude.
3. The suspension of the license to practice osteopathic medicine by any other jurisdiction.
  4. Malpractice or gross malpractice, which may be evidenced by a claim of malpractice settled against a practitioner.
  5. Professional incompetence.
  6. Failure to comply with the requirements of NRS 633.527.
  7. Failure to comply with the requirements of subsection 3 of NRS 633.471.
  8. Failure to comply with the provisions of NRS 633.694.
  9. Operation of a medical facility, as defined in NRS 449.0151, at any time during which:
    - (a) The license of the facility is suspended or revoked; or
    - (b) An act or omission occurs which results in the suspension or revocation of the license pursuant to NRS 449.160.↪ This subsection applies to an owner or other principal responsible for the operation of the facility.
  10. Failure to comply with the provisions of subsection 2 of NRS 633.322.
  11. Signing a blank prescription form.
  12. Attempting, directly or indirectly, by intimidation, coercion or deception, to obtain or retain a patient or to discourage the use of a second opinion.
  13. Terminating the medical care of a patient without adequate notice or without making other arrangements for the continued care of the patient.
  14. In addition to the provisions of subsection 3 of NRS 633.524, making or filing a report which the licensee knows to be false, failing to file a record or report that is required by law or willfully obstructing or inducing another to obstruct the making or filing of such a record or report.
  15. Failure to report any person the licensee knows, or has reason to know, is in violation of the provisions of this chapter or the regulations of the Board within 30 days after the date the licensee knows or has reason to know of the violation.
  16. Failure by a licensee or applicant to report in writing, within 30 days, any criminal action taken or conviction obtained against the licensee or applicant, other than a minor traffic violation, in this State or any other state

or by the Federal Government, a branch of the Armed Forces of the United States or any local or federal jurisdiction of a foreign country.

17. Engaging in any act that is unsafe in accordance with regulations adopted by the Board.

**18. Failure to supervise adequately a medical assistant pursuant to the regulations of the Board.**

~~Sec. 13. 1. The Board of Medical Examiners shall, on or before December 31, 2011, adopt the regulations required by section 4 of this act and NRS 630.369, as amended by section 7 of this act.~~

~~2. The State Board of Osteopathic Medicine shall, on or before December 31, 2011, adopt the regulations required by section 10 of this act.~~  
**(Deleted by amendment.)**

**Sec. 14.** This act becomes effective upon passage and approval for the purpose of adopting regulations and on January 1, 2012, for all other purposes.

Senator Breeden moved the adoption of the amendment.

Remarks by Senator Breeden.

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

Amendment No. 214 to Senate Bill No. 294 authorizes a medical assistant to possess and administer dangerous drugs under the supervision of a physician assistant or osteopathic physician assistant.

A veterinary assistant may do so as well, at the direction of a supervising veterinarian.

The Board of Medical Examiners and the State Board of Osteopathic Medicine may adopt regulations governing the supervision of a medical assistant, including without limitation, regulations which prescribe limitations on the possession and administration of a dangerous drug by a medical assistant.

Amendment adopted.

The following amendment was proposed by Senator Schneider:

Amendment No. 452.

"SUMMARY—Establishes provisions governing medical assistants. (BDR 40-16)"

"AN ACT relating to public health; revising provisions governing persons authorized to possess and administer dangerous drugs; requiring physicians to notify the Board of Medical Examiners or State Board of Osteopathic Medicine of the employment status of medical assistants; revising provisions regarding certain acts of physicians; and providing other matters properly relating thereto."

**Legislative Counsel's Digest:**

Existing law sets forth the exclusive list of persons who may possess and administer dangerous drugs in this State. (NRS 454.213) **Sections 1 and 7** of this bill authorize medical assistants, under the supervision of a physician, to possess and administer dangerous drugs.

**Sections 4 and 10** of this bill authorize a physician to employ a medical assistant and require the physician to notify the Board of Medical Examiners or the State Board of Osteopathic Medicine, as applicable, that the physician

has employed a medical assistant. **Sections 4 and 10** also require the Boards to adopt regulations relating to the employment and supervision of medical assistants, including limitations on the possession and administration of dangerous drugs.

**Sections 6 and 12** of this bill provide that failure to supervise adequately a medical assistant is grounds for disciplinary action.

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

**Section 1.** NRS 454.213 is hereby amended to read as follows:

454.213 A drug or medicine referred to in NRS 454.181 to 454.371, inclusive, may be possessed and administered by:

1. A practitioner.
2. A physician assistant licensed pursuant to chapter 630 or 633 of NRS, at the direction of his or her supervising physician or a licensed dental hygienist acting in the office of and under the supervision of a dentist.
3. Except as otherwise provided in subsection 4, a registered nurse licensed to practice professional nursing or licensed practical nurse, at the direction of a prescribing physician, physician assistant licensed pursuant to chapter 630 or 633 of NRS, dentist, podiatric physician or advanced practitioner of nursing, or pursuant to a chart order, for administration to a patient at another location.
4. In accordance with applicable regulations of the Board, a registered nurse licensed to practice professional nursing or licensed practical nurse who is:
  - (a) Employed by a health care agency or health care facility that is authorized to provide emergency care, or to respond to the immediate needs of a patient, in the residence of the patient; and
  - (b) Acting under the direction of the medical director of that agency or facility who works in this State.
5. Except as otherwise provided in subsection 6, an intermediate emergency medical technician or an advanced emergency medical technician, as authorized by regulation of the State Board of Pharmacy and in accordance with any applicable regulations of:
  - (a) The State Board of Health in a county whose population is less than 100,000;
  - (b) A county board of health in a county whose population is 100,000 or more; or
  - (c) A district board of health created pursuant to NRS 439.362 or 439.370 in any county.
6. An intermediate emergency medical technician or an advanced emergency medical technician who holds an endorsement issued pursuant to NRS 450B.1975, under the direct supervision of a local health officer or a designee of the local health officer pursuant to that section.

7. A respiratory therapist employed in a health care facility. The therapist may possess and administer respiratory products only at the direction of a physician.

8. A dialysis technician, under the direction or supervision of a physician or registered nurse only if the drug or medicine is used for the process of renal dialysis.

9. A medical student or student nurse in the course of his or her studies at an approved college of medicine or school of professional or practical nursing, at the direction of a physician and:

(a) In the presence of a physician or a registered nurse; or

(b) Under the supervision of a physician or a registered nurse if the student is authorized by the college or school to administer the drug or medicine outside the presence of a physician or nurse.

↪ A medical student or student nurse may administer a dangerous drug in the presence or under the supervision of a registered nurse alone only if the circumstances are such that the registered nurse would be authorized to administer it personally.

10. Any person designated by the head of a correctional institution.

11. An ultimate user or any person designated by the ultimate user pursuant to a written agreement.

12. A nuclear medicine technologist, at the direction of a physician and in accordance with any conditions established by regulation of the Board.

13. A radiologic technologist, at the direction of a physician and in accordance with any conditions established by regulation of the Board.

14. A chiropractic physician, but only if the drug or medicine is a topical drug used for cooling and stretching external tissue during therapeutic treatments.

15. A physical therapist, but only if the drug or medicine is a topical drug which is:

(a) Used for cooling and stretching external tissue during therapeutic treatments; and

(b) Prescribed by a licensed physician for:

(1) Iontophoresis; or

(2) The transmission of drugs through the skin using ultrasound.

16. In accordance with applicable regulations of the State Board of Health, an employee of a residential facility for groups, as defined in NRS 449.017, pursuant to a written agreement entered into by the ultimate user.

17. A veterinary technician at the direction of his or her supervising veterinarian.

18. In accordance with applicable regulations of the Board, a registered pharmacist who:

(a) Is trained in and certified to carry out standards and practices for immunization programs;

(b) Is authorized to administer immunizations pursuant to written protocols from a physician; and

(c) Administers immunizations in compliance with the "Standards ~~for~~ *for* Immunization Practices" recommended and approved by the ~~United States Public Health Service~~ Advisory Committee on Immunization Practices.

19. A person who is enrolled in a training program to become a physician assistant licensed pursuant to chapter 630 or 633 of NRS, dental hygienist, intermediate emergency medical technician, advanced emergency medical technician, respiratory therapist, dialysis technician, nuclear medicine technologist, radiologic technologist, physical therapist or veterinary technician if the person possesses and administers the drug or medicine in the same manner and under the same conditions that apply, respectively, to a physician assistant licensed pursuant to chapter 630 or 633 of NRS, dental hygienist, intermediate emergency medical technician, advanced emergency medical technician, respiratory therapist, dialysis technician, nuclear medicine technologist, radiologic technologist, physical therapist or veterinary technician who may possess and administer the drug or medicine, and under the direct supervision of a person licensed or registered to perform the respective medical art or a supervisor of such a person.

**20. A medical assistant, in accordance with applicable regulations of the:**

*(a) Board of Medical Examiners, at the direction of the prescribing physician and under the supervision of the physician who employs the medical assistant pursuant to section 4 of this act.*

*(b) State Board of Osteopathic Medicine, at the direction of the prescribing physician and under the supervision of the physician who employs the medical assistant pursuant to section 10 of this act.*

**Sec. 2.** Chapter 630 of NRS is hereby amended by adding thereto the provisions set forth as sections 3 and 4 of this act.

**Sec. 3. 1. "Medical assistant" means a person who:**

*(a) Is employed by a physician to perform clinical tasks under the supervision of a physician; and*

*(b) Does not hold a license, certificate or registration issued by a professional licensing or regulatory board in this State to perform such clinical tasks.*

*2. The term does not include a person who is employed by a physician to perform administrative, clerical, executive or other nonclinical tasks.*

**Sec. 4. 1. A physician may employ or supervise a medical assistant.**

**2. A physician who employs a medical assistant shall:**

*(a) Notify the Board within 30 days after employing or terminating the employment of a medical assistant.*

*(b) Provide adequate supervision for the medical assistant.*

**3. The Board shall:**

*(a) Maintain a registry of medical assistants employed by each physician;*

*(b) Prescribe the form and content of the notice required pursuant to subsection 2; and*

*(c) Adopt regulations governing the employment and supervision of a medical assistant, including, without limitation, regulations which prescribe limitations on the possession and administration of a dangerous drug by a medical assistant.*

**Sec. 5.** NRS 630.005 is hereby amended to read as follows:

630.005 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 630.007 to 630.026, inclusive, **and section 3 of this act** have the meanings ascribed to them in those sections.

**Sec. 6.** NRS 630.306 is hereby amended to read as follows:

630.306 The following acts, among others, constitute grounds for initiating disciplinary action or denying licensure:

1. Inability to practice medicine with reasonable skill and safety because of illness, a mental or physical condition or the use of alcohol, drugs, narcotics or any other substance.

2. Engaging in any conduct:

(a) Which is intended to deceive;

(b) Which the Board has determined is a violation of the standards of practice established by regulation of the Board; or

(c) Which is in violation of a regulation adopted by the State Board of Pharmacy.

3. Administering, dispensing or prescribing any controlled substance, or any dangerous drug as defined in chapter 454 of NRS, to or for himself or herself or to others except as authorized by law.

4. Performing, assisting or advising the injection of any substance containing liquid silicone into the human body, except for the use of silicone oil to repair a retinal detachment.

5. Practicing or offering to practice beyond the scope permitted by law or performing services which the licensee knows or has reason to know that he or she is not competent to perform or which are beyond the scope of his or her training.

6. Performing, without first obtaining the informed consent of the patient or the patient's family, any procedure or prescribing any therapy which by the current standards of the practice of medicine is experimental.

7. Continual failure to exercise the skill or diligence or use the methods ordinarily exercised under the same circumstances by physicians in good standing practicing in the same specialty or field.

8. Habitual intoxication from alcohol or dependency on controlled substances.

9. Making or filing a report which the licensee or applicant knows to be false or failing to file a record or report as required by law or regulation.

10. Failing to comply with the requirements of NRS 630.254.



11. Failure by a licensee or applicant to report in writing, within 30 days, any disciplinary action taken against the licensee or applicant by another state, the Federal Government or a foreign country, including, without limitation, the revocation, suspension or surrender of a license to practice medicine in another jurisdiction.

12. Failure by a licensee or applicant to report in writing, within 30 days, any criminal action taken or conviction obtained against the licensee or applicant, other than a minor traffic violation, in this State or any other state or by the Federal Government, a branch of the Armed Forces of the United States or any local or federal jurisdiction of a foreign country.

13. Failure to be found competent to practice medicine as a result of an examination to determine medical competency pursuant to NRS 630.318.

14. Operation of a medical facility at any time during which:

(a) The license of the facility is suspended or revoked; or

(b) An act or omission occurs which results in the suspension or revocation of the license pursuant to NRS 449.160.

↪ This subsection applies to an owner or other principal responsible for the operation of the facility.

15. Failure to comply with the requirements of NRS 630.373.

16. Engaging in any act that is unsafe or unprofessional conduct in accordance with regulations adopted by the Board.

**17. Failure to supervise adequately a medical assistant pursuant to the regulations of the Board.**

**Sec. 7.** NRS 630.369 is hereby amended to read as follows:

630.369 1. A person, other than a physician, shall not inject a patient with any chemotherapeutic agent classified as a prescription drug unless the person administers the injection under the supervision of a physician and

(a) The person is licensed or certified to perform medical services pursuant to this title ~~;~~

~~(b) The~~ **and the** administration of the injection is within the scope of the person's license or certificate; ~~and~~

~~(c) The person administers the injection under the supervision of a physician.~~ **or**

**(b) The person is a medical assistant authorized to administer a dangerous drug pursuant to NRS 454.213, ~~and~~ the chemotherapeutic agent is classified as a dangerous drug ~~;~~ and the person administers the injection under the supervision of a physician or physician assistant.**

↪ The Board shall prescribe the requirements for supervision pursuant to this subsection.

2. As used in this section:

(a) "Dangerous drug" has the meaning ascribed to it in NRS 454.201.

(b) "Prescription drug" means:

(1) A controlled substance or dangerous drug that may be dispensed to an ultimate user only pursuant to a lawful prescription; and

(2) Any other substance or drug substituted for such a controlled substance or dangerous drug.

**Sec. 8.** Chapter 633 of NRS is hereby amended by adding thereto the provisions set forth as sections 9 and 10 of this act.

**Sec. 9. 1. "Medical assistant" means a person who:**

*(a) Is employed by an osteopathic physician to perform clinical tasks under the supervision of an osteopathic physician; and*

*(b) Does not hold a license, certificate or registration issued by a professional licensing or regulatory board in this State to perform such clinical tasks.*

*2. The term does not include a person who is employed by an osteopathic physician to perform administrative, clerical, executive or other nonclinical tasks.*

**Sec. 10. 1. An osteopathic physician may employ or supervise a medical assistant.**

*2. An osteopathic physician who employs a medical assistant shall:*

*(a) Notify the Board within 30 days after employing or terminating the employment of a medical assistant.*

*(b) Provide adequate supervision for the medical assistant.*

*3. The Board shall:*

*(a) Maintain a registry of medical assistants employed by each osteopathic physician;*

*(b) Prescribe the form and content of the notice required pursuant to subsection 2; and*

*(c) Adopt regulations governing the employment and supervision of a medical assistant, including, without limitation, regulations which prescribe limitations on the possession and administration of a dangerous drug by a medical assistant.*

**Sec. 11.** NRS 633.011 is hereby amended to read as follows:

633.011 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 633.021 to 633.131, inclusive, **and section 9 of this act** have the meanings ascribed to them in those sections.

**Sec. 12.** NRS 633.511 is hereby amended to read as follows:

633.511 The grounds for initiating disciplinary action pursuant to this chapter are:

1. Unprofessional conduct.

2. Conviction of:

(a) A violation of any federal or state law regulating the possession, distribution or use of any controlled substance or any dangerous drug as defined in chapter 454 of NRS;

(b) A felony relating to the practice of osteopathic medicine;

(c) A violation of any of the provisions of NRS 616D.200, 616D.220, 616D.240 or 616D.300 to 616D.440, inclusive;

(d) Murder, voluntary manslaughter or mayhem;

(e) Any felony involving the use of a firearm or other deadly weapon;

- (f) Assault with intent to kill or to commit sexual assault or mayhem;
  - (g) Sexual assault, statutory sexual seduction, incest, lewdness, indecent exposure or any other sexually related crime;
  - (h) Abuse or neglect of a child or contributory delinquency; or
  - (i) Any offense involving moral turpitude.
3. The suspension of the license to practice osteopathic medicine by any other jurisdiction.
  4. Malpractice or gross malpractice, which may be evidenced by a claim of malpractice settled against a practitioner.
  5. Professional incompetence.
  6. Failure to comply with the requirements of NRS 633.527.
  7. Failure to comply with the requirements of subsection 3 of NRS 633.471.
  8. Failure to comply with the provisions of NRS 633.694.
  9. Operation of a medical facility, as defined in NRS 449.0151, at any time during which:
    - (a) The license of the facility is suspended or revoked; or
    - (b) An act or omission occurs which results in the suspension or revocation of the license pursuant to NRS 449.160.↳ This subsection applies to an owner or other principal responsible for the operation of the facility.
  10. Failure to comply with the provisions of subsection 2 of NRS 633.322.
  11. Signing a blank prescription form.
  12. Attempting, directly or indirectly, by intimidation, coercion or deception, to obtain or retain a patient or to discourage the use of a second opinion.
  13. Terminating the medical care of a patient without adequate notice or without making other arrangements for the continued care of the patient.
  14. In addition to the provisions of subsection 3 of NRS 633.524, making or filing a report which the licensee knows to be false, failing to file a record or report that is required by law or willfully obstructing or inducing another to obstruct the making or filing of such a record or report.
  15. Failure to report any person the licensee knows, or has reason to know, is in violation of the provisions of this chapter or the regulations of the Board within 30 days after the date the licensee knows or has reason to know of the violation.
  16. Failure by a licensee or applicant to report in writing, within 30 days, any criminal action taken or conviction obtained against the licensee or applicant, other than a minor traffic violation, in this State or any other state or by the Federal Government, a branch of the Armed Forces of the United States or any local or federal jurisdiction of a foreign country.
  17. Engaging in any act that is unsafe in accordance with regulations adopted by the Board.

**18. Failure to supervise adequately a medical assistant pursuant to the regulations of the Board.**

**Sec. 13.** 1. The Board of Medical Examiners shall, on or before December 31, 2011, adopt the regulations required by section 4 of this act and NRS 630.369, as amended by section 7 of this act.

2. The State Board of Osteopathic Medicine shall, on or before December 31, 2011, adopt the regulations required by section 10 of this act.

**Sec. 14.** This act becomes effective upon passage and approval for the purpose of adopting regulations and on January 1, 2012, for all other purposes.

Senator Breeden moved the adoption of the amendment.

Remarks by Senator Breeden.

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

Amendment No. 452 to Senate Bill No. 294 clarifies that an advanced practitioner of nursing (APN) may inject a patient with a chemotherapeutic agent classified as a prescription drug since an APN is both licensed to perform medical services of this nature and the administration of the injection is within the scope of an APN's license. An APN does not have to perform such an injection under the supervision of a physician or physician assistant.

Amendments adopted.

Bill ordered reprinted, engrossed and to third reading.

Senator Cegavske has approved the addition of Senator Leslie as a sponsor of Senate Bill No. 294.

Senate Bill No. 315.

Bill read second time.

The following amendment was proposed by the Committee on Education:

Amendment No. 290.

"SUMMARY—~~Authorizes the board of trustees of a school district to allow a person with certain qualifications to teach a particular course for a provisional time without licensure.~~ **Requires the Commission on Professional Standards in Education to provide for the licensure of teachers and administrators pursuant to an alternative route to licensure.** (BDR 34-819)"

"AN ACT relating to educational personnel; ~~authorizing the board of trustees of a school district to allow certain persons to teach a course within the public schools of the school district for a provisional time without a license to teach issued by the Superintendent of Public Instruction;~~ requiring the Commission on Professional Standards in Education to adopt regulations prescribing the qualifications for licensing teachers and administrators pursuant to an alternative route to licensure; and providing other matters properly relating thereto."

**Legislative Counsel's Digest:**

~~Under existing law, the Superintendent of Public Instruction issues licenses to teach to applicants who satisfy the qualifications prescribed by the~~

~~Commission on Professional Standards in Education and who satisfy certain other qualifications. (NRS 391.019, 391.033) Also under existing law, an applicant for employment with a school district must, as a condition to employment, submit a complete set of his or her fingerprints for purposes of a criminal background investigation of the applicant. (NRS 391.100) Section 1 of this bill authorizes the board of trustees of a school district to, notwithstanding any other statute or regulation to the contrary, authorize a person to teach a particular course within the public schools of the school district for a provisional time without a license to teach issued by the Superintendent of Public Instruction if the board of trustees determines that the person has the necessary professional qualifications and experience to teach that course. Before such a person begins teaching, he or she must comply with the requirements for a criminal background investigation as required by other employees of the school district.]~~

Existing law requires the Commission on Professional Standards in Education to adopt regulations prescribing the qualifications for licensing teachers and other educational personnel in this State. The regulations govern the issuance of a regular license and a special qualifications license. (NRS 391.019) **Section 2** of this bill requires the Commission to adopt regulations prescribing the qualifications for licensing teachers and administrators pursuant to an alternative route to licensure and sets forth certain requirements that must be specified in those regulations, including: (1) that the required education and training may be provided by any qualified provider which has been approved by the Commission, including institutions of higher education and other providers that operate independently of an institution of higher education; (2) that the education and training required under the alternative route to licensure may be completed in 2 years or less; and (3) that, upon completion by a person of the education and training required under the alternative route to licensure and the satisfaction of all other requirements for licensure, the person must be issued a regular license.

Under existing law, the Commission is required to adopt regulations providing for the reciprocal licensure of educational personnel from other states. (NRS 391.032) **Section 5** of this bill requires the regulations governing reciprocal licensure to include reciprocal licensure of persons who obtained a license pursuant to an alternative route to licensure.

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

**Section 1.** [Chapter 391 of NRS is hereby amended by adding thereto a new section to read as follows:

~~1. Notwithstanding the provisions of this Title or any other provision of statute or regulation to the contrary, the board of trustees of a school district may authorize a person who does not hold a license issued by the Superintendent of Public Instruction pursuant to this chapter to teach a particular course within the public schools of the school district for a~~

~~provisional time if the board of trustees determines that the person has the necessary professional qualifications and experience to teach that course.~~

~~2. Before a person begins teaching a course pursuant to subsection 1:~~

~~(a) The person must comply with the requirements of subsection 5 of NRS 391.100; and~~

~~(b) The board of trustees of the school district must review the criminal history of the person from the Central Repository for Nevada Records of Criminal History and the Federal Bureau of Investigation and determine that:~~

~~(1) The person has not been convicted of a felony or any offense involving moral turpitude; or~~

~~(2) In the discretion of the board of trustees, any conviction indicated in the reports on the criminal history of the person is unrelated to the position in which he or she will be employed.~~

~~3. If the board of trustees of a school district authorizes a person to teach a course pursuant to this section, the board of trustees shall fix the compensation and benefits of the person, if any, which must be fixed outside the scope of the provisions of chapter 288 of NRS. **(Deleted by amendment.)**~~

Sec. 2. NRS 391.019 is hereby amended to read as follows:

391.019 1. Except as otherwise provided in NRS 391.027, the Commission ~~is~~

(a) ~~Shall~~ **shall** adopt regulations:

~~{(1)}~~ **(a)** Prescribing the qualifications for licensing teachers and other educational personnel, including, without limitation, the qualifications for a license to teach middle school or junior high school education, and the procedures for the issuance and renewal of those licenses. The regulations ~~{must}~~ :

**(1) Must include, without limitation, the qualifications for licensing teachers and administrators pursuant to an alternative route to licensure which provides that the required education and training may be provided by any qualified provider which has been approved by the Commission, including, without limitation, institutions of higher education and other providers that operate independently of an institution of higher education. The regulations adopted pursuant to this subparagraph must:**

**(I) Establish the requirements for approval as a qualified provider;**

**(II) Require a qualified provider to be selective in its acceptance of students;**

**(III) Require a qualified provider to provide supervised, school-based experiences and ongoing support for its students, such as mentoring and coaching;**

**(IV) Significantly limit the amount of course work required or provide for the waiver of required course work for students who achieve certain scores on tests;**

*(V) Allow for the completion in 2 years or less of the education and training required under the alternative route to licensure; and*

*(VI) Upon the completion by a person of the education and training required under the alternative route to licensure and the satisfaction of all other requirements for licensure, provide for the issuance of a regular license to the person pursuant to the provisions of this chapter and the regulations adopted pursuant to this chapter.*

*(2) Must* not prescribe qualifications which are more stringent than the qualifications set forth in NRS 391.0315 for a licensed teacher who applies for an additional license in accordance with that section.

~~[(2)]~~ *(b)* Identifying fields of specialization in teaching which require the specialized training of teachers.

~~[(3)]~~ *(c)* Except as otherwise provided in NRS 391.125, requiring teachers to obtain from the Department an endorsement in a field of specialization to be eligible to teach in that field of specialization.

~~[(4)]~~ *(d)* Setting forth the educational requirements a teacher must satisfy to qualify for an endorsement in each field of specialization.

~~[(5)]~~ *(e)* Setting forth the qualifications and requirements for obtaining a license or endorsement to teach American Sign Language, including, without limitation, being registered with the Aging and Disability Services Division of the Department of Health and Human Services pursuant to NRS 656A.100 to engage in the practice of interpreting in an educational setting.

~~[(6)]~~ *(f)* Requiring teachers and other educational personnel to be registered with the Aging and Disability Services Division pursuant to NRS 656A.100 to engage in the practice of interpreting in an educational setting if they:

~~[(1)]~~ *(1)* Provide instruction or other educational services; and

~~[(1)]~~ *(2)* Concurrently engage in the practice of interpreting, as defined in NRS 656A.060.

~~[(7)]~~ *(g)* Providing for the issuance and renewal of a special qualifications license to an applicant who holds a bachelor's degree, a master's degree or a doctoral degree from an accredited degree-granting postsecondary educational institution in a field for which the applicant will provide instruction in a classroom and who has:

~~[(1)]~~ *(1)* At least 2 years of experience teaching at an accredited degree-granting postsecondary educational institution in a field for which the applicant will provide instruction in a classroom and at least 3 years of experience working in that field; or

~~[(1)]~~ *(2)* At least 5 years of experience working in a field for which the applicant will provide instruction in a classroom.

→ An applicant for licensure pursuant to this ~~subparagraph~~ **paragraph** who holds a bachelor's degree must submit proof of participation in a program of student teaching or mentoring or agree to participate in a program of

mentoring or courses of pedagogy for the first 2 years of the applicant's employment as a teacher with a school district or charter school.

~~{(8)}~~ **(h)** Requiring an applicant for a special qualifications license to:

~~{(1)}~~ **(1)** Pass each examination required by NRS 391.021 for the specific subject or subjects in which the applicant will provide instruction; or

~~{(2)}~~ **(2)** Hold a valid license issued by a professional licensing board of any state that is directly related to the subject area of the bachelor's degree, master's degree or doctoral degree held by the applicant.

~~{(9)}~~ **(i)** Setting forth the subject areas that may be taught by a person who holds a special qualifications license, based upon the subject area of the bachelor's degree, master's degree or doctoral degree held by that person.

~~{(10)}~~ **(j)** Providing for the issuance and renewal of a special qualifications license to an applicant who:

~~{(1)}~~ **(1)** Holds a bachelor's degree or a graduate degree from an accredited college or university in the field for which the applicant will be providing instruction;

~~{(2)}~~ **(2)** Is not licensed to teach public school in another state;

~~{(3)}~~ **(3)** Has at least 5 years of experience teaching with satisfactory evaluations at a school that is accredited by a national or regional accrediting agency recognized by the United States Department of Education; and

~~{(4)}~~ **(4)** Submits proof of participation in a program of student teaching or mentoring or agrees to participate in a program of mentoring for the first year of the applicant's employment as a teacher with a school district or charter school if the applicant holds a graduate degree or, if the applicant holds a bachelor's degree, submits proof of participation in a program of student teaching or mentoring or agrees to participate in a program of mentoring or courses of pedagogy for the first 2 years of his or her employment as a teacher with a school district or charter school.

↪ An applicant for licensure pursuant to this ~~subparagraph~~ **paragraph** is exempt from each examination required by NRS 391.021 if the applicant successfully passed the examination in another state.

~~{(b) May}~~

**2. Except as otherwise provided in NRS 391.027, the Commission may** adopt such other regulations as it deems necessary for its own government or to carry out its duties.

~~{2}~~ **3.** Any regulation which increases the amount of education, training or experience required for licensing:

(a) Must, in addition to the requirements for publication in chapter 233B of NRS, be publicized before its adoption in a manner reasonably calculated to inform those persons affected by the change.

(b) Must not become effective until at least 1 year after the date it is adopted by the Commission.

(c) Is not applicable to a license in effect on the date the regulation becomes effective.



~~3.1~~ 4. A person who is licensed pursuant to ~~subparagraph (7) or (10)~~ of paragraph ~~(a)~~ (g) or (j) of subsection 1:

(a) Shall comply with all applicable statutes and regulations.

(b) Except as otherwise provided by specific statute, is entitled to all benefits, rights and privileges conferred by statutes and regulations on licensed teachers.

(c) Except as otherwise provided by specific statute, if the person is employed as a teacher by the board of trustees of a school district or the governing body of a charter school, is entitled to all benefits, rights and privileges conferred by statutes and regulations on the licensed employees of a school district or charter school, as applicable.

**Sec. 3.** NRS 391.021 is hereby amended to read as follows:

391.021 Except as otherwise provided in ~~subparagraph (10) of~~ paragraph ~~(a)~~ (j) of subsection 1 of NRS 391.019 and NRS 391.027, the Commission shall adopt regulations governing examinations for the initial licensing of teachers and other educational personnel. The examinations must test the ability of the applicant to teach and the applicant's knowledge of each specific subject he or she proposes to teach. Each examination must include the following subjects:

1. The laws of Nevada relating to schools;
2. The Constitution of the State of Nevada; and
3. The Constitution of the United States.

↪ The provisions of this section do not prohibit the Commission from adopting regulations pursuant to subsection 2 of NRS 391.032 that provide an exemption from the examinations for teachers and other educational personnel from another state if the Commission determines that the examinations required for initial licensure for teachers and other educational personnel in that state are comparable to the examinations required for initial licensure in this State.

**Sec. 4.** NRS 391.031 is hereby amended to read as follows:

391.031 There are the following kinds of licenses for teachers and other educational personnel in this State:

1. A license to teach elementary education, which authorizes the holder to teach in any elementary school in the State.

2. A license to teach middle school or junior high school education, which authorizes the holder to teach in his or her major or minor field of preparation or in both fields in grades 7, 8 and 9 at any middle school or junior high school. He or she may teach only in these fields unless an exception is approved pursuant to regulations adopted by the Commission.

3. A license to teach secondary education, which authorizes the holder to teach in his or her major or minor field of preparation or in both fields in any secondary school. He or she may teach only in these fields unless an exception is approved pursuant to regulations adopted by the Commission.

4. A special license, which authorizes the holder to teach or perform other educational functions in a school or program as designated in the license.

5. A special license designated as a special qualifications license, which authorizes the holder to teach only in the grades and subject areas designated in the license. A special qualifications license is valid for 3 years and may be renewed in accordance with the applicable regulations of the Commission adopted pursuant to ~~subparagraph (7) or (10) of~~ paragraph ~~(a)~~ **(g) or (j)** of subsection 1 of NRS 391.019.

**Sec. 5.** NRS 391.032 is hereby amended to read as follows:

391.032 1. Except as otherwise provided in NRS 391.027, the Commission shall:

(a) Consider and may adopt regulations which provide for the issuance of conditional licenses to teachers and other educational personnel before completion of all courses of study or other requirements for a license in this State.

(b) Adopt regulations which provide for the reciprocal licensure of educational personnel from other states ~~[-]~~, **including, without limitation, the reciprocal licensure of persons who obtained a license pursuant to an alternative route to licensure similar to the alternative route to licensure prescribed pursuant to subparagraph (1) of paragraph (a) of subsection 1 of NRS 391.019.**

2. The regulations adopted pursuant to paragraph (b) of subsection 1 may provide an exemption from the examinations required for initial licensure for teachers and other educational personnel from another state if the Commission determines that the examinations required for initial licensure for teachers and other educational personnel in that state are comparable to the examinations required for initial licensure in this State.

3. A person who is issued a conditional license must complete all courses of study and other requirements for a license in this State which is not conditional within 3 years after the date on which a conditional license is issued.

**Sec. 6.** NRS 391.037 is hereby amended to read as follows:

391.037 1. The State Board shall:

(a) Prescribe by regulation the standards for approval of a course of study or training offered by an educational institution to qualify a person to be a teacher or administrator or to perform other educational functions.

(b) Maintain descriptions of the approved courses of study required to qualify for endorsements in fields of specialization and provide to an applicant, upon request, the approved course of study for a particular endorsement.

2. Except for an applicant who submits an application for the issuance of a license pursuant to subparagraph ~~(7) or (10)~~ **(1)** of paragraph (a) **or paragraph (g) or (j)** of subsection 1 of NRS 391.019, an applicant for a license as a teacher or administrator or to perform some other educational

function must submit with his or her application, in the form prescribed by the Superintendent of Public Instruction, proof that the applicant has satisfactorily completed a course of study and training approved by the State Board pursuant to subsection 1.

**Sec. 7.** The Commission on Professional Standards in Education shall, on or before December 31, 2011, adopt the regulations required by the provisions of subparagraph (1) of paragraph (a) of subsection 1 of NRS 391.019, as amended by section 2 of this act, and the regulations required by the provisions of NRS 391.032, as amended by section 5 of this act.

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

Senator Denis moved the adoption of the amendment.

Remarks by Senator Denis.

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

Amendment No. 290 to Senate Bill No. 315 deletes provisions of the bill that authorized school district boards of trustees to allow a person to teach a particular course for a provisional time period without being fully licensed to teach.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 331.

Bill read second time.

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

Amendment No. 197.

"SUMMARY—Revises provisions relating to unlawful discrimination in places of public accommodation. (BDR 54-799)"

"AN ACT relating to public accommodations; revising provisions relating to unlawful discrimination based on sex and gender identity or expression in places of public accommodation; **providing that certain promotions or marketing of places of public accommodation are not unlawful or grounds for a civil action;** providing a penalty; and providing other matters properly relating thereto."

**Legislative Counsel's Digest:**

Nevada has declared as its public policy the right of all people to have access to places of public accommodation without discrimination based on race, religious creed, color, age, sex, disability, sexual orientation, national origin or ancestry, and **section ~~44~~ 6** of this bill extends that public policy to discrimination based on gender identity or expression. Existing law provides that all persons have the right to full and equal enjoyment of the goods, services, facilities, privileges, advantages and accommodations of any place of public accommodation without discrimination or segregation based on race, color, religion, national origin, disability or sexual orientation. (NRS 651.070) **Section ~~44~~ 3** of this bill provides the same protection from discrimination or segregation based on sex or gender identity or expression in

places of public accommodation. A person who withholds, denies or deprives any other person of this right, intimidates, threatens or coerces any other person for the purpose of interfering with this right or punishes any other person for exercising this right is guilty of a misdemeanor. (NRS 651.080)

**Section 1 of this bill provides that it is not unlawful or a ground for a civil action for any place of public accommodation to offer differential pricing, discounted pricing or special offers based on sex to promote or market the place of public accommodation.**

Existing law authorizes the Nevada Equal Rights Commission to investigate practices of discrimination in places of public accommodation and authorizes a person who believes he or she has been discriminated against based on race, color, religion, national origin, disability or sexual orientation to file a complaint with the Commission. (NRS 233.150, 651.110)

**Section ~~4~~ 8 of this bill authorizes the Commission additionally to investigate practices of discrimination based on gender identity or expression. Section ~~3~~ 4 of this bill authorizes a person who believes he or she has been discriminated against based on sex or gender identity or expression to file a complaint with the Commission. Section 5 of this bill provides that it is not an unlawful discriminatory practice in public accommodations for any place of public accommodation to offer differential pricing, discounted pricing or special offers based on sex to promote or market the place of public accommodation.**

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

**Section 1. Chapter 651 of NRS is hereby amended by adding thereto a new section to read as follows:**

**1. Notwithstanding any provision of NRS 651.050 to 651.110, inclusive, it is not unlawful and is not a ground for a civil action for any place of public accommodation to offer differential pricing, discounted pricing or special offers based on sex to promote or market the place of public accommodation.**

**2. As used in this section, "place of public accommodation" has the meaning ascribed to it in NRS 651.050.**

~~Section 1.~~ **Sec. 2.** NRS 651.050 is hereby amended to read as follows:

651.050 As used in NRS 651.050 to 651.110, inclusive, unless the context otherwise requires:

1. "Disability" means, with respect to a person:
  - (a) A physical or mental impairment that substantially limits one or more of the major life activities of the person;
  - (b) A record of such an impairment; or
  - (c) Being regarded as having such an impairment.
2. ***"Gender identity or expression" means a gender-related identity, appearance, expression or behavior of a person, regardless of the person's assigned sex at birth.***

3. "Place of public accommodation" means:

- (a) Any inn, hotel, motel or other establishment which provides lodging to transient guests, except an establishment located within a building which contains not more than five rooms for rent or hire and which is actually occupied by the proprietor of the establishment as the proprietor's residence;
- (b) Any restaurant, bar, cafeteria, lunchroom, lunch counter, soda fountain, casino or any other facility where food or spirituous or malt liquors are sold, including any such facility located on the premises of any retail establishment;
- (c) Any gasoline station;
- (d) Any motion picture house, theater, concert hall, sports arena or other place of exhibition or entertainment;
- (e) Any auditorium, convention center, lecture hall, stadium or other place of public gathering;
- (f) Any bakery, grocery store, clothing store, hardware store, shopping center or other sales or rental establishment;
- (g) Any laundromat, dry cleaner, bank, barber shop, beauty shop, travel service, shoe repair service, funeral parlor, office of an accountant or lawyer, pharmacy, insurance office, office of a provider of health care, hospital or other service establishment;
- (h) Any terminal, depot or other station used for specified public transportation;
- (i) Any museum, library, gallery or other place of public display or collection;
- (j) Any park, zoo, amusement park or other place of recreation;
- (k) Any nursery, private school or university or other place of education;
- (l) Any day care center, senior citizen center, homeless shelter, food bank, adoption agency or other social service establishment;
- (m) Any gymnasium, health spa, bowling alley, golf course or other place of exercise or recreation;
- (n) Any other establishment or place to which the public is invited or which is intended for public use; and
- (o) Any establishment physically containing or contained within any of the establishments described in paragraphs (a) to (n), inclusive, which holds itself out as serving patrons of the described establishment.

~~§~~ 4. "Sexual orientation" means having or being perceived as having an orientation for heterosexuality, homosexuality or bisexuality.

~~§~~ ~~Sec. 2~~ **Sec. 3.** NRS 651.070 is hereby amended to read as follows:

651.070 All persons are entitled to the full and equal enjoyment of the goods, services, facilities, privileges, advantages and accommodations of any place of public accommodation, without discrimination or segregation on the ground of race, color, religion, national origin, disability, ~~or~~ sexual orientation ~~or~~, *sex, gender identity or expression*.

~~§~~ ~~Sec. 3~~ **Sec. 4.** NRS 651.110 is hereby amended to read as follows:

651.110 Any person who believes he or she has been denied full and equal enjoyment of the goods, services, facilities, privileges, advantages and accommodations of any place of public accommodation because of discrimination or segregation based on race, color, religion, national origin, disability, ~~or~~ sexual orientation, *sex, gender identity or expression* may file a **complaint to that effect with the Nevada Equal Rights Commission.**

**Sec. 5. Chapter 233 of NRS is hereby amended by adding thereto a new section to read as follows:**

**Notwithstanding any provision of this chapter, it is not an unlawful discriminatory practice in public accommodations for any place of public accommodation to offer differential pricing, discounted pricing or special offers based on sex to promote or market the place of public accommodation.**

~~{Sec. 4}~~ **Sec. 6.** NRS 233.010 is hereby amended to read as follows:

233.010 1. It is hereby declared to be the public policy of the State of Nevada to protect the welfare, prosperity, health and peace of all the people of the State, and to foster the right of all persons reasonably to seek, obtain and hold employment and housing accommodations without discrimination, distinction or restriction because of race, religious creed, color, age, sex, disability, national origin or ancestry.

2. It is hereby declared to be the public policy of the State of Nevada to protect the welfare, prosperity, health and peace of all the people of the State, and to foster the right of all persons reasonably to seek and be granted services in places of public accommodation without discrimination, distinction or restriction because of race, religious creed, color, age, sex, disability, sexual orientation, national origin, ~~or~~ ancestry ~~or~~, *gender identity or expression.*

3. It is recognized that the people of this State should be afforded full and accurate information concerning actual and alleged practices of discrimination and acts of prejudice, and that such information may provide the basis for formulating statutory remedies of equal protection and opportunity for all citizens in this State.

~~{Sec. 5}~~ **Sec. 7.** NRS 233.020 is hereby amended to read as follows:

233.020 As used in this chapter:

1. "Administrator" means the Administrator of the Commission.
2. "Commission" means the Nevada Equal Rights Commission within the Department of Employment, Training and Rehabilitation.
3. "Disability" means, with respect to a person:
  - (a) A physical or mental impairment that substantially limits one or more of the major life activities of the person;
  - (b) A record of such an impairment; or
  - (c) Being regarded as having such an impairment.
4. ***"Gender identity or expression" means a gender-related identity, appearance, expression or behavior of a person, regardless of the person's assigned sex at birth.***

5. "Member" means a member of the Nevada Equal Rights Commission.

~~5.1~~ 6. "Sexual orientation" means having or being perceived as having an orientation for heterosexuality, homosexuality or bisexuality.

~~Sec. 6.1~~ **Sec. 8.** NRS 233.150 is hereby amended to read as follows:

233.150 The Commission may:

1. Order its Administrator to:

(a) With regard to public accommodation, investigate tensions, practices of discrimination and acts of prejudice against any person or group because of race, color, creed, sex, age, disability, sexual orientation, national origin, ~~or~~ ancestry, **gender identity or expression** and may conduct hearings with regard thereto.

(b) With regard to employment and housing, investigate tensions, practices of discrimination and acts of prejudice against any person or group because of race, color, creed, sex, age, disability, national origin or ancestry, and may conduct hearings with regard thereto.

2. Mediate between or reconcile the persons or groups involved in those tensions, practices and acts.

3. Issue subpoenas for the attendance of witnesses or for the production of documents or tangible evidence relevant to any investigations or hearings conducted by the Commission.

4. Delegate its power to hold hearings and issue subpoenas to any of its members or any hearing officer in its employ.

5. Adopt reasonable regulations necessary for the Commission to carry out the functions assigned to it by law.

Senator Breedon moved the adoption of the amendment.

Remarks by Senator Breedon.

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

Amendment No. 197 to Senate Bill No. 331 provides that it is not unlawful or grounds for a civil action for places of public accommodation to offer promotions such as "Ladies Night" that feature differential pricing or special offers based on gender to promote or market their business.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 360.

Bill read second time.

The following amendment was proposed by the Committee on Government Affairs:

Amendment No. 340.

"SUMMARY—Revises provisions governing redevelopment agencies. (BDR 22-937)"

"AN ACT relating to redevelopment of communities; revising requirements for the submission of an employment plan; requiring a redevelopment agency to withhold a portion of any incentive provided to a developer unless the developer satisfies certain conditions; requiring the reporting of certain information relating to the redevelopment project by

certain developers; requiring an employment plan to include information relating to preferences for hiring persons from the redevelopment area; and providing other matters properly relating thereto."

**Legislative Counsel's Digest:**

Under existing law, if a redevelopment agency provides property for development for less than the fair market value of the property or provides financial incentives of more than \$100,000 to a developer, the developer must comply with certain laws relating to the payment of a prevailing wage. (NRS 279.500) Additionally, a proposal for a redevelopment project must include an employment plan, if appropriate. (NRS 279.482)

**Sections 2-9 of this bill only apply to a developer for a redevelopment project if part of the redevelopment area is within an enterprise community.** **Section 6** of this bill exempts public agencies who use redevelopment funds for a public work and private developers who do not construct a redevelopment project for a known owner from the requirement to submit an employment plan. **Section 7** of this bill requires an agency that proposes to provide an incentive to a developer to withhold payment of 10 percent of the incentive unless: (1) 15 percent of the employees of contractors, subcontractors, vendors and suppliers of the developer are residents of the redevelopment area; (2) 15 percent of the jobs created by employers as a result of the redevelopment project are filled by residents of the redevelopment area; (3) the developer or build-to-suit owner or lessee complies with the requirements in the employment plan; and (4) the developer satisfies the reporting required by **section 8** of this bill. **Section 9** of this bill allows a developer to appeal a refusal to pay the amount provided for in **section 7** to the legislative body of the community.

**Section 8** requires a developer that receives an incentive of more than \$100,000 to report to the redevelopment agency certain information relating to the redevelopment project. **Section 8** also requires a developer that receives \$100,000 or less in incentives to use its best efforts to report such information. Finally, **section 8** allows the redevelopment agency to refuse to pay all or a portion of the incentive or to require repayment of any incentive already paid if a developer fails to comply.

**Section 11** of this bill requires the employment plan to include information about the preference for hiring persons living within the redevelopment area used by the developer and each employer who will be relocating a business into the area as a result of the redevelopment.

**Section 12 of this bill makes an appropriation for a study of the feasibility of a renewable energy sustainability center in the Southern Nevada Enterprise Community.**

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

**Section 1.** Chapter 279 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 9, inclusive, of this act.



Sec. 2. *"Build-to-suit developer" means a private developer who constructs a redevelopment project in accordance with the customized specifications of a known owner or lessee to whom the developer will convey or lease the property upon completion of the project.*

Sec. 3. *"Build-to-suit owner or lessee" means the owner or lessee of a redevelopment project that has been constructed by a build-to-suit developer to the customized specifications of the owner or lessee.*

Sec. 4. *"Developer" means a person or entity that proposes to construct a redevelopment project which will receive financial assistance from an agency.*

Sec. 5. *"Southern Nevada Enterprise Community" means the area designated as the Southern Nevada Enterprise Community in section 5 of chapter 407, Statutes of Nevada 2007.*

Sec. 5.5. *The provisions of sections 2 to 9, inclusive, of this act do not apply to a developer for a redevelopment project unless a portion of the redevelopment area of the redevelopment project is within an enterprise community which is currently or was previously established pursuant to 24 C.F.R. Part 597, including without limitation, the Southern Nevada Enterprise Community.*

Sec. 6. 1. *A public agency that uses redevelopment funds for the design or construction of a redevelopment project being built as a public work pursuant to chapter 338 of NRS is not required to submit an employment plan pursuant to NRS 279.482.*

2. *A developer who constructs a redevelopment project for the purpose of conveying or leasing the property to an unknown owner or lessee is not required to submit an employment plan pursuant to NRS 279.482 but may submit an employment plan voluntarily.*

Sec. 7. 1. *Except as otherwise provided in subsection 2, if an agency proposes to provide an incentive to a developer for a redevelopment project, 10 percent of the amount of the proposed incentive must be withheld by the agency and must not be paid to the developer unless:*

(a) *At least 15 percent of all employees of contractors, subcontractors, vendors and suppliers of the developer are bona fide residents of the redevelopment area and, among such persons, preference in hiring and contracting is given to residents of the Southern Nevada Enterprise Community;*

(b) *At least 15 percent of all jobs created by employers who relocate to the redevelopment area are filled by bona fide residents of the redevelopment area and, among such persons, preference in hiring is given to residents of the Southern Nevada Enterprise Community;*

(c) *The developer or build-to-suit owner or lessee complies with any requirements imposed by the agency relating to the employment plan in the agreement for the redevelopment project; and*

(d) *The developer satisfies all reporting requirements as described in section 8 of this act.*

2. *If an agency provides nonmonetary incentives to a developer for a redevelopment project, the developer shall deposit an amount of money with the agency equal to 10 percent of the value of the nonmonetary incentives as agreed upon between the agency and the developer. If the developer satisfies the requirements of paragraphs (a) to (d), inclusive, of subsection 1, the agency shall return the deposit required by this subsection to the developer.*

Sec. 8. 1. *Except as otherwise provided in subsection 2, a developer that receives incentives from an agency for a redevelopment project shall, upon completion of the project and upon request of the agency, report, in a form prescribed by the agency, information relating to:*

(a) *Outreach efforts that the developer has utilized, including, without limitation, information relating to job fairs, advertisements in publications that reach residents of the redevelopment area and utilization of employment referral agencies;*

(b) ~~*Bonding, lines of credit and insurance;*~~ *Training conducted for persons hired by the developer and contractors, subcontractors, vendors and suppliers of the developer and the employers within the development project; and*

(c) *The execution of the redevelopment, including, without limitation, plans and the scope of services.*

2. *If a developer receives incentives from an agency for a redevelopment project with a value of \$100,000 or less, the developer shall use its best efforts to satisfy the reporting requirements described in subsection 1.*

3. *If the developer fails to comply with the requirements of this section:*

(a) *The agency may refuse to pay all or any portion of an incentive; and*

(b) *The agency may require the developer to repay any incentive already paid to the developer.*

Sec. 9. 1. *A developer may appeal the refusal by an agency to pay the amount provided for in section 7 of this act to the legislative body of the community.*

2. *In an appeal, the developer has the burden of demonstrating that:*

(a) *Specific actions were taken to substantially fulfill the requirements of section 7 of this act;*

(b) *An insufficient number of significant opportunities for appropriate contractors, subcontractors, vendors or suppliers to perform a commercially useful function in the project existed; and*

(c) *Use of appropriate contractors, subcontractors, vendors or suppliers as required by section 7 of this act would have significantly and adversely affected the overall cost of the project.*

3. *If the legislative body finds that the developer's appeal has satisfied the requirements of subsection 2, the agency shall pay the developer the amount provided for in section 7 of this act.*

Sec. 10. NRS 279.384 is hereby amended to read as follows:

279.384 As used in NRS 279.382 to 279.685, inclusive, **and sections 2 to 9, inclusive, of this act**, unless the context otherwise requires, the words and terms defined in NRS 279.386 to 279.414, inclusive, **and sections 2 to 5, inclusive, of this act** have the meanings ascribed to them in those sections.

**Sec. 11.** NRS 279.482 is hereby amended to read as follows:

279.482 1. An agency may obligate lessees or purchasers of property acquired in a redevelopment project to:

(a) Use the property for the purpose designated in the redevelopment plans.

(b) Begin the redevelopment of the area within a period of time which the agency fixes as reasonable.

(c) Comply with other conditions which the agency deems necessary to carry out the purposes of NRS 279.382 to 279.685, inclusive, including, without limitation, the provisions of an employment plan or a contract approved for a redevelopment project.

2. ~~{As}~~ **Except as otherwise provided in section 6 of this act**, as appropriate for the particular project, each proposal for a redevelopment project must also include an employment plan. The employment plan must include:

(a) A description of the existing opportunities for employment within the area;

(b) A projection of the effect that the redevelopment project will have on opportunities for employment within the area; ~~and~~

(c) A description of the manner in which an employer relocating a business into the area plans to employ persons living within the area of operation who:

- (1) Are economically disadvantaged;
- (2) Have a physical disability;
- (3) Are members of racial minorities;
- (4) Are veterans; or
- (5) Are women ~~{}~~; **and**

(d) **A description of the manner in which:**

(1) **The developer will give a preference in hiring for construction jobs for the project to persons living within the redevelopment area and, among such persons, to persons living within the Southern Nevada Enterprise Community; and**

(2) **Each employer relocating a business into the area plans to give a preference in hiring to persons living within the redevelopment area and, among such persons, to persons living within the Southern Nevada Enterprise Community.**

**Sec. 12. There is hereby appropriated from the State General Fund to the Interim Finance Committee the sum of \$50,000 for the contractual services of a consultant to study the feasibility of a renewable energy sustainability center in the Southern Nevada Enterprise Community.**

~~{Sec. 12}~~ **Sec. 13.** This act becomes effective on July 1, 2011.

Senator Lee moved the adoption of the amendment.

Remarks by Senator Lee.

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

Amendment No. 340 to Senate Bill No. 360 provides that the measure only applies to a developer for a redevelopment project if a portion of the redevelopment area is within the Southern Nevada Enterprise Community.

It amends the contents of the report required to be filed by a developer who receives incentives under the bill to include information on the training conducted for persons hired by the developer, contractors, subcontractors, vendors, and suppliers of the developer and provides a \$50,000 appropriation from the State General Fund to the Interim Finance Committee for a feasibility study on a renewable energy sustainability center in the Southern Nevada Enterprise Community.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Lee moved that Senate Bill No. 360 be re-referred to the Committee on Finance upon return from reprint.

Motion carried.

SECOND READING AND AMENDMENT

Senate Bill No. 365.

Bill read second time.

The following amendment was proposed by the Committee on Education:

Amendment No. 289.

"SUMMARY—~~Eliminates~~ **Requires the board of trustees of each school district to review** certain mandates pertaining to school districts and public schools in this State. (BDR 34-184)"

"AN ACT relating to education; ~~eliminating the requirement for the Superintendent of Public Instruction to prepare a memorandum on newly enacted laws and to disseminate the information to the school districts and charter schools; eliminating certain requirements imposed by statute on school districts and public schools in this State; eliminating the requirement for school districts, public schools and private schools to develop crisis response plans;~~ **requiring the board of trustees of each school district to review certain plans, policies, programs and procedures and prepare a written report on the costs associated with implementing those plans, policies, programs and procedures;** and providing other matters properly relating thereto."

**Legislative Counsel's Digest:**

~~Under existing law, the Superintendent of Public Instruction is required to prepare a memorandum that includes a description of each statute newly enacted by the Legislature and other bills pertaining to public education. (NRS 385.210) The board of trustees of each school district and the governing body of each charter school is required to disseminate the information received from the Superintendent to the parents and legal~~

guardians of pupils and prepare a plan for implementation of the statutes and bills. (NRS 386.360, 386.552) This bill repeals these statutory requirements.

~~Under existing federal law, a school which is served under Title I and which is identified as needing improvement pursuant to the federal law is required to develop and implement a school improvement plan. (20 U.S.C. § 6316(b)(3)) Also under existing federal law, a school district which is served under Title I and which is identified as needing improvement pursuant to the federal law is required to develop and implement a plan for improvement for the school district. (20 U.S.C. § 6316(e)(7)) Under existing state law, the board of trustees of each school district is required to prepare a plan to improve the achievement of pupils enrolled in the school district, and each principal of a public school is required to prepare a plan to improve the achievement of pupils enrolled in the school. (NRS 385.348, 385.357) This bill repeals these state statutory requirements.~~

~~Under existing law, school districts and public schools in this State are required to develop and adopt plans, policies and procedures including: (1) the development of academic plans for certain pupils enrolled in middle school or junior high school and high school (NRS 388.165, 388.205); (2) the creation of small learning communities for certain pupils enrolled in middle school or junior high school and high school (NRS 388.171, 388.215); (3) the adoption of policies for peer mentoring (NRS 388.176, 388.221); (4) reporting on the use of physical and mechanical restraint (NRS 388.5317); (5) the creation of advisory boards to review school attendance as an alternative to reporting the truancy of pupils to law enforcement (NRS 392.126-392.149); and (6) the temporary alternative placement of certain pupils with disciplinary issues. (NRS 392.4642-392.4648) This bill repeals these statutory requirements and other statutory mandates imposed on school districts and public schools.~~

~~Under existing law, school districts, public schools and private schools are required to develop policies to respond to a crisis and to establish committees to develop those policies. (NRS 392.600-392.656, 394.168-394.1699) This bill repeals the statutory requirements for crisis response plans and committees pertaining to school districts, public schools and private schools.~~

**This bill requires the board of trustees of each school district to review the plans, policies, programs and procedures that the board of trustees is required to implement pursuant to title 34 of NRS or pursuant to federal law. Upon such review, the board of trustees of each school district is required to prepare a written report on the plans, policies, programs and procedures which the board of trustees determines place an unfunded mandate and an undue financial burden on the school district and submit the written report, on or before August 1, 2012, to the Legislative Committee on Education and the Director of the Legislative Counsel Bureau for transmittal to the next regular session of the Legislature.**

SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

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

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

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

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

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

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

**Sec. 7. (Deleted by amendment.)**

**Sec. 8. (Deleted by amendment.)**

**Sec. 9. (Deleted by amendment.)**

**Sec. 10. (Deleted by amendment.)**

**Sec. 11. (Deleted by amendment.)**

**Sec. 12. (Deleted by amendment.)**

**Sec. 13. (Deleted by amendment.)**

**Sec. 14. (Deleted by amendment.)**

**Sec. 15. (Deleted by amendment.)**

**Sec. 16. (Deleted by amendment.)**

**Sec. 17. (Deleted by amendment.)**

**Sec. 18. (Deleted by amendment.)**

**Sec. 19. (Deleted by amendment.)**

**Sec. 20. (Deleted by amendment.)**

**Sec. 21. (Deleted by amendment.)**

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

**Sec. 23. (Deleted by amendment.)**

**Sec. 24. (Deleted by amendment.)**

**Sec. 25. (Deleted by amendment.)**

**Sec. 26. (Deleted by amendment.)**

**Sec. 27. (Deleted by amendment.)**

**Sec. 28. (Deleted by amendment.)**

**Sec. 29. (Deleted by amendment.)**

**Sec. 30. (Deleted by amendment.)**

**Sec. 31. (Deleted by amendment.)**

**Sec. 32. (Deleted by amendment.)**

**Sec. 33. (Deleted by amendment.)**

**Sec. 34. (Deleted by amendment.)**

**Sec. 35. (Deleted by amendment.)**

**Sec. 36. (Deleted by amendment.)**

**Sec. 37. (Deleted by amendment.)**

**Sec. 37.5. 1. The board of trustees of each school district shall review the plans, policies, programs and procedures that the board of trustees is required to implement pursuant to title 34 of NRS or pursuant to federal law to determine which plans, policies, programs and procedures place an unfunded mandate and an undue financial burden upon the school district. The review must include, without limitation, the:**

- (a) Plans to improve the achievement of pupils;
  - (b) Academic plans for certain pupils enrolled in middle school or junior high school and high school;
  - (c) Policies for peer mentoring;
  - (d) Policies for the provision of a safe and respectful learning environment;
  - (e) Programs for small learning communities;
  - (f) Policies for pupil-led conferences;
  - (g) Plans for the implementation of statutes;
  - (h) Procedures for reporting the use of physical restraint and mechanical restraint;
  - (i) Procedures for the creation of advisory boards to review school attendance;
  - (j) Procedures for the temporary alternative placement of certain pupils with disciplinary issues; and
  - (k) Plans for responding to a crisis.
2. Upon review of the plans, policies, programs and procedures pursuant to subsection 1, the board of trustees of each school district shall prepare a written report of its review. The report must include, without limitation:
- (a) The name of each plan, policy, program or procedure which the board of trustees determines places an unfunded mandate and an undue financial hardship upon the school district;
  - (b) A description of the plan, policy, program or procedure;
  - (c) The costs incurred by the school district for implementing the plan, policy, program or procedure and an identification of how much money the school district receives from the State or Federal Government for such implementation; and
  - (d) The effectiveness of the plan, policy, program or procedure in improving the academic achievement of pupils enrolled in the school district, if applicable, including, without limitation, the assessment of the school district as to whether the plan, policy, program or procedure should continue.
3. On or before August 1, 2012, the board of trustees of each school district shall submit the written report prepared pursuant to subsection 2 to the:
- (a) Legislative Committee on Education; and
  - (b) Director of the Legislative Counsel Bureau for transmittal to the next regular session of the Legislature.

Sec. 38. This act becomes effective on July 1, 2011.

†

~~LEADLINES OF REPEALED SECTIONS~~

~~NRS 385.210 Form of school register; dissemination of information regarding statutes and regulations relating to schools; memorandum to school~~

~~districts and charter schools; preparation and publication of Department bulletin.~~

~~NRS 385.348 Plan by school district to improve achievement of pupils. Preparation; contents; submission; annual review.~~

~~NRS 385.357 Plan to improve achievement of pupils for individual schools; duties of school support team in preparing plan; annual review; process for submission and approval of plan; timeline for carrying out plan. Effective July 1, 2010.~~

~~NRS 386.365 Policies and regulations in county whose population is 100,000 or more. Procedure.~~

~~NRS 386.370 Reports to Superintendent of Public Instruction.~~

~~NRS 386.552 Preparation of plan for implementation of statutes; written notice to parents and teachers concerning statutes and plan for implementation.~~

~~NRS 387.613 Review of school districts; recommendations by Legislative Auditor; selection of school districts by Legislature; qualifications and selection of consultant to conduct reviews; monitoring and oversight of consultant; self-assessment by school district required.~~

~~NRS 388.134 Adoption of policy by school districts for provision of safe and respectful learning environment; adoption of policy by school districts for ethical, safe and secure use of computers; provision of training to school personnel; annual report of violations. Effective July 1, 2010.~~

~~NRS 388.1345 Compilation of reports by Superintendent of Public Instruction; submission of written compilation to Attorney General.~~

~~NRS 388.165 Development of academic plan required. Effective July 1, 2011.~~

~~NRS 388.171 Program of small learning communities required in certain schools. Effective July 1, 2011.~~

~~NRS 388.176 Adoption of policy for peer mentoring. Effective July 1, 2011.~~

~~NRS 388.181 Adoption of policy for pupil led conferences. Effective July 1, 2011.~~

~~NRS 388.205 Development of academic plan required for ninth grade pupils.~~

~~NRS 388.215 Program of small learning communities required for ninth grade pupils enrolled in larger schools.~~

~~NRS 388.221 Adoption of policy for peer mentoring.~~

~~NRS 388.5317 Annual report by school districts on use of restraint and violations; compilation of reports by Department; submission of compilation to Legislature.~~

~~NRS 389.011 Administration to pupils who are limited English proficient; State Board required to prescribe modifications and accommodations; administration in language other than English required under certain circumstances; assessment of proficiency in English language.~~



~~NRS 389.065 Instruction on acquired immune deficiency syndrome, human reproductive system, related communicable diseases and sexual responsibility.~~

~~NRS 390.220 Enforcement by board of trustees of use of prescribed textbooks; exception for charter schools.~~

~~NRS 391.235 Program to engage district level administrators in classroom.~~

~~NRS 392.018 Written notice of certain courses, services and educational programs available to pupils within school district; posting at public schools; availability to parents.~~

~~NRS 392.126 Creation of advisory board in each county; membership; terms; compensation.~~

~~NRS 392.127 Administrative support to advisory boards and school attendance councils.~~

~~NRS 392.128 Duties of advisory boards; division into subcommittees; provision of assistance in conjunction with community service providers; use and accounting of available money by advisory board.~~

~~NRS 392.129 Establishment of school attendance councils; membership; duties; annual report.~~

~~NRS 392.141 Applicability of provisions to pupils.~~

~~NRS 392.146 Contents of written referral to advisory board; notice to parents or guardian.~~

~~NRS 392.147 Hearing by advisory board; written agreement for participation of pupil in certain programs; reporting of pupil to law enforcement agency under certain circumstances; confidentiality of information.~~

~~NRS 392.461 Code of honor relating to cheating; contents; distribution.~~

~~NRS 392.4635 Policy for prohibition of activities of criminal gangs on school property.~~

~~NRS 392.4637 Policy concerning use and possession of pagers, cellular telephones and other electronic devices.~~

~~NRS 392.4642 "Principal" defined.~~

~~NRS 392.4643 Actions taken against pupils with disabilities.~~

~~NRS 392.4644 Plan for progressive discipline and on site review of disciplinary decisions; annual review and revision of plan; posting and availability of plan; written reports by superintendent of schools, board of trustees and Superintendent of Public Instruction concerning compliance with section.~~

~~NRS 392.4645 Removal of pupil from classroom: Notice; assignment to temporary alternative placement; exceptions.~~

~~NRS 392.4646 Removal of pupil from classroom: Conference; recommendation of principal.~~

~~NRS 392.4647 Establishment of committee to review temporary alternative placement of pupils.~~

~~NRS 392.4648 — Powers and duties of committee to review temporary alternative placement of pupils.~~

~~NRS 392.604 — "Crisis" defined.~~

~~NRS 392.608 — "Development committee" defined.~~

~~NRS 392.612 — "School committee" defined.~~

~~NRS 392.616 — Development committee: Establishment by school districts and charter schools; membership; terms of members.~~

~~NRS 392.620 — Development committee: Development of plan to be used by schools in responding to crisis; submission of plan to board of trustees or governing body of charter school; compliance with plan required.~~

~~NRS 392.624 — Annual review and update of plan for responding to crisis; maintenance, posting and distribution of plan; annual training for school employees in responding to crisis; acceptance of gifts and grants.~~

~~NRS 392.628 — School committee: Establishment; membership; terms of members.~~

~~NRS 392.632 — School committee: Annual review of plan prepared by development committee; determination whether to request deviation from plan; notice of review.~~

~~NRS 392.636 — Review by development committee of proposed deviation from plan; notice of approval or denial; submission of copy of approved deviation to board of trustees or governing body.~~

~~NRS 393.097 — Duty to submit recommendations for financing costs for construction to Legislature; oversight panels required to approve or deny request for issuance of certain bonds.~~

~~NRS 394.168 — Definitions.~~

~~NRS 394.1681 — "Crisis" defined.~~

~~NRS 394.1682 — "Development committee" defined.~~

~~NRS 394.1683 — "School committee" defined.~~

~~NRS 394.1685 — Development committee: Establishment by private school; membership; terms of members.~~

~~NRS 394.1687 — Development committee: Development of plan to be used by private school in responding to crisis; submission of plan to governing body of private school; compliance with plan required of private school.~~

~~NRS 394.1688 — Annual review and update of plan for responding to crisis; maintenance, posting and distribution of plan; annual training for school employees.~~

~~NRS 394.169 — School committee: Establishment; membership; terms of members.~~

~~NRS 394.1691 — School committee: Annual review of plan prepared by development committee; determination whether to request deviation from plan; notice of review.~~

~~NRS 394.1692 — Review by development committee of proposed deviation from plan; notice of approval or denial; submission of copy of approved deviation to governing body of private school.~~

~~NRS 394.1694 — Adoption of regulations concerning development of plans in responding to crisis, review of proposed deviations and requirements for training.~~

~~NRS 394.1698 — Confidentiality of plans, approved deviations and certain other information.~~

~~NRS 394.1699 — Inapplicability of Open Meeting Law to development committee, school committee and certain meetings of State Board related to crisis response.~~

Senator Denis moved the adoption of the amendment.

Remarks by Senators Denis and McGinness.

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

SENATOR DENIS:

Amendment No. 289 to Senate Bill No. 365 removes the requirement that a number of statutory provisions within the public education code be repealed. Instead, the amendment requires Nevada's school district boards of trustees to review the sections recommended for repeal and provide a report of their recommendations to the interim Legislative Committee on Education and the Director of the Legislative Counsel Bureau prior to the 2013 Legislative Session.

The amendment specifies the content of the report that includes the name and description of each required plan, policy, program, and procedure; the actual cost to the district; and the impact of each requirement on student achievement.

SENATOR MCGINNESS:

Thank you Mr. Chairman. This is my bill which had about 32 mandates that we are trying to remove. If you look at the digest, the amendment now requires the board of trustees of each school district to review these mandates and make a report. So it keeps all the mandates and puts another mandate in, so we are sliding backwards with this amendment.

I oppose this amendment and hope you will vote against this amendment.

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

Senate in recess at 4:06 p.m.

#### SENATE IN SESSION

At 4:07 p.m.

Senator Parks, presiding:

Quorum present.

Senator Horsford moved that Senate Bill No. 365 be taken from the General File and placed on the Secretary's desk.

Motion carried.

Senate Bill No. 406.

Bill read second time and ordered to third reading.

Senate Bill No. 411.

Bill read second time.

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

Amendment No. 212.

"SUMMARY—Provides for the regulation of ~~certified~~ medication aides. (BDR 54-1104)"

"AN ACT relating to nursing; providing for the certification by the State Board of Nursing of nursing assistants as ~~certified~~ medication ~~aides~~; aides - certified; prescribing the acts a ~~certified~~ medication ~~aide~~ aide-certified may perform; authorizing a ~~certified~~ medication ~~aide~~ aide - certified to possess and administer certain drugs and medications in certain medical facilities; authorizing the Board to establish certain fees and charges; prohibiting certain acts relating to ~~certified~~ medication ~~aides~~; aides - certified; providing a penalty; and providing other matters properly relating thereto."

**Legislative Counsel's Digest:**

Existing law provides for the regulation of nursing assistants. (NRS 632.285-632.286) **Sections 3-11** of this bill provide for the certification by the State Board of Nursing of nursing assistants as ~~certified~~ medication ~~aides~~; aides - certified. **Section 10** prescribes the duties a ~~certified~~ medication ~~aide~~ aide - certified may perform. **Sections 10 and 39** of this bill authorize ~~certified~~ medication ~~aides~~ aides - certified to possess and administer drugs and medications other than controlled substances to patients in certain medical facilities designated by the Board. **Sections 12-28** of this bill revise provisions administered by the Board to include ~~certified~~ medication ~~aides~~; aides - certified. **Section 14** of this bill extends the authority of the Advisory Committee on Nursing Assistants to ~~certified~~ medication ~~aides~~; aides - certified. **Sections 16 and 24** of this bill authorize the Board to adopt regulations and establish certain fees and charges applicable to ~~certified~~ medication ~~aides~~; aides - certified. **Section 21** of this bill authorizes the Board to take certain disciplinary action against ~~certified~~ medication ~~aides~~; aides - certified. **Sections 1, 2 and 28-38** of this bill expand the applicability of certain provisions that are currently applicable to nursing assistants to include ~~certified~~ medication ~~aides~~; aides - certified. **Section 31** provides for certain criminal penalties for a person who commits assault upon certain persons, including ~~certified~~ medication ~~aides~~; aides - certified, who are performing their official duties if the assault is based upon the performance of those duties.

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

**Section 1.** NRS 630.293 is hereby amended to read as follows:

630.293 1. A physician or any agent or employee thereof shall not retaliate or discriminate unfairly against:

(a) An employee of the physician or a person acting on behalf of the employee who in good faith:

(1) Reports to the Board of Medical Examiners information relating to the conduct of the physician which may constitute grounds for initiating disciplinary action against the physician or which otherwise raises a reasonable question regarding the competence of the physician to practice medicine with reasonable skill and safety to patients; or

(2) Reports a sentinel event to the Health Division of the Department of Health and Human Services pursuant to NRS 439.835;

(b) A registered nurse, licensed practical nurse, ~~for~~ nursing assistant *or* ~~certified~~ *medication aide - certified* who is employed by or contracts to provide nursing services for the physician and who:

(1) In good faith, reports to the physician, the Board of Medical Examiners, the State Board of Nursing, the Legislature or any committee thereof or any other governmental entity:

(I) Any information concerning the willful conduct of another registered nurse, licensed practical nurse, ~~for~~ nursing assistant *or* ~~certified~~ *medication aide - certified* which violates any provision of chapter 632 of NRS or which is required to be reported to the State Board of Nursing;

(II) Any concerns regarding patients who may be exposed to a substantial risk of harm as a result of the failure of the physician or any agent or employee thereof to comply with minimum professional or accreditation standards or applicable statutory or regulatory requirements; or

(III) Any other concerns regarding the physician, the agents and employees thereof or any situation that reasonably could result in harm to patients; or

(2) Refuses to engage in conduct that would violate the duty of the registered nurse, licensed practical nurse, ~~for~~ nursing assistant *or* ~~certified~~ *medication aide - certified* to protect patients from actual or potential harm, including, without limitation, conduct which would violate any provision of chapter 632 of NRS or which would subject the registered nurse, licensed practical nurse, ~~for~~ nursing assistant *or* ~~certified~~ *medication aide - certified* to disciplinary action by the State Board of Nursing; or

(c) An employee of the physician, a person acting on behalf of the employee or a registered nurse, licensed practical nurse, ~~for~~ nursing assistant *or* ~~certified~~ *medication aide - certified* who is employed by or contracts to provide nursing services for the physician and who cooperates or otherwise participates in an investigation or proceeding conducted by the Board of Medical Examiners or another governmental entity relating to conduct described in paragraph (a) or (b).

2. A physician or any agent or employee thereof shall not retaliate or discriminate unfairly against an employee of the physician or a registered nurse, licensed practical nurse, ~~for~~ nursing assistant *or* ~~certified~~ *medication aide - certified* who is employed by or contracts to provide nursing services for the physician because the employee, registered nurse,

licensed practical nurse , ~~for~~ nursing assistant *or ~~certified~~ medication ~~aide~~ aide - certified* has taken an action described in subsection 1.

3. A physician or any agent or employee thereof shall not prohibit, restrict or attempt to prohibit or restrict by contract, policy, procedure or any other manner the right of an employee of the physician or a registered nurse, licensed practical nurse , ~~for~~ nursing assistant *or ~~certified~~ medication ~~aide~~ aide - certified* who is employed by or contracts to provide nursing services for the physician to take an action described in subsection 1.

4. As used in this section:

(a) "Good faith" means honesty in fact in the reporting of the information or in the cooperation of the investigation concerned.

(b) "Retaliate or discriminate":

(1) Includes, without limitation, any of the following actions if taken solely because the employee, registered nurse, licensed practical nurse , ~~for~~ nursing assistant *or ~~certified~~ medication ~~aide~~ aide - certified* took an action described in subsection 1:

(I) Frequent or undesirable changes in the location where the person works;

(II) Frequent or undesirable transfers or reassignments;

(III) The issuance of letters of reprimand, letters of admonition or evaluations of poor performance;

(IV) A demotion;

(V) A reduction in pay;

(VI) The denial of a promotion;

(VII) A suspension;

(VIII) A dismissal;

(IX) A transfer; or

(X) Frequent changes in working hours or workdays.

(2) Does not include an action described in sub-subparagraphs (I) to (X), inclusive, of subparagraph (1) if the action is taken in the normal course of employment or as a form of discipline.

**Sec. 2.** NRS 630.296 is hereby amended to read as follows:

630.296 1. An employee of a physician or a registered nurse, licensed practical nurse , ~~for~~ nursing assistant *or ~~certified~~ medication ~~aide~~ aide - certified* who is employed by or contracts to provide nursing services for the physician and who believes that he or she has been retaliated or discriminated against in violation of NRS 630.293 may file an action in a court of competent jurisdiction.

2. If a court determines that a violation of NRS 630.293 has occurred, the court may award such damages as it determines to have resulted from the violation, including, without limitation:

(a) Compensatory damages;

(b) Reimbursement of any wages, salary, employment benefits or other compensation denied to or lost by the employee, registered nurse, licensed

practical nurse , ~~for~~ nursing assistant *or ~~certified~~ medication ~~aide~~ aide-certified* as a result of the violation;

(c) Attorney's fees and costs, including, without limitation, fees for expert witnesses; and

(d) Punitive damages, if the facts warrant.

3. The court shall award interest on the amount of damages at a rate determined pursuant to NRS 17.130.

4. The court may grant any equitable relief it considers appropriate, including, without limitation, reinstatement of the employee, registered nurse, licensed practical nurse , ~~for~~ nursing assistant *or ~~certified~~ medication ~~aide~~ aide - certified* and any temporary, preliminary or permanent injunctive relief.

5. If any action to retaliate or discriminate is taken against an employee, registered nurse, licensed practical nurse , ~~for~~ nursing assistant *or ~~certified~~ medication ~~aide~~ aide - certified* within 60 days after the employee, registered nurse, licensed practical nurse , ~~for~~ nursing assistant *or ~~certified~~ medication ~~aide~~ aide - certified* takes any action described in subsection 1 of NRS 630.293, there is a rebuttable presumption that the action taken against the employee, registered nurse, licensed practical nurse , ~~for~~ nursing assistant *or ~~certified~~ medication ~~aide~~ aide - certified* constitutes retaliation or discrimination in violation of NRS 630.293.

6. A physician or any agent or employee thereof that violates the provisions of NRS 630.293 is subject to a civil penalty of not more than \$10,000 for each violation. The Attorney General or any district attorney of this State may recover the penalty in a civil action brought in the name of the State of Nevada in any court of competent jurisdiction.

7. Any action under this section must be brought not later than 2 years after the date of the last event constituting the alleged violation for which the action is brought.

8. As used in this section, "retaliate or discriminate" has the meaning ascribed to it in NRS 630.293.

**Sec. 3.** Chapter 632 of NRS is hereby amended by adding thereto the provisions set forth as sections 4 to 11, inclusive, of this act.

**Sec. 4.** *"Authorized medications" means all prescription and nonprescription drugs and medications other than controlled substances.*

**Sec. 5.** ~~*"Certified medication aide" means a nursing assistant who is certified by the Board to administer authorized medications in designated facilities.*~~ **(Deleted by amendment.)**

**Sec. 6.** *"Designated facility" means a medical facility designated by the Board as a facility in which certified medication aides may practice.*

**Sec. 6.5.** *"Medication aide - certified" means a nursing assistant who is certified by the Board to administer authorized medications in designated facilities.*

**Sec. 7.** *1. Any person who practices or offers to practice as a ~~certified~~ medication ~~aide~~ aide - certified in this State shall submit*

evidence that he or she is qualified to practice and must be certified to practice as a ~~certified~~ medication ~~aide~~ aide - certified as provided in this chapter.

2. It is unlawful for any person to practice or to offer to practice as a ~~certified~~ medication ~~aide~~ aide - certified in this State or to use any title, abbreviation, sign, card or device to indicate that the person is practicing as a ~~certified~~ medication ~~aide~~ aide - certified in this State unless the person is certified as a ~~certified~~ medication ~~aide~~ aide - certified pursuant to the provisions of this chapter.

3. The Executive Director of the Board may, on behalf of the Board, issue an order to cease and desist to any person who practices or offers to practice as a ~~certified~~ medication ~~aide~~ aide - certified without a certificate to practice as a ~~certified~~ medication ~~aide~~ aide - certified issued pursuant to the provisions of this chapter.

4. The Executive Director of the Board shall forward to the appropriate law enforcement agency any information submitted to the Board concerning a person who practices or offers to practice as a ~~certified~~ medication ~~aide~~ aide - certified without a certificate to practice as a ~~certified~~ medication ~~aide~~ aide - certified issued pursuant to the provisions of this chapter.

Sec. 8. 1. An applicant for a certificate to practice as a ~~certified~~ medication ~~aide~~ aide - certified must submit proof satisfactory to the Board that the applicant:

- (a) Holds a certificate to practice as a nursing assistant in this State;
- (b) Has completed at least 1 year of continuous full-time employment as a nursing assistant in a medical facility in this State and is currently employed at a medical facility;
- (c) Has a high school diploma or its equivalent;
- (d) Has successfully completed a literacy and reading comprehension screening process approved by the Board;
- (e) Has successfully completed a training course for ~~certified~~ medication ~~aides~~ aides - certified of at least 100 hours that is approved by the Board;
- (f) Has passed an examination on such subjects as are required by the Board; and
- (g) Meets such other reasonable requirements as the Board prescribes by regulation.

2. An applicant who is licensed or certified as a medication aide in another state or territory of the United States may be certified in this State by endorsement if the applicant submits proof satisfactory to the Board that the applicant:

- (a) Holds a certificate to practice as a nursing assistant in another state or territory of the United States;



(b) Has completed at least 1 year of continuous full-time employment as a nursing assistant in a medical facility in another state or territory of the United States and is currently employed at a medical facility;

(c) Has a high school diploma or its equivalent;

(d) Has passed an examination determined by the Board to be equivalent to the examination required by paragraph (f) of subsection 1;

(e) Has completed training determined by the Board to be equivalent to the training required by paragraph (e) of subsection 1; and

(f) Meets such other reasonable requirements as the Board prescribes by regulation.

3. The Board shall issue a certificate to practice as a ~~certified~~ medication ~~aide~~ aide - certified to each applicant who meets the requirements of this section.

Sec. 9. 1. The Board shall designate by regulation the types of medical facilities that may employ ~~certified~~ medication ~~aides~~ aids - certified.

2. If a designated facility elects to employ one or more ~~certified~~ medication ~~aides~~ aides - certified, the facility shall notify the Board in the manner prescribed by the Board.

Sec. 10. 1. A ~~certified~~ medication ~~aide~~ aide - certified may only administer authorized medications and perform related tasks at a designated facility under the supervision of an advanced practitioner of nursing or a registered nurse and in accordance with standard protocols developed by the Board.

2. Except as otherwise provided by subsection 4, a ~~certified~~ medication ~~aide~~ aide - certified may only administer authorized medications by the following methods:

(a) Orally;

(b) Topically;

(c) By the use of drops in the eye, ear or nose;

(d) Vaginally;

(e) Rectally;

(f) Transdermally; and

(g) By the use of an oral inhaler.

3. Except as otherwise provided by subsection 4, a ~~certified~~ medication ~~aide~~ aide - certified shall not:

(a) Receive, have access to or administer any controlled substance;

(b) Administer parenteral or enteral medications;

(c) Administer any substances by nasogastric or gastrostomy tubes;

(d) Calculate drug dosages;

(e) Destroy medication;

(f) Receive orders, either in writing or verbally, for new or changed medication;

(g) Transcribe orders from medical records;

(h) Order or administer initial medications;

- (i) Evaluate reports of medication errors;
- (j) Perform treatments;
- (k) Conduct patient assessments or evaluations;
- (l) Engage in teaching activities for patients; or
- (m) Engage in any activity prohibited pursuant to subsection 4.

4. The Board may adopt regulations authorizing or prohibiting any additional activities of a ~~certified~~ medication ~~aide~~ aide - certified.

5. As used in this section, "supervision" means active oversight of the patient care services provided by a ~~certified~~ medication ~~aide~~ aide - certified while on the premises of a designated facility.

Sec. 11. It is unlawful for any person:

1. To sell or fraudulently obtain or furnish a certificate to practice as a ~~certified~~ medication ~~aide~~ aide - certified;

2. To practice as a ~~certified~~ medication ~~aide~~ aide - certified pursuant to a certificate that was illegally or fraudulently obtained or was signed or issued unlawfully or under fraudulent representation; or

3. To conduct a training course for ~~certified~~ medication ~~aides~~ aides - certified unless the training course has been approved by the Board.

Sec. 12. NRS 632.010 is hereby amended to read as follows:

632.010 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 632.011 to 632.0195, inclusive, **and sections 4, ~~5 and~~ 6 and 6.5 of this act** have the meanings ascribed to them in those sections.

Sec. 13. NRS 632.0135 is hereby amended to read as follows:

632.0135 "Certificate" means a document which authorizes a person to practice as a nursing assistant ~~or~~ ~~certified~~ medication ~~aide~~ aide - certified.

Sec. 14. NRS 632.072 is hereby amended to read as follows:

632.072 1. The Advisory Committee on Nursing Assistants ~~and~~ ~~Certified Medication Aides~~ Aides, consisting of ~~10~~ **11** members appointed by the Board, is hereby created.

2. The Board shall appoint to the Advisory Committee:

- (a) One representative of facilities for long-term care;
- (b) One representative of medical facilities which provide acute care;
- (c) One representative of agencies to provide nursing in the home;
- (d) One representative of the Health Division of the Department of Health and Human Services;
- (e) One representative of the Division of Health Care Financing and Policy of the Department of Health and Human Services;
- (f) One representative of the Aging and Disability Services Division of the Department of Health and Human Services;
- (g) One representative of the American Association of Retired Persons or a similar organization;
- (h) A nursing assistant;
- (i) A registered nurse; ~~and~~

(j) A licensed practical nurse ~~†~~; *and*

(k) A ~~certified~~ *medication aide* - *certified*.

3. The Advisory Committee shall advise the Board with regard to matters relating to nursing assistants ~~†~~ *and* ~~certified~~ *medication aides* - *certified*.

**Sec. 15.** NRS 632.073 is hereby amended to read as follows:

632.073 1. In addition to the Advisory Committee on Nursing Assistants *and* ~~Certified Medication Aides~~ *Aides* created by NRS 632.072, the Board may appoint such other advisory committees as it deems appropriate.

2. The members of any advisory committee appointed pursuant to subsection 1 are not entitled to be paid a salary or to receive per diem allowances for conducting the business of the advisory committee, but the Board may authorize reimbursement for the actual expenses incurred by a member for traveling to and from a meeting of the advisory committee.

**Sec. 16.** NRS 632.120 is hereby amended to read as follows:

632.120 1. The Board shall:

(a) Adopt regulations establishing reasonable standards:

(1) For the denial, renewal, suspension and revocation of, and the placement of conditions, limitations and restrictions upon, a license to practice professional or practical nursing or a certificate to practice as a nursing assistant ~~†~~ *or* ~~certified~~ *medication aide* - *certified*.

(2) Of professional conduct for the practice of nursing.

(3) For prescribing and dispensing controlled substances and dangerous drugs in accordance with applicable statutes.

(b) Prepare and administer examinations for the issuance of a license or certificate under this chapter.

(c) Investigate and determine the eligibility of an applicant for a license or certificate under this chapter.

(d) Carry out and enforce the provisions of this chapter and the regulations adopted pursuant thereto.

2. The Board may adopt regulations establishing reasonable:

(a) Qualifications for the issuance of a license or certificate under this chapter.

(b) Standards for the continuing professional competence of licensees or holders of a certificate. The Board may evaluate licensees or holders of a certificate periodically for compliance with those standards.

3. The Board may adopt regulations establishing a schedule of reasonable fees and charges, in addition to those set forth in NRS 632.345, for:

(a) Investigating licensees or holders of a certificate and applicants for a license or certificate under this chapter;

(b) Evaluating the professional competence of licensees or holders of a certificate;

(c) Conducting hearings pursuant to this chapter;

- (d) Duplicating and verifying records of the Board; and
  - (e) Surveying, evaluating and approving schools of practical nursing, and schools and courses of professional nursing,
- ↪ and collect the fees established pursuant to this subsection.

4. For the purposes of this chapter, the Board shall, by regulation, define the term "in the process of obtaining accreditation."

5. The Board may adopt such other regulations, not inconsistent with state or federal law, as may be necessary to carry out the provisions of this chapter relating to nursing assistant trainees, ~~and~~ nursing assistants ~~and~~ ~~certified medication aides~~ aides - certified.

6. The Board may adopt such other regulations, not inconsistent with state or federal law, as are necessary to enable it to administer the provisions of this chapter.

**Sec. 17.** NRS 632.122 is hereby amended to read as follows:

632.122 The Board may:

1. Accept gifts or grants of money to pay for the costs of administering the provisions of this chapter.

2. Enter into contracts with other public agencies and accept payment from those agencies to pay the expenses incurred by the Board in carrying out the provisions of this chapter relating to nursing assistant trainees, ~~and~~ nursing assistants ~~and~~ ~~certified medication aides~~ aides - certified.

**Sec. 18.** NRS 632.125 is hereby amended to read as follows:

632.125 1. Each hospital or agency in the State employing professional or practical nurses, ~~or~~ nursing assistants ~~or~~ ~~certified medication aides~~ aides - certified shall submit a list of such nursing personnel to the Board at least three times annually as directed by the Board. Except as otherwise provided in NRS 239.0115, each list submitted to the Board pursuant to this subsection is confidential.

2. A medical facility shall, before hiring a nursing assistant, ~~or~~ nursing assistant trainee ~~or~~ ~~certified medication aide~~ aide - certified, obtain validation from the Board that the prospective employee has a current certificate, is enrolled in a training program required for certification or is awaiting the results of a certification examination.

**Sec. 19.** NRS 632.286 is hereby amended to read as follows:

632.286 1. The Board shall supply the Health Division of the Department of Health and Human Services upon request with a list of each training program approved by the Board.

2. The Board shall share with each state agency which regulates medical facilities and facilities for the dependent any information the Board receives concerning disciplinary action taken against nursing assistants ~~or~~ ~~certified medication aides~~ aides - certified who work in the facilities.

**Sec. 20.** NRS 632.310 is hereby amended to read as follows:

632.310 1. The Board may, upon its own motion, and shall, upon the verified complaint in writing of any person, if the complaint alone or together with evidence, documentary or otherwise, presented in connection therewith,

is sufficient to require an investigation, investigate the actions of any licensee or holder of a certificate or any person who assumes to act as a licensee or holder of a certificate within the State of Nevada.

2. The Executive Director *of the Board* may, upon receipt of information from a governmental agency, conduct an investigation to determine whether the information is sufficient to require an investigation for referral to the Board for its consideration.

3. If a written verified complaint filed with the Board does not include the complete name of the licensee, ~~for~~ nursing assistant ~~or~~ ~~certified~~ ~~medication aide~~ aide - certified against whom the complaint is filed, and the Board is unable to identify the licensee, ~~for~~ nursing assistant ~~or~~ ~~certified~~ ~~medication aide~~ aide - certified, the Board shall request that the employer of the licensee, ~~for~~ nursing assistant ~~or~~ ~~certified~~ ~~medication aide~~ aide - certified provide to the Board the complete name of the licensee, ~~for~~ nursing assistant ~~or~~ ~~certified~~ ~~medication aide~~ aide - certified. The employer shall provide the name to the Board within 3 business days after the request is made.

4. The employer of a licensee, ~~for~~ nursing assistant ~~or~~ ~~certified~~ ~~medication aide~~ aide - certified shall provide to the Board, upon its request, the record of the work assignments of any licensee, ~~for~~ nursing assistant ~~or~~ ~~certified~~ ~~medication aide~~ aide - certified whose actions are under investigation by the Board.

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

**Sec. 21.** NRS 632.320 is hereby amended to read as follows:

632.320 1. The Board may deny, revoke or suspend any license or certificate applied for or issued pursuant to this chapter, or take other disciplinary action against a licensee or holder of a certificate, upon determining that the licensee or certificate holder:

(a) Is guilty of fraud or deceit in procuring or attempting to procure a license or certificate pursuant to this chapter.

(b) Is guilty of any offense:

(1) Involving moral turpitude; or

(2) Related to the qualifications, functions or duties of a licensee or holder of a certificate,

↳ in which case the record of conviction is conclusive evidence thereof.

(c) Has been convicted of violating any of the provisions of NRS 616D.200, 616D.220, 616D.240 or 616D.300 to 616D.440, inclusive.

(d) Is unfit or incompetent by reason of gross negligence or recklessness in carrying out usual nursing functions.

(e) Uses any controlled substance, dangerous drug as defined in chapter 454 of NRS, or intoxicating liquor to an extent or in a manner which is dangerous or injurious to any other person or which impairs his or her ability to conduct the practice authorized by the license or certificate.

(f) Is a person with mental incompetence.

(g) Is guilty of unprofessional conduct, which includes, but is not limited to, the following:

(1) Conviction of practicing medicine without a license in violation of chapter 630 of NRS, in which case the record of conviction is conclusive evidence thereof.

(2) Impersonating any applicant or acting as proxy for an applicant in any examination required pursuant to this chapter for the issuance of a license or certificate.

(3) Impersonating another licensed practitioner or holder of a certificate.

(4) Permitting or allowing another person to use his or her license or certificate to practice as a licensed practical nurse, registered nurse, ~~or~~ nursing assistant ~~or certified medication aide~~ **aide - certified.**

(5) Repeated malpractice, which may be evidenced by claims of malpractice settled against the licensee or certificate holder.

(6) Physical, verbal or psychological abuse of a patient.

(7) Conviction for the use or unlawful possession of a controlled substance or dangerous drug as defined in chapter 454 of NRS.

(h) Has willfully or repeatedly violated the provisions of this chapter. The voluntary surrender of a license or certificate issued pursuant to this chapter is prima facie evidence that the licensee or certificate holder has committed or expects to commit a violation of this chapter.

(i) Is guilty of aiding or abetting any person in a violation of this chapter.

(j) Has falsified an entry on a patient's medical chart concerning a controlled substance.

(k) Has falsified information which was given to a physician, pharmacist, podiatric physician or dentist to obtain a controlled substance.

(l) Has been disciplined in another state in connection with a license to practice nursing or a certificate to practice as a nursing assistant ~~or certified medication aide~~ **aide - certified,** or has committed an act in another state which would constitute a violation of this chapter.

(m) Has engaged in conduct likely to deceive, defraud or endanger a patient or the general public.

(n) Has willfully failed to comply with a regulation, subpoena or order of the Board.

(o) Has operated a medical facility at any time during which:

(1) The license of the facility was suspended or revoked; or

(2) An act or omission occurred which resulted in the suspension or revocation of the license pursuant to NRS 449.160.

➔ This paragraph applies to an owner or other principal responsible for the operation of the facility.

2. For the purposes of this section, a plea or verdict of guilty or guilty but mentally ill or a plea of nolo contendere constitutes a conviction of an

offense. The Board may take disciplinary action pending the appeal of a conviction.

**Sec. 22.** NRS 632.342 is hereby amended to read as follows:

632.342 1. The certificate of a nursing assistant ~~or certified~~ ~~medication aide~~ aide - certified must be renewed biennially on the date of the certificate holder's birthday.

2. The Board shall renew a certificate if the applicant:

(a) Submits a completed written application and the fee required by this chapter;

(b) Submits documentation of completion of continuing training, as required by the Board, in the previous 24 months;

(c) Has not committed any acts which are grounds for disciplinary action, unless the Board determines that sufficient restitution has been made or the act was not substantially related to nursing;

(d) Submits documentation of employment as a nursing assistant ~~or certified~~ ~~medication aide~~ aide - certified during the 2 years immediately preceding the date of the renewal; and

(e) Submits all information required to complete the renewal.

↳ The training program completed pursuant to paragraph (b) must be approved by the Board.

3. Failure to renew the certificate results in forfeiture of the right to practice unless the nursing assistant ~~or certified~~ ~~medication aide~~ aide - certified qualifies for the issuance of a new certificate.

4. Renewal of a certificate becomes effective on the date on which:

(a) The application is filed;

(b) The renewal fee is paid; or

(c) All information required to complete the renewal is submitted,

↳ whichever occurs latest.

**Sec. 23.** NRS 632.3425 is hereby amended to read as follows:

632.3425 A suspended license or certificate is subject to expiration and must be renewed as provided in NRS 632.341 or 632.342. Renewal does not entitle the licensee, ~~for~~ nursing assistant ~~or certified~~ ~~medication aide~~ aide - certified to engage in activity which requires licensure or certification until the completion of the suspension.

**Sec. 24.** NRS 632.345 is hereby amended to read as follows:

632.345 1. The Board shall establish and may amend a schedule of fees and charges for the following items and within the following ranges:

	Not less than	Not more than
Application for license to practice professional nursing (registered nurse).....	\$45	\$100
Application for license to practice practical nursing.....	30	90
Application for temporary license to practice professional nursing or		

practical nursing pursuant to NRS 632.300, which fee must be credited toward the fee required for a regular license, if the applicant applies for a license.....	15	50
Application for a certificate to practice as a nursing assistant <del>or certified</del> <b>medication aide – certified</b> .....	15	50
Application for a temporary certificate to practice as a nursing assistant pursuant to NRS 632.300, which fee must be credited toward the fee required for a regular certificate, if the applicant applies for a certificate .....	5	40
Biennial fee for renewal of a license .....	40	100
Biennial fee for renewal of a certificate .....	20	50
Fee for reinstatement of a license.....	10	100
Application for recognition as an advanced practitioner of nursing .....	50	200
Application for recognition as a certified registered nurse anesthetist.....	50	200
Biennial fee for renewal of recognition as an advanced practitioner of nursing or certified registered nurse anesthetist.....	50	200
Examination fee for license to practice professional nursing.....	20	100
Examination fee for license to practice practical nursing .....	10	90
Rewriting examination for license to practice professional nursing.....	20	100
Rewriting examination for license to practice practical nursing.....	10	90
Duplicate license .....	5	30
Duplicate certificate .....	5	30
Proctoring examination for candidate from another state.....	25	150
Fee for approving one course of continuing education.....	10	50
Fee for reviewing one course of continuing education which has been changed since approval.....	5	30
Annual fee for approval of all courses of continuing education offered .....	100	500
Annual fee for review of training program.....	60	100
Certification examination .....	10	90



Approval of instructors of training programs.....	50	100
Approval of proctors for certification examinations.....	20	50
Approval of training programs .....	150	250
Validation of licensure or certification.....	5	25

2. The Board may collect the fees and charges established pursuant to this section, and those fees or charges must not be refunded.

**Sec. 25.** NRS 632.472 is hereby amended to read as follows:

632.472 1. The following persons shall report in writing to the Executive Director of the Board any conduct of a licensee or holder of a certificate which constitutes a violation of the provisions of this chapter:

(a) Any physician, dentist, dental hygienist, chiropractor, optometrist, podiatric physician, medical examiner, resident, intern, professional or practical nurse, nursing assistant, ~~certified~~ **medication aide**, ~~aide~~ **aide - certified**, perfusionist, physician assistant licensed pursuant to chapter 630 or 633 of NRS, psychiatrist, psychologist, marriage and family therapist, clinical professional counselor, alcohol or drug abuse counselor, driver of an ambulance, advanced emergency medical technician or other person providing medical services licensed or certified to practice in this State.

(b) Any personnel of a medical facility or facility for the dependent engaged in the admission, examination, care or treatment of persons or an administrator, manager or other person in charge of a medical facility or facility for the dependent upon notification by a member of the staff of the facility.

(c) A coroner.

(d) Any person who maintains or is employed by an agency to provide personal care services in the home.

(e) Any person who operates, who is employed by or who contracts to provide services for an intermediary service organization as defined in NRS 427A.0291.

(f) Any person who maintains or is employed by an agency to provide nursing in the home.

(g) Any employee of the Department of Health and Human Services.

(h) Any employee of a law enforcement agency or a county's office for protective services or an adult or juvenile probation officer.

(i) Any person who maintains or is employed by a facility or establishment that provides care for older persons.

(j) Any person who maintains, is employed by or serves as a volunteer for an agency or service which advises persons regarding the abuse, neglect or exploitation of an older person and refers them to persons and agencies where their requests and needs can be met.

(k) Any social worker.

2. Every physician who, as a member of the staff of a medical facility or facility for the dependent, has reason to believe that a nursing assistant ~~or certified~~ **medication aide - certified** has engaged in conduct which constitutes grounds for the denial, suspension or revocation of a certificate shall notify the superintendent, manager or other person in charge of the facility. The superintendent, manager or other person in charge shall make a report as required in subsection 1.

3. A report may be filed by any other person.

4. Any person who in good faith reports any violation of the provisions of this chapter to the Executive Director of the Board pursuant to this section is immune from civil liability for reporting the violation.

5. As used in this section, "agency to provide personal care services in the home" has the meaning ascribed to it in NRS 449.0021.

**Sec. 26.** NRS 632.476 is hereby amended to read as follows:

632.476 Each employer of a licensee, ~~or~~ nursing assistant ~~or certified~~ **medication aide - certified** shall prepare and maintain, for at least 5 years, a record of the work assignments of each licensee, ~~or~~ nursing assistant ~~or certified~~ **medication aide - certified**.

**Sec. 27.** NRS 632.490 is hereby amended to read as follows:

632.490 1. The Board shall cause the prosecution of all persons violating the provisions of this chapter.

2. The Board, or any person designated by the Board, may prefer a complaint for violation of NRS 632.285 or 632.315 **or section 7 or 11 of this act** before any court of competent jurisdiction, and it may take the necessary legal steps through the proper legal officers of this State to enforce the provisions thereof.

**Sec. 28.** NRS 632.495 is hereby amended to read as follows:

632.495 1. In addition to any other penalty:

(a) The Board may issue a citation to a person who violates the provisions of NRS 632.285 or 632.315 ~~or~~ **section 7 or 11 of this act**. A citation issued pursuant to this paragraph must be in writing and describe with particularity the nature of the violation. The citation also must inform the person of the provisions of subsection 2. A separate citation must be issued for each violation. If appropriate, the citation must contain an order of abatement of the violation.

(b) The Board shall assess an administrative fine of:

(1) For the first violation, \$500.

(2) For the second violation, \$1,000.

(3) For the third or subsequent violation, \$1,500.

2. To appeal the finding of a violation of NRS 632.285 or 632.315 ~~or~~ **section 7 or 11 of this act**, the person must request a hearing by written notice of appeal to the Board within 30 days after the date of issuance of the citation.

**Sec. 29.** NRS 633.505 is hereby amended to read as follows:

633.505 1. An osteopathic physician or any agent or employee thereof shall not retaliate or discriminate unfairly against:

(a) An employee of the osteopathic physician or a person acting on behalf of the employee who in good faith:

(1) Reports to the State Board of Osteopathic Medicine information relating to the conduct of the osteopathic physician which may constitute grounds for initiating disciplinary action against the osteopathic physician or which otherwise raises a reasonable question regarding the competence of the osteopathic physician to practice medicine with reasonable skill and safety to patients; or

(2) Reports a sentinel event to the Health Division of the Department of Health and Human Services pursuant to NRS 439.835;

(b) A registered nurse, licensed practical nurse, ~~for~~ nursing assistant *or* ~~certified~~ *medication aide - certified* who is employed by or contracts to provide nursing services for the osteopathic physician and who:

(1) In good faith, reports to the osteopathic physician, the State Board of Osteopathic Medicine, the State Board of Nursing, the Legislature or any committee thereof or any other governmental entity:

(I) Any information concerning the willful conduct of another registered nurse, licensed practical nurse, ~~for~~ nursing assistant *or* ~~certified~~ *medication aide - certified* which violates any provision of chapter 632 of NRS or which is required to be reported to the State Board of Nursing;

(II) Any concerns regarding patients who may be exposed to a substantial risk of harm as a result of the failure of the osteopathic physician or any agent or employee thereof to comply with minimum professional or accreditation standards or applicable statutory or regulatory requirements; or

(III) Any other concerns regarding the osteopathic physician, the agents and employees thereof or any situation that reasonably could result in harm to patients; or

(2) Refuses to engage in conduct that would violate the duty of the registered nurse, licensed practical nurse, ~~for~~ nursing assistant *or* ~~certified~~ *medication aide - certified* to protect patients from actual or potential harm, including, without limitation, conduct which would violate any provision of chapter 632 of NRS or which would subject the registered nurse, licensed practical nurse, ~~for~~ nursing assistant *or* ~~certified~~ *medication aide - certified* to disciplinary action by the State Board of Nursing; or

(c) An employee of the osteopathic physician, a person acting on behalf of the employee or a registered nurse, licensed practical nurse, ~~for~~ nursing assistant *or* ~~certified~~ *medication aide - certified* who is employed by or contracts to provide nursing services for the osteopathic physician and who cooperates or otherwise participates in an investigation or proceeding conducted by the State Board of Osteopathic Medicine or another governmental entity relating to conduct described in paragraph (a) or (b).

2. An osteopathic physician or any agent or employee thereof shall not retaliate or discriminate unfairly against an employee of the osteopathic physician or a registered nurse, licensed practical nurse, ~~or~~ nursing assistant ~~or certified medication aide~~ aide - certified who is employed by or contracts to provide nursing services for the osteopathic physician because the employee, registered nurse, licensed practical nurse, ~~or~~ nursing assistant ~~or certified medication aide~~ aide - certified has taken an action described in subsection 1.

3. An osteopathic physician or any agent or employee thereof shall not prohibit, restrict or attempt to prohibit or restrict by contract, policy, procedure or any other manner the right of an employee of the osteopathic physician or a registered nurse, licensed practical nurse, ~~or~~ nursing assistant ~~or certified medication aide~~ aide - certified who is employed by or contracts to provide nursing services for the osteopathic physician to take an action described in subsection 1.

4. As used in this section:

(a) "Good faith" means honesty in fact in the reporting of the information or in the cooperation in the investigation concerned.

(b) "Retaliate or discriminate":

(1) Includes, without limitation, any of the following actions if taken solely because the employee, registered nurse, licensed practical nurse, ~~or~~ nursing assistant ~~or certified medication aide~~ aide - certified took an action described in subsection 1:

(I) Frequent or undesirable changes in the location where the person works;

(II) Frequent or undesirable transfers or reassignments;

(III) The issuance of letters of reprimand, letters of admonition or evaluations of poor performance;

(IV) A demotion;

(V) A reduction in pay;

(VI) The denial of a promotion;

(VII) A suspension;

(VIII) A dismissal;

(IX) A transfer; or

(X) Frequent changes in working hours or workdays.

(2) Does not include an action described in sub-subparagraphs (I) to (X), inclusive, of subparagraph (1) if the action is taken in the normal course of employment or as a form of discipline.

**Sec. 30.** NRS 633.507 is hereby amended to read as follows:

633.507 1. An employee of an osteopathic physician or a registered nurse, licensed practical nurse, ~~or~~ nursing assistant ~~or certified medication aide~~ aide - certified who is employed by or contracts to provide nursing services for the osteopathic physician and who believes that he or she has been retaliated or discriminated against in violation of NRS 633.505 may file an action in a court of competent jurisdiction.

2. If a court determines that a violation of NRS 633.505 has occurred, the court may award such damages as it determines to have resulted from the violation, including, without limitation:

- (a) Compensatory damages;
- (b) Reimbursement of any wages, salary, employment benefits or other compensation denied to or lost by the employee, registered nurse, licensed practical nurse, ~~for~~ nursing assistant ~~or~~ ~~certified~~ ~~medication aide~~ aide - certified as a result of the violation;
- (c) Attorney's fees and costs, including, without limitation, fees for expert witnesses; and
- (d) Punitive damages, if the facts warrant.

3. The court shall award interest on the amount of damages at a rate determined pursuant to NRS 17.130.

4. The court may grant any equitable relief it considers appropriate, including, without limitation, reinstatement of the employee, registered nurse, licensed practical nurse, ~~for~~ nursing assistant ~~or~~ ~~certified~~ ~~medication aide~~ aide - certified and any temporary, preliminary or permanent injunctive relief.

5. If any action to retaliate or discriminate is taken against an employee, registered nurse, licensed practical nurse, ~~for~~ nursing assistant ~~or~~ ~~certified~~ ~~medication aide~~ aide - certified within 60 days after the employee, registered nurse, licensed practical nurse, ~~for~~ nursing assistant ~~or~~ ~~certified~~ ~~medication aide~~ aide - certified takes any action described in subsection 1 of NRS 633.505, there is a rebuttable presumption that the action taken against the employee, registered nurse, licensed practical nurse, ~~for~~ nursing assistant ~~or~~ ~~certified~~ ~~medication aide~~ aide - certified constitutes retaliation or discrimination in violation of NRS 633.505.

6. An osteopathic physician or any agent or employee thereof that violates the provisions of NRS 633.505 is subject to a civil penalty of not more than \$10,000 for each violation. The Attorney General or any district attorney of this State may recover the penalty in a civil action brought in the name of the State of Nevada in any court of competent jurisdiction.

7. Any action under this section must be brought not later than 2 years after the date of the last event constituting the alleged violation for which the action is brought.

8. As used in this section, "retaliate or discriminate" has the meaning ascribed to it in NRS 633.505.

**Sec. 31.** NRS 200.471 is hereby amended to read as follows:

200.471 1. As used in this section:

(a) "Assault" means:

(1) Unlawfully attempting to use physical force against another person;

or

(2) Intentionally placing another person in reasonable apprehension of immediate bodily harm.

(b) "Officer" means:

(1) A person who possesses some or all of the powers of a peace officer;

(2) A person employed in a full-time salaried occupation of fire fighting for the benefit or safety of the public;

(3) A member of a volunteer fire department;

(4) A jailer, guard or other correctional officer of a city or county jail;

(5) A justice of the Supreme Court, district judge, justice of the peace, municipal judge, magistrate, court commissioner, master or referee, including a person acting pro tempore in a capacity listed in this subparagraph; or

(6) An employee of the State or a political subdivision of the State whose official duties require the employee to make home visits.

(c) "Provider of health care" means a physician, a perfusionist or a physician assistant licensed pursuant to chapter 630 of NRS, a practitioner of respiratory care, a homeopathic physician, an advanced practitioner of homeopathy, a homeopathic assistant, an osteopathic physician, a physician assistant licensed pursuant to chapter 633 of NRS, a podiatric physician, a podiatry hygienist, a physical therapist, a medical laboratory technician, an optometrist, a chiropractor, a chiropractor's assistant, a doctor of Oriental medicine, a nurse, a student nurse, a certified nursing assistant, a nursing assistant trainee, ~~a certified medication aide,~~ aide - certified, a dentist, a dental hygienist, a pharmacist, an intern pharmacist, an attendant on an ambulance or air ambulance, a psychologist, a social worker, a marriage and family therapist, a marriage and family therapist intern, a clinical professional counselor, a clinical professional counselor intern and an emergency medical technician.

(d) "School employee" means a licensed or unlicensed person employed by a board of trustees of a school district pursuant to NRS 391.100.

(e) "Sporting event" has the meaning ascribed to it in NRS 41.630.

(f) "Sports official" has the meaning ascribed to it in NRS 41.630.

(g) "Taxicab" has the meaning ascribed to it in NRS 706.8816.

(h) "Taxicab driver" means a person who operates a taxicab.

(i) "Transit operator" means a person who operates a bus or other vehicle as part of a public mass transportation system.

2. A person convicted of an assault shall be punished:

(a) If paragraph (c) or (d) does not apply to the circumstances of the crime and the assault is not made with the use of a deadly weapon or the present ability to use a deadly weapon, for a misdemeanor.

(b) If the assault is made with the use of a deadly weapon or the present ability to use a deadly weapon, for a category B felony by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 6 years, or by a fine of not more than \$5,000, or by both fine and imprisonment.

(c) If paragraph (d) does not apply to the circumstances of the crime and if the assault is committed upon an officer, a provider of health care, a school employee, a taxicab driver or a transit operator who is performing his or her

duty or upon a sports official based on the performance of his or her duties at a sporting event and the person charged knew or should have known that the victim was an officer, a provider of health care, a school employee, a taxicab driver, a transit operator or a sports official, for a gross misdemeanor, unless the assault is made with the use of a deadly weapon or the present ability to use a deadly weapon, then for a category B felony by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 6 years, or by a fine of not more than \$5,000, or by both fine and imprisonment.

(d) If the assault is committed upon an officer, a provider of health care, a school employee, a taxicab driver or a transit operator who is performing his or her duty or upon a sports official based on the performance of his or her duties at a sporting event by a probationer, a prisoner who is in lawful custody or confinement or a parolee, and the probationer, prisoner or parolee charged knew or should have known that the victim was an officer, a provider of health care, a school employee, a taxicab driver, a transit operator or a sports official, for a category D felony as provided in NRS 193.130, unless the assault is made with the use of a deadly weapon or the present ability to use a deadly weapon, then for a category B felony by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 6 years, or by a fine of not more than \$5,000, or by both fine and imprisonment.

**Sec. 32.** Chapter 449 of NRS is hereby amended by adding thereto a new section to read as follows:

~~["Certified medication aide"]~~ ***"Medication aide - certified" has the meaning ascribed to it in section ~~57~~ 6.5 of this act.***

**Sec. 33.** NRS 449.001 is hereby amended to read as follows:

449.001 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 449.0015 to 449.0195, inclusive, ***and section 32 of this act*** have the meanings ascribed to them in those sections.

**Sec. 34.** NRS 449.205 is hereby amended to read as follows:

449.205 1. A medical facility or any agent or employee thereof shall not retaliate or discriminate unfairly against:

(a) An employee of the medical facility or a person acting on behalf of the employee who in good faith:

(1) Reports to the Board of Medical Examiners or the State Board of Osteopathic Medicine, as applicable, information relating to the conduct of a physician which may constitute grounds for initiating disciplinary action against the physician or which otherwise raises a reasonable question regarding the competence of the physician to practice medicine with reasonable skill and safety to patients;

(2) Reports a sentinel event to the Health Division pursuant to NRS 439.835; or

(3) Cooperates or otherwise participates in an investigation or proceeding conducted by the Board of Medical Examiners, the State Board of

Osteopathic Medicine or another governmental entity relating to conduct described in subparagraph (1) or (2); or

(b) A registered nurse, licensed practical nurse, ~~for~~ nursing assistant *or ~~certified~~ medication ~~aide~~ aide - certified* who is employed by or contracts to provide nursing services for the medical facility and who:

(1) In accordance with the policy, if any, established by the medical facility:

(I) Reports to his or her immediate supervisor, in writing, that he or she does not possess the knowledge, skill or experience to comply with an assignment to provide nursing services to a patient; and

(II) Refuses to provide to a patient nursing services for which, as verified by documentation in the personnel file of the registered nurse, licensed practical nurse, ~~for~~ nursing assistant *or ~~certified~~ medication ~~aide~~ aide - certified* concerning his or her competence to provide various nursing services, he or she does not possess the knowledge, skill or experience to comply with the assignment to provide nursing services to the patient, unless the refusal constitutes unprofessional conduct as set forth in chapter 632 of NRS or any regulations adopted pursuant thereto;

(2) In good faith, reports to the medical facility, the Board of Medical Examiners, the State Board of Osteopathic Medicine, the State Board of Nursing, the Legislature or any committee thereof or any other governmental entity:

(I) Any information concerning the willful conduct of another registered nurse, licensed practical nurse, ~~for~~ nursing assistant *or ~~certified~~ medication ~~aide~~ aide - certified* which violates any provision of chapter 632 of NRS or which is required to be reported to the State Board of Nursing;

(II) Any concerns regarding patients who may be exposed to a substantial risk of harm as a result of the failure of the medical facility or any agent or employee thereof to comply with minimum professional or accreditation standards or applicable statutory or regulatory requirements; or

(III) Any other concerns regarding the medical facility, the agents and employees thereof or any situation that reasonably could result in harm to patients; or

(3) Refuses to engage in conduct that would violate the duty of the registered nurse, licensed practical nurse, ~~for~~ nursing assistant *or ~~certified~~ medication ~~aide~~ aide - certified* to protect patients from actual or potential harm, including, without limitation, conduct which would violate any provision of chapter 632 of NRS or which would subject the registered nurse, licensed practical nurse, ~~for~~ nursing assistant *or ~~certified~~ medication ~~aide~~ aide - certified* to disciplinary action by the State Board of Nursing.

2. A medical facility or any agent or employee thereof shall not retaliate or discriminate unfairly against an employee of the medical facility or a registered nurse, licensed practical nurse, ~~for~~ nursing assistant *or ~~certified~~ medication ~~aide~~ aide - certified* who is employed by or contracts to provide



nursing services for the medical facility because the employee, registered nurse, licensed practical nurse , ~~for~~ nursing assistant *or ~~certified~~ medication ~~aide~~ aide - certified* has taken an action described in subsection 1.

3. A medical facility or any agent or employee thereof shall not prohibit, restrict or attempt to prohibit or restrict by contract, policy, procedure or any other manner the right of an employee of the medical facility or a registered nurse, licensed practical nurse , ~~for~~ nursing assistant *or ~~certified~~ medication ~~aide~~ aide - certified* who is employed by or contracts to provide nursing services for the medical facility to take an action described in subsection 1.

4. As used in this section:

(a) "Good faith" means honesty in fact in the reporting of the information or in the cooperation in the investigation concerned.

(b) "Physician" means a person licensed to practice medicine pursuant to chapter 630 or 633 of NRS.

(c) "Retaliate or discriminate":

(1) Includes, without limitation, any of the following actions if taken solely because the employee, registered nurse, licensed practical nurse , ~~for~~ nursing assistant *or ~~certified~~ medication ~~aide~~ aide - certified* took an action described in subsection 1:

(I) Frequent or undesirable changes in the location where the person works;

(II) Frequent or undesirable transfers or reassignments;

(III) The issuance of letters of reprimand, letters of admonition or evaluations of poor performance;

(IV) A demotion;

(V) A reduction in pay;

(VI) The denial of a promotion;

(VII) A suspension;

(VIII) A dismissal;

(IX) A transfer; or

(X) Frequent changes in working hours or workdays.

(2) Does not include an action described in sub-subparagraphs (I) to (X), inclusive, of subparagraph (1) if the action is taken in the normal course of employment or as a form of discipline.

**Sec. 35.** NRS 449.207 is hereby amended to read as follows:

449.207 1. An employee of a medical facility or a registered nurse, licensed practical nurse , ~~for~~ nursing assistant *or ~~certified~~ medication ~~aide~~ aide - certified* who is employed by or contracts to provide nursing services for the medical facility and who believes that he or she has been retaliated or discriminated against in violation of NRS 449.205 may file an action in a court of competent jurisdiction.

2. If a court determines that a violation of NRS 449.205 has occurred, the court may award such damages as it determines to have resulted from the violation, including, without limitation:

- (a) Compensatory damages;
- (b) Reimbursement of any wages, salary, employment benefits or other compensation denied to or lost by the employee, registered nurse, licensed practical nurse, ~~for~~ nursing assistant *or ~~certified~~ medication ~~aide~~ aide - certified* as a result of the violation;
- (c) Attorney's fees and costs, including, without limitation, fees for expert witnesses; and
- (d) Punitive damages, if the facts warrant.

3. The court shall award interest on the amount of damages at a rate determined pursuant to NRS 17.130.

4. The court may grant any equitable relief it considers appropriate, including, without limitation, reinstatement of the employee, registered nurse, licensed practical nurse, ~~for~~ nursing assistant *or ~~certified~~ medication ~~aide~~ aide - certified* and any temporary, preliminary or permanent injunctive relief.

5. If any action to retaliate or discriminate is taken against an employee, registered nurse, licensed practical nurse, ~~for~~ nursing assistant *or ~~certified~~ medication ~~aide~~ aide - certified* within 60 days after the employee, registered nurse, licensed practical nurse, ~~for~~ nursing assistant *or ~~certified~~ medication ~~aide~~ aide - certified* takes any action described in subsection 1 of NRS 449.205, there is a rebuttable presumption that the action taken against the employee, registered nurse, licensed practical nurse, ~~for~~ nursing assistant *or ~~certified~~ medication ~~aide~~ aide - certified* constitutes retaliation or discrimination in violation of NRS 449.205.

6. A medical facility or any agent or employee thereof that violates the provisions of NRS 449.205 is subject to a civil penalty of not more than \$10,000 for each violation. The Attorney General or any district attorney of this State may recover the penalty in a civil action brought in the name of the State of Nevada in any court of competent jurisdiction.

7. Any action under this section must be brought not later than 2 years after the date of the last event constituting the alleged violation for which the action is brought.

8. As used in this section, "retaliate or discriminate" has the meaning ascribed to it in NRS 449.205.

**Sec. 36.** NRS 449.208 is hereby amended to read as follows:

449.208 1. A medical facility shall prepare a written notice for the employees of the medical facility and for the nurses, ~~and~~ nursing assistants *and ~~certified~~ medication ~~aides~~ aides - certified* who contract with the medical facility regarding the protections provided for actions taken pursuant to subsection 1 of NRS 449.205 and the legal remedy provided pursuant to NRS 449.207. The notice must include the process by which an employee,

nurse, ~~for~~ nursing assistant ~~or certified medication aide~~ aide - certified may make a report pursuant to subsection 1 of NRS 449.205.

2. A medical facility shall:

(a) Post in one or more conspicuous places at the medical facility the notice prepared pursuant to subsection 1; and

(b) Include the text of the written notice in any manual or handbook that the medical facility provides to employees, ~~and~~ nurses, ~~and~~ nursing assistants ~~and certified medication aides~~ aides - certified who contract with the medical facility concerning employment practices at the medical facility.

**Sec. 37.** NRS 449.2416 is hereby amended to read as follows:

449.2416 "Nurse" means a person licensed pursuant to chapter 632 of NRS to practice nursing, including, without limitation, a licensed practical nurse. The term does not include a certified nursing assistant ~~or a certified medication aide~~ aide - certified.

**Sec. 38.** NRS 449.247 is hereby amended to read as follows:

449.247 1. The Health Division may review the personnel files of a medical facility or facility for the dependent to determine that each nursing assistant ~~or certified medication aide~~ aide - certified employed by the facility has a current certificate.

2. The Health Division shall review the qualifications of instructors of nursing assistants ~~or certified medication aides~~ aides - certified for each program of which the Division is notified pursuant to NRS 632.286.

3. The Health Division may conduct the review of training programs for nursing assistants ~~or certified medication aides~~ aides - certified in facilities for long-term care.

4. The Health Division and any other state agency which regulates medical facilities and facilities for the dependent shall provide to the State Board of Nursing any information it discovers concerning:

(a) Programs and instructors for training nursing assistants ~~or certified medication aides~~ aides - certified which do not comply with the requirements established by the State Board of Nursing.

(b) The failure of a nursing assistant ~~or certified medication aide~~ aide - certified to perform consistently at a safe level.

(c) The results of any investigation of a facility if the investigation concerns a nursing assistant, ~~certified medication aide~~ aide - certified or instructor or training program for nursing assistants ~~or certified medication aides~~ aides - certified.

5. The State Board of Nursing shall investigate any report submitted pursuant to subsection 4 and may revoke approval of a program or instructor if the allegations of the report are true.

**Sec. 39.** NRS 454.213 is hereby amended to read as follows:

454.213 A drug or medicine referred to in NRS 454.181 to 454.371, inclusive, may be possessed and administered by:

1. A practitioner.

2. A physician assistant licensed pursuant to chapter 630 or 633 of NRS, at the direction of his or her supervising physician or a licensed dental hygienist acting in the office of and under the supervision of a dentist.

3. Except as otherwise provided in subsection 4, a registered nurse licensed to practice professional nursing or licensed practical nurse, at the direction of a prescribing physician, physician assistant licensed pursuant to chapter 630 or 633 of NRS, dentist, podiatric physician or advanced practitioner of nursing, or pursuant to a chart order, for administration to a patient at another location.

4. In accordance with applicable regulations of the Board, a registered nurse licensed to practice professional nursing or licensed practical nurse who is:

(a) Employed by a health care agency or health care facility that is authorized to provide emergency care, or to respond to the immediate needs of a patient, in the residence of the patient; and

(b) Acting under the direction of the medical director of that agency or facility who works in this State.

5. ~~A certified medication aide~~ ***certified at a designated facility under the supervision of an advanced practitioner of nursing or registered nurse and in accordance with standard protocols developed by the State Board of Nursing. As used in this subsection, "designated facility" has the meaning ascribed to it in section 6 of this act.***

6. Except as otherwise provided in subsection ~~6~~ 7, an intermediate emergency medical technician or an advanced emergency medical technician, as authorized by regulation of the State Board of Pharmacy and in accordance with any applicable regulations of:

(a) The State Board of Health in a county whose population is less than 100,000;

(b) A county board of health in a county whose population is 100,000 or more; or

(c) A district board of health created pursuant to NRS 439.362 or 439.370 in any county.

~~6~~ 7. An intermediate emergency medical technician or an advanced emergency medical technician who holds an endorsement issued pursuant to NRS 450B.1975, under the direct supervision of a local health officer or a designee of the local health officer pursuant to that section.

~~7~~ 8. A respiratory therapist employed in a health care facility. The therapist may possess and administer respiratory products only at the direction of a physician.

~~8~~ 9. A dialysis technician, under the direction or supervision of a physician or registered nurse only if the drug or medicine is used for the process of renal dialysis.

~~9~~ 10. A medical student or student nurse in the course of his or her studies at an approved college of medicine or school of professional or practical nursing, at the direction of a physician and:

(a) In the presence of a physician or a registered nurse; or

(b) Under the supervision of a physician or a registered nurse if the student is authorized by the college or school to administer the drug or medicine outside the presence of a physician or nurse.

↪ A medical student or student nurse may administer a dangerous drug in the presence or under the supervision of a registered nurse alone only if the circumstances are such that the registered nurse would be authorized to administer it personally.

~~¶10.†~~ **11.** Any person designated by the head of a correctional institution.

~~¶11.†~~ **12.** An ultimate user or any person designated by the ultimate user pursuant to a written agreement.

~~¶12.†~~ **13.** A nuclear medicine technologist, at the direction of a physician and in accordance with any conditions established by regulation of the Board.

~~¶13.†~~ **14.** A radiologic technologist, at the direction of a physician and in accordance with any conditions established by regulation of the Board.

~~¶14.†~~ **15.** A chiropractic physician, but only if the drug or medicine is a topical drug used for cooling and stretching external tissue during therapeutic treatments.

~~¶15.†~~ **16.** A physical therapist, but only if the drug or medicine is a topical drug which is:

(a) Used for cooling and stretching external tissue during therapeutic treatments; and

(b) Prescribed by a licensed physician for:

(1) Iontophoresis; or

(2) The transmission of drugs through the skin using ultrasound.

~~¶16.†~~ **17.** In accordance with applicable regulations of the State Board of Health, an employee of a residential facility for groups, as defined in NRS 449.017, pursuant to a written agreement entered into by the ultimate user.

~~¶17.†~~ **18.** A veterinary technician at the direction of his or her supervising veterinarian.

~~¶18.†~~ **19.** In accordance with applicable regulations of the Board, a registered pharmacist who:

(a) Is trained in and certified to carry out standards and practices for immunization programs;

(b) Is authorized to administer immunizations pursuant to written protocols from a physician; and

(c) Administers immunizations in compliance with the ~~["Standards of Immunization Practices"]~~ **standards for immunization practices** recommended and approved by the ~~United States Public Health Service]~~ ~~Advisory Committee on Immunization Practices.~~

~~¶19.†~~ **20.** A person who is enrolled in a training program to become a physician assistant licensed pursuant to chapter 630 or 633 of NRS, dental hygienist, intermediate emergency medical technician, advanced emergency medical technician, respiratory therapist, dialysis technician, nuclear

medicine technologist, radiologic technologist, physical therapist or veterinary technician if the person possesses and administers the drug or medicine in the same manner and under the same conditions that apply, respectively, to a physician assistant licensed pursuant to chapter 630 or 633 of NRS, dental hygienist, intermediate emergency medical technician, advanced emergency medical technician, respiratory therapist, dialysis technician, nuclear medicine technologist, radiologic technologist, physical therapist or veterinary technician who may possess and administer the drug or medicine, and under the direct supervision of a person licensed or registered to perform the respective medical art or a supervisor of such a person.

**Sec. 40.** This act becomes effective upon passage and approval for the purpose of adopting regulations and on October 1, 2011, for all other purposes.

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. 212 to Senate Bill No. 411 simply changes the name "certified medication aide" to "medication aide-certified."

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

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

Senate in recess at 4:10 p.m.

#### SENATE IN SESSION

At 4:38 p.m.

Senator Parks presiding.

Quorum present.

#### WAIVERS AND EXEMPTIONS

##### NOTICE OF EXEMPTION

April 15, 2011

The Fiscal Analysis Division, pursuant to Joint Standing Rule 14.6, has determined the eligibility for exemption of: Senate Bill No. 360.

MARK KRMPOTIC  
*Fiscal Analysis Division*

#### GUESTS EXTENDED PRIVILEGE OF SENATE FLOOR

On request of Senator Breeden, the privilege of the Floor of the Senate Chamber for this day was extended to former Senator Norman "Ty" Hilbrecht.

On request of Senator Brower, the privilege of the Floor of the Senate Chamber for this day was extended to former Senator Thomas "Spike" Wilson and Mrs. Thomas Wilson.

On request of Senator Cegavske, the privilege of the Floor of the Senate Chamber for this day was extended to former Secretary of the Senate Claire Clift.

On request of Senator Denis, the privilege of the Floor of the Senate Chamber for this day was extended to former Senator Terry Care.

On request of Senator Gustavson, the privilege of the Floor of the Senate Chamber for this day was extended to former Senator Leonard "Len" Nevin.

On request of Senator Halseth, the privilege of the Floor of the Senate Chamber for this day was extended to former Senator Mike Malone.

On request of Senator Hardy, the privilege of the Floor of the Senate Chamber for this day was extended to former Senator Eric Beyer, Loretta Harper and Jennifer Webb-Cook.

On request of Senator Horsford, the privilege of the Floor of the Senate Chamber for this day was extended to Jim Elston, Summer Fernandez, Ms. Tracy Lynn Chew, Dr. Sonya Horsford, former Senator William J. Raggio, Dale Raggio, Ms. Leslie Raggio-Righetti and Anthony Woodring

On request of Senator Kieckhefer, the privilege of the Floor of the Senate Chamber for this day was extended to former Senator Bill Farr.

On request of Senator Kihuen, the privilege of the Floor of the Senate Chamber for this day was extended to Stavan Corbett, Chris Wallace and Gary Murphy.

On request of Senator Lee, the privilege of the Floor of the Senate Chamber for this day was extended to Secretary of State Ross Miller.

On request of Senator Leslie, the privilege of the Floor of the Senate Chamber for this day was extended to former Senator Margie Foote, Gary Ghiggeri and former Senator Alan Glover.

On request of Senator McGinness, the privilege of the Floor of the Senate Chamber for this day was extended to Pat Getto, former Senator Virgil Getto and former Senator Cliff Young.

On request of Senator Parks, the privilege of the Floor of the Senate Chamber for this day was extended to former Senator Bob Coffin.

On request of Senator Rhoads, the privilege of the Floor of the Senate Chamber for this day was extended to former Senator Dennis Nolan.

On request of Senator Schneider, the privilege of the Floor of the Senate Chamber for this day was extended to Jack K.C. Chiang; Deputy Director General Jay Wong, former Senator Helen Foley, Will Foley, former Senator John Foley, Sandra Litton, Dean H. L. Wang; Director Joy Wong.

On request of Senator Wiener, the privilege of the Floor of the Senate Chamber for this day was extended to former Senator Bernice Martin Matthews and Congresswoman Dina Titus.

On request of President Krolicki, the privilege of the Floor of the Senate Chamber for this day was extended to former Senate President Dr. Lonnie Hammergren and former Senator Stephanie Tyler.

Senator Horsford moved that the Senate adjourn until Wednesday, April 20, 2011, at 10 a.m.

Motion carried.

Senate adjourned at 4:42 p.m.

Approved:

SENATOR DAVID R. PARKS

*Chair of Legislative Operations and Elections*

Attest: DAVID A. BYERMAN

*Secretary of the Senate*