

THE SEVENTY-EIGHTH DAY

CARSON CITY (Monday), April 25, 2011

Senate called to order at 10:23 a.m.

President Krolicki presiding.

Roll called.

All present.

Prayer by the Chaplain, Reverend Bruce Henderson.

Yesterday we celebrated resurrection and new life.

Lord, I would pray those things for this week. As we face pressures and deadlines, we pray for a resurrection of unity, teamwork and compromise. And please refurbish us with a new life of joy peace and enthusiasm.

I pray in the Name of the One who wants to bring all of us together.

AMEN.

Pledge of Allegiance to the Flag.

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

Motion carried.

REPORTS OF COMMITTEES

Mr. President:

Your Committee on Commerce, Labor and Energy, to which were referred Senate Bills Nos. 59, 164, 184, 190, 234, 354, 412, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

MICHAEL A. SCHNEIDER, *Chair*

Mr. President:

Your Committee on Government Affairs, to which were referred Senate Bills Nos. 232, 400, 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. 43, 52, 138, 210, 246, 264, 300, 335, 338, 379, 419, 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 Senate Bills Nos. 88, 265, 381, 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 were referred Senate Bills Nos. 287, 299, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

MARK A. MANENDO, *Chair*

Mr. President:

Your Committee on Revenue, to which were referred Senate Bills Nos. 79, 249, 493, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

SHEILA LESLIE, *Chair*

Mr. President:

Your Committee on Transportation, to which was referred Senate Bill No. 274, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

Also, your Committee on Transportation, to which was referred Senate Bill No. 483, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass as amended, and re-refer to the Committee on Finance.

SHIRLEY A. BREEDEN, *Chair*

WAIVERS AND EXEMPTIONS
WAIVER OF JOINT STANDING RULE(S)

A Waiver requested by Assemblyman Ocegueda and Senator Horsford

For: BDR-1282.

To Waive:

- Subsection 1 of Joint Standing Rule No. 14.
- Subsection 1 of Joint Standing Rule No. 14.2.
- Subsection 1 of Joint Standing Rule No. 14.3.
- Subsection 2 of Joint Standing Rule No. 14.3.
- Subsection 3 of Joint Standing Rule No. 14.3.
- Subsection 4 of Joint Standing Rule No. 14.3.

Has been granted effective: Friday, April 22, 2011.

STEVEN A. HORSFORD
Senate Majority Leader

JOHN OCEGUERA
Speaker of the Assembly

MOTIONS, RESOLUTIONS AND NOTICES

Senator Horsford moved that Senate Bills Nos. 180, 331, 368, be taken from their positions on General File and placed at the top of the General File.

Motion carried.

Senator Wiener moved that Senate Bill No. 83 be taken from the Second Reading File and placed on the Second Reading File for the next legislative day.

Motion carried.

Senator Brower requested that his name be removed as the primary sponsor of Senate Bill No. 325 and that Senator Lee's name be added as the primary sponsor. Senator Brower's name will be removed and Senator Lee's name will be added as requested.

SECOND READING AND AMENDMENT

Senate Bill No. 49.

Bill read second time.

The following amendment was proposed by the Committee on Transportation:

Amendment No. 250.

"SUMMARY—Revises provisions governing the authority of a board of county highway commissioners regarding the establishment of certain rights-of-way. (BDR 35-341)"

"AN ACT relating to public roads; providing that ~~acceptance by the Department of Transportation of a~~ **filing by a board of county highway commissioners of a** map that includes a county road located on a certain right-of-way constitutes ~~validation~~ **the establishment of the existence and location of the** a right-of-way ~~by the State of Nevada;~~ **that is open for public use; providing that acceptance by the Department of Transportation of that map constitutes acknowledgment by the Department of the establishment of the existence and location of a right-of-way that is open for public use;** authorizing the board of county highway commissioners in certain counties to locate and determine the width of certain rights-of-way and to open those rights-of-way for public use; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Currently in Nevada, many roads are popularly referred to as "R.S. 2477 roads." R.S. 2477 roads are roads that exist on public rights-of-way granted pursuant to 43 U.S.C. § 932, a federal law passed in 1866 and stating, "[t]he right of way for the construction of highways over public lands, not reserved for public uses, is hereby granted." In 1976, the United States Congress repealed the provisions of 43 U.S.C. § 932 by enacting the Federal Land Policy and Management Act of 1976 (43 U.S.C. §§ 1701 et seq.). However, section 701 of that Act also included a savings provision concerning R.S. 2477 roads that provided that "[n]othing in this Act, or in any amendment made by this Act, shall be construed as terminating any valid lease, permit, patent, right-of-way, or other land use right or authorization existing on [October 21, 1976]." (43 U.S.C. § 1701 note (Savings Provisions)) Therefore, valid R.S. 2477 rights-of-way continue to exist, and under existing state law, any board of county commissioners may locate and determine the width of those rights-of-way and may locate and open R.S. 2477 roads on those rights-of-way. (NRS 405.191)

Existing law also creates, in counties whose population is less than 100,000 (currently counties other than Clark and Washoe Counties), a board of county highway commissioners, composed of the regularly elected and qualified county commissioners. (NRS 403.005, 403.010, 403.020) A board of county highway commissioners has the authority to lay out and designate main, general and minor county roads and are required, upon so laying out and designating such roads, to create a county map showing the roads and their designations and to file copies of the map with the clerk of the board of county highway commissioners, the county clerk, the county recorder and the Department of Transportation. (NRS 403.170, 403.190) **Section 1** of this bill provides that ~~if a map showing~~ **the filing of the copies of the map constitutes the establishment of the existence and location of** an R.S. 2477 right-of-way ~~is filed with the Department of Transportation;~~ **that is open**

for public use. Section 1 also provides that acceptance of the map by the Department constitutes ~~validation of the R.S. 2477 right-of-way by the State of Nevada for the purpose of establishing~~ **acknowledgment by the Department of the establishment of** the existence and location of ~~the~~ **an** R.S. 2477 right-of-way, ~~that is open for public use. Section 2~~ of this bill confers authority upon a board of county highway commissioners to locate and determine the width of an R.S. 2477 right-of-way and to open that right-of-way for public use for the purpose of designating county roads within the county and taking certain other authorized actions concerning the R.S. 2477 right-of-way.

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

Section 1. NRS 403.190 is hereby amended to read as follows:

403.190 1. Except as otherwise provided in subsection ~~3~~ 4, upon laying out and designating the county roads as required in NRS 403.170, the board of county highway commissioners shall cause a map of the county to be made, showing the county roads and their designations. The board shall file one copy of the map with the clerk of the board of county highway commissioners, one copy with the Department of Transportation, one copy with the county clerk and one copy with the county recorder.

2. *If the map required pursuant to subsection 1 includes a county road located on a right-of-way that the board of county highway commissioners has located, determined the width of and opened for public use pursuant to subsection 2 of NRS 405.191 ~~for acceptance~~ :*

(a) The filing of copies of the map pursuant to subsection 1 constitutes the establishment of the existence and location of a right-of-way that is open for public use; and

(b) Acceptance of the map by the Department of Transportation constitutes ~~validation of the right-of-way by the State of Nevada for the purpose of establishing~~ acknowledgment by the Department of the establishment of the existence and location of ~~the~~ a right-of-way ~~that is open for public use.~~

3. When any road has been designated by the board of county highway commissioners as a standard county road, as provided in NRS 403.180, that designation must be made on the copies of the map on file with the clerk of the board of county highway commissioners, the county clerk, the Department of Transportation and the county recorder.

~~3~~ 4. The board of county highway commissioners need not include a minor county road upon the map required by subsection 1. Any person who uses a minor county road may file with the county recorder a map showing the location of the road, appropriately emphasized in black ink upon the map by the person filing it. The map must:

(a) Be a topographical map prepared by the United States Geological Survey, unless the board of county highway commissioners determines that other specific maps are acceptable.

(b) Have written on its face, in black ink, the townships, ranges and sections through which the road traverses.

↪ The map so filed is evidence of the existence and location of the road. Each person filing such a map shall pay to the county recorder a fee of \$17 for the first sheet of the map plus \$10 for each additional sheet.

Sec. 2. NRS 405.191 is hereby amended to read as follows:

405.191 As used in NRS 405.193 and 405.195, "public road" includes:

1. A United States highway, a state highway or a main, general or minor county road and any other way laid out or maintained by any governmental agency.

2. Any way which exists upon a right-of-way granted by Congress over public lands of the United States not reserved for public uses in chapter 262, section 8, 14 Statutes 253 (former 43 U.S.C. § 932, commonly referred to as R.S. 2477), and accepted by general public use and enjoyment before, on or after July 1, 1979. ~~Each~~ ***Except as otherwise provided in this subsection, each*** board of county commissioners may locate and determine the width of such rights-of-way and locate, open for public use and establish thereon county roads or highways, but public use alone has been and is sufficient to evidence an acceptance of the grant of a public user right-of-way pursuant to former 43 U.S.C. § 932. ***In a county in which a board of county highway commissioners has exclusive control of all matters relating to the construction, repairing and maintaining of public highways, roads and bridges within the county pursuant to NRS 403.090, the board of county highway commissioners may locate and determine the width of those rights-of-way and open those rights-of-way for public use for the purpose of designating county roads pursuant to NRS 403.170 or taking any other action concerning those rights-of-way pursuant to chapter 403 of NRS.***

3. Any way which is shown upon any plat, subdivision, addition, parcel map or record of survey of any county, city, town or portion thereof duly recorded or filed in the office of the county recorder, and which is not specifically therein designated as a private road or a nonpublic road, and any way which is described in a duly recorded conveyance as a public road or is reserved thereby for public road purposes or which is described by words of similar import.

Sec. 3. 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. 250 to Senate Bill No. 49 provides that filing copies of a map required to establish a right-of-way by a board of county highway commissioners with the required State and local agencies constitutes the establishment of the existence and location of a right-of-way that is open for public use. The amendment further provides that acceptance of the map by the Department of Transportation constitutes acknowledgement by the Department of the right-of-way establishment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 103.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 350.

"SUMMARY—~~Authorizes a licensed interactive gaming service provider to perform certain actions on behalf of an establishment licensed to operate interactive gaming.~~ **Clarifies that certain service charges are subject to the tax on live entertainment.** (BDR ~~41-828~~) **32-828)**"

"AN ACT relating to gaming; ~~authorizing a licensed interactive gaming service provider to perform certain actions on behalf of an establishment licensed to operate interactive gaming;~~ **clarifying that certain service charges are subject to the tax on live entertainment;** and providing other matters properly relating thereto."

Legislative Counsel's Digest:

~~Existing law authorizes certain gaming establishments to obtain a license to operate interactive gaming and additionally authorizes the licensing of manufacturers of interactive gaming systems and manufacturers of equipment associated with interactive gaming. (NRS 463.750, 463.765) This bill: (1) authorizes an interactive gaming service provider to perform certain actions on behalf of an establishment licensed to operate interactive gaming; and (2) requires that a person must obtain a license as an interactive gaming service provider before performing such actions. This bill also requires the Nevada Gaming Commission to establish by regulation certain provisions concerning: (1) the licensing requirements for an interactive gaming service provider; and (2) certain fees that an interactive gaming service provider may be required to pay.~~

Under existing law, there is an excise tax that is imposed, with certain exceptions, on admission to any facility in this State where live entertainment is provided. Certain admission charges, gratuities and service charges are not subject to such tax on live entertainment. (NRS 368A.200) This bill clarifies existing law and specifies that service charges which are collected and retained by certain third parties are subject to the tax on live entertainment. This provision applies retroactively from January 1, 2004, the date on which the imposition of the tax on live entertainment became effective.

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

Section 1. (Deleted by amendment.)

Sec. 2. (Deleted by amendment.)

Sec. 3. NRS 368A.200 is hereby amended to read as follows:

368A.200 1. Except as otherwise provided in this section, there is hereby imposed an excise tax on admission to any facility in this State where

live entertainment is provided. If the live entertainment is provided at a facility with a maximum occupancy of:

(a) Less than 7,500 persons, the rate of the tax is 10 percent of the admission charge to the facility plus 10 percent of any amounts paid for food, refreshments and merchandise purchased at the facility.

(b) At least 7,500 persons, the rate of the tax is 5 percent of the admission charge to the facility.

2. Amounts paid for:

(a) Admission charges collected and retained by a nonprofit religious, charitable, fraternal or other organization that qualifies as a tax-exempt organization pursuant to 26 U.S.C. § 501(c), or by a nonprofit corporation organized or existing under the provisions of chapter 82 of NRS, are not taxable pursuant to this section.

(b) Gratuities directly or indirectly remitted to persons employed at a facility where live entertainment is provided or for service charges, including those imposed in connection with the use of credit cards or debit cards, which are collected and retained by persons other than the taxpayer, **the operator of the entertainment facility or an affiliate of the taxpayer or the operator** are not taxable pursuant to this section. **As used in this paragraph, "affiliate" has the meaning ascribed to it in NRS 463.0133.**

3. A business entity that collects any amount that is taxable pursuant to subsection 1 is liable for the tax imposed, but is entitled to collect reimbursement from any person paying that amount.

4. Any ticket for live entertainment must state whether the tax imposed by this section is included in the price of the ticket. If the ticket does not include such a statement, the taxpayer shall pay the tax based on the face amount of the ticket.

5. The tax imposed by subsection 1 does not apply to:

(a) Live entertainment that this State is prohibited from taxing under the Constitution, laws or treaties of the United States or the Nevada Constitution.

(b) Live entertainment that is provided by or entirely for the benefit of a nonprofit religious, charitable, fraternal or other organization that qualifies as a tax-exempt organization pursuant to 26 U.S.C. § 501(c), or a nonprofit corporation organized or existing under the provisions of chapter 82 of NRS.

(c) Any boxing contest or exhibition governed by the provisions of chapter 467 of NRS.

(d) Live entertainment that is not provided at a licensed gaming establishment if the facility in which the live entertainment is provided has a maximum occupancy of less than 200 persons.

(e) Live entertainment that is provided at a licensed gaming establishment that is licensed for less than 51 slot machines, less than 6 games, or any combination of slot machines and games within those respective limits, if the facility in which the live entertainment is provided has a maximum occupancy of less than 200 persons.

(f) Merchandise sold outside the facility in which the live entertainment is provided, unless the purchase of the merchandise entitles the purchaser to admission to the entertainment.

(g) Live entertainment that is provided at a trade show.

(h) Music performed by musicians who move constantly through the audience if no other form of live entertainment is afforded to the patrons.

(i) Live entertainment that is provided at a licensed gaming establishment at private meetings or dinners attended by members of a particular organization or by a casual assemblage if the purpose of the event is not primarily for entertainment.

(j) Live entertainment that is provided in the common area of a shopping mall, unless the entertainment is provided in a facility located within the mall.

(k) Food and product demonstrations provided at a shopping mall, a craft show or an establishment that sells grocery products, housewares, hardware or other supplies for the home.

(l) Live entertainment that is incidental to an amusement ride, a motion simulator or a similar digital, electronic, mechanical or electromechanical attraction. For the purposes of this paragraph, live entertainment shall be deemed to be incidental to an amusement ride, a motion simulator or a similar digital, electronic, mechanical or electromechanical attraction if the live entertainment is:

(1) Not the predominant element of the attraction; and

(2) Not the primary purpose for which the public rides, attends or otherwise participates in the attraction.

(m) Live entertainment that is provided to the public in an outdoor area, without any requirements for the payment of an admission charge or the purchase of any food, refreshments or merchandise.

(n) An outdoor concert, unless the concert is provided on the premises of a licensed gaming establishment.

(o) Beginning July 1, 2007, race events scheduled at a race track in this State as a part of the National Association for Stock Car Auto Racing Nextel Cup Series, or its successor racing series, and all races associated therewith.

(p) Beginning July 1, 2007, a baseball contest, event or exhibition conducted by professional minor league baseball players at a stadium in this State.

(q) Live entertainment provided in a restaurant which is incidental to any other activities conducted in the restaurant or which only serves as ambience so long as there is no charge to the patrons for that entertainment.

6. The Commission may adopt regulations establishing a procedure whereby a taxpayer that is a licensed gaming establishment may request an exemption from the tax pursuant to paragraph (q) of subsection 5. The regulations must require the taxpayer to seek an administrative ruling from the Chair of the Board, provide a procedure for appealing that ruling to the

Commission and further describe the forms of incidental or ambient entertainment exempted pursuant to that paragraph.

7. As used in this section, "maximum occupancy" means, in the following order of priority:

(a) The maximum occupancy of the facility in which live entertainment is provided, as determined by the State Fire Marshal or the local governmental agency that has the authority to determine the maximum occupancy of the facility;

(b) If such a maximum occupancy has not been determined, the maximum occupancy of the facility designated in any permit required to be obtained in order to provide the live entertainment; or

(c) If such a permit does not designate the maximum occupancy of the facility, the actual seating capacity of the facility in which the live entertainment is provided.

Sec. 4. Section 3 of this act becomes effective upon passage and approval and applies retroactively from January 1, 2004.

Senator Wiener moved the adoption of the amendment.

Remarks by Senator Wiener.

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

The amendment deletes the bill as originally written because it was combined with Senate Bill No. 218 that has already been approved by the Senate.

Instead, the amendment adds a new section to Senate Bill No. 103 concerning the imposition and collection of the tax on live entertainment by clarifying that the service charges collected and retained by certain third parties are subject to the tax.

Finally, it changes the effective date to "upon passage and approval" and applies retroactively from January 1, 2004, which is the date on which the imposition of the tax became effective.

Amendment adopted.

Bill ordered reprinted, re-engrossed and to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Wiener moved that upon return from reprint, Senate Bill No. 103 be re-referred to the Committee on Finance.

Motion carried.

SECOND READING AND AMENDMENT

Senate Bill No. 129.

Bill read second time.

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

Amendment No. 237.

"SUMMARY—Requires training of certain persons who operate or work in certain facilities. (BDR 40-155)"

"AN ACT relating to public health; requiring certain persons who operate or work in ~~facilities for the dependent,~~ facilities for intermediate care, facilities for skilled nursing, **agencies to provide personal care services in the home, facilities for the care of adults during the day, residential**

facilities for groups and homes for individual residential care to complete certain training; ~~requiring the State Board of Health to adopt regulations concerning such training;~~ providing penalties; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Section 1 of this bill requires an applicant for a license to operate ~~a facility for the dependent,~~ a facility for intermediate care, a facility for skilled nursing, **an agency to provide personal care services in the home, a facility for the care of adults during the day, a residential facility for groups** or a home for individual residential care to obtain training ~~concerning the care~~ **to recognize and prevent the abuse** of older persons before a license is issued to the applicant and annually thereafter. **Section 1** also requires the holders of licenses to operate, and the administrators and employees of, those facilities, **agencies and homes** to obtain such training. ~~Section 1 further requires the State Board of Health to adopt regulations governing the training requirements, including the number of hours of training, topics of instruction and methods of instruction.~~

Sections 6 and 7 of this bill amend the grounds for which disciplinary action may be taken against a facility, **agency** or home to include violations of the provisions of **section 1**.

Section 11 of this bill provides that an administrator who is licensed as an administrator of a residential facility for groups or as a nursing facility administrator may be disciplined for failure to comply with the provisions of **section 1**.

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

Section 1. Chapter 449 of NRS is hereby amended by adding thereto a new section to read as follows:

*1. An applicant for a license to operate a ~~facility for the dependent,~~ facility for intermediate care, facility for skilled nursing, **agency to provide personal care services in the home, facility for the care of adults during the day, residential facility for groups** or home for individual residential care must receive training ~~concerning the care~~ **to recognize and prevent the abuse of older persons before a license to operate such a facility, agency or home is issued to the applicant. If an applicant has completed such training within the year preceding the date of the application for a license and the application includes evidence of the training, the applicant shall be deemed to have complied with the requirements of this subsection.***

*2. A licensee who holds a license to operate a ~~facility for the dependent,~~ facility for intermediate care, facility for skilled nursing, **agency to provide personal care services in the home, facility for the care of adults during the day, residential facility for groups** or home for individual residential care must annually receive training ~~concerning the care~~ **to recognize and prevent the abuse of older persons before the license to operate such a facility, agency or home may be renewed.***

3. If an applicant or licensee who is required by this section to obtain training is ~~for~~

~~(a) Firm, association, organization, partnership, business trust, corporation or company, the board of directors, officers or members thereof and the person in charge of the facility or home must receive the training required by this section; or~~

~~(b) Political subdivision of the State or other governmental agency;~~ not a natural person, the person in charge of the facility, agency or home must receive the training required by this section.

4. An administrator or other person in charge of a facility for the dependent, facility for intermediate care, facility for skilled nursing, agency to provide personal care services in the home, facility for the care of adults during the day, residential facility for groups or home for individual residential care must receive training concerning the care to recognize and prevent the abuse of older persons before the facility, agency or home provides care to a person and annually thereafter.

5. An employee who will provide care to a resident person in a facility for the dependent, facility for intermediate care, facility for skilled nursing, agency to provide personal care services in the home, facility for the care of adults during the day, residential facility for groups or home for individual residential care must receive training concerning the care to recognize and prevent the abuse of older persons before the employee provides care to a person in the facility, agency or home and annually thereafter.

6. ~~The Board shall adopt regulations establishing the requirements for training concerning the care of older persons required by this section. The regulations must prescribe, without limitation:~~

~~(a) The number of hours of initial training required for each applicant, administrator and employee and the number of hours for the training required annually thereafter;~~

~~(b) The procedure and requirements for the approval of a program to provide training;~~

~~(c) The topics of instruction that must be included in the training, which~~ required by this section must include, without limitation:

~~(1)~~ (a) Recognizing the abuse of older persons, including sexual abuse and violations of NRS 200.5091 to 200.50995, inclusive;

~~(2)~~ (b) Responding to reports of the alleged abuse of older persons, including sexual abuse and violations of NRS 200.5091 to 200.50995, inclusive; and

~~(3)~~ (c) Instruction concerning the federal, state and local laws, and any changes to those laws, relating to:

~~(1)~~ (1) The abuse of older persons; and

~~(1)~~ (2) Facilities for intermediate care, facilities for skilled nursing, agencies to provide personal care services in the home, facilities for the care of adults during the day,

residential facilities for groups or homes for individual residential care, as applicable for the person receiving the training. ~~†, and~~

~~(d) The approved methods of instruction, which must include the use of the Internet.~~

7. ~~The facility for the dependent,~~ facility for intermediate care, facility for skilled nursing, agency to provide personal care services in the home, facility for the care of adults during the day, residential facility for groups or home for individual residential care ~~shall pay~~ is responsible for the costs related to the training required by this section.

8. The administrator of a facility for intermediate care, facility for skilled nursing or residential facility for groups who is licensed pursuant to chapter 654 of NRS shall ensure that each employee of the facility who provides care to residents has obtained the training required by this section. If an administrator or employee of a facility or home does not obtain the training required by this section, the Health Division shall notify the Board of Examiners for Long-Term Care Administrators that the administrator is in violation of this section.

9. The holder of a license to operate a ~~facility for the dependent,~~ facility for intermediate care, facility for skilled nursing, agency to provide personal care services in the home, facility for the care of adults during the day, residential facility for groups or home for individual residential care shall ensure that each person who is required to comply with the requirements for training ~~and any regulations adopted by the Board~~ pursuant to this section complies with such requirements. The Health Division may, for any violation of this section, take disciplinary action against a facility, agency or home pursuant to NRS 449.160 and 449.163.

Sec. 2. NRS 449.037 is hereby amended to read as follows:

449.037 1. The Board shall adopt:

(a) Licensing standards for each class of medical facility or facility for the dependent covered by NRS 449.001 to 449.240, inclusive, **and section 1 of this act** and for programs of hospice care.

(b) Regulations governing the licensing of such facilities and programs.

(c) Regulations governing the procedure and standards for granting an extension of the time for which a natural person may provide certain care in his or her home without being considered a residential facility for groups pursuant to NRS 449.017. The regulations must require that such grants are effective only if made in writing.

(d) Regulations establishing a procedure for the indemnification by the Health Division, from the amount of any surety bond or other obligation filed or deposited by a facility for refractive surgery pursuant to NRS 449.068 or 449.069, of a patient of the facility who has sustained any damages as a result of the bankruptcy of or any breach of contract by the facility.

(e) Any other regulations as it deems necessary or convenient to carry out the provisions of NRS 449.001 to 449.240, inclusive ~~†~~, **and section 1 of this act.**

2. The Board shall adopt separate regulations governing the licensing and operation of:

(a) Facilities for the care of adults during the day; and

(b) Residential facilities for groups,

↳ which provide care to persons with Alzheimer's disease.

3. The Board shall adopt separate regulations for:

(a) The licensure of rural hospitals which take into consideration the unique problems of operating such a facility in a rural area.

(b) The licensure of facilities for refractive surgery which take into consideration the unique factors of operating such a facility.

(c) The licensure of mobile units which take into consideration the unique factors of operating a facility that is not in a fixed location.

4. The Board shall require that the practices and policies of each medical facility or facility for the dependent provide adequately for the protection of the health, safety and physical, moral and mental well-being of each person accommodated in the facility.

5. ~~The~~ ***In addition to the training requirements prescribed pursuant to section 1 of this act, the*** Board shall establish minimum qualifications for administrators and employees of residential facilities for groups. In establishing the qualifications, the Board shall consider the related standards set by nationally recognized organizations which accredit such facilities.

6. The Board shall adopt separate regulations regarding the assistance which may be given pursuant to NRS 453.375 and 454.213 to an ultimate user of controlled substances or dangerous drugs by employees of residential facilities for groups. The regulations must require at least the following conditions before such assistance may be given:

(a) The ultimate user's physical and mental condition is stable and is following a predictable course.

(b) The amount of the medication prescribed is at a maintenance level and does not require a daily assessment.

(c) A written plan of care by a physician or registered nurse has been established that:

(1) Addresses possession and assistance in the administration of the medication; and

(2) Includes a plan, which has been prepared under the supervision of a registered nurse or licensed pharmacist, for emergency intervention if an adverse condition results.

(d) The prescribed medication is not administered by injection or intravenously.

(e) The employee has successfully completed training and examination approved by the Health Division regarding the authorized manner of assistance.

7. The Board shall adopt separate regulations governing the licensing and operation of residential facilities for groups which provide assisted living services. The Board shall not allow the licensing of a facility as a residential

facility for groups which provides assisted living services and a residential facility for groups shall not claim that it provides "assisted living services" unless:

(a) Before authorizing a person to move into the facility, the facility makes a full written disclosure to the person regarding what services of personalized care will be available to the person and the amount that will be charged for those services throughout the resident's stay at the facility.

(b) The residents of the facility reside in their own living units which:

(1) Except as otherwise provided in subsection 8, contain toilet facilities;

(2) Contain a sleeping area or bedroom; and

(3) Are shared with another occupant only upon consent of both occupants.

(c) The facility provides personalized care to the residents of the facility and the general approach to operating the facility incorporates these core principles:

(1) The facility is designed to create a residential environment that actively supports and promotes each resident's quality of life and right to privacy;

(2) The facility is committed to offering high-quality supportive services that are developed by the facility in collaboration with the resident to meet the resident's individual needs;

(3) The facility provides a variety of creative and innovative services that emphasize the particular needs of each individual resident and the resident's personal choice of lifestyle;

(4) The operation of the facility and its interaction with its residents supports, to the maximum extent possible, each resident's need for autonomy and the right to make decisions regarding his or her own life;

(5) The operation of the facility is designed to foster a social climate that allows the resident to develop and maintain personal relationships with fellow residents and with persons in the general community;

(6) The facility is designed to minimize and is operated in a manner which minimizes the need for its residents to move out of the facility as their respective physical and mental conditions change over time; and

(7) The facility is operated in such a manner as to foster a culture that provides a high-quality environment for the residents, their families, the staff, any volunteers and the community at large.

8. The Health Division may grant an exception from the requirement of subparagraph (1) of paragraph (b) of subsection 7 to a facility which is licensed as a residential facility for groups on or before July 1, 2005, and which is authorized to have 10 or fewer beds and was originally constructed as a single-family dwelling if the Health Division finds that:

(a) Strict application of that requirement would result in economic hardship to the facility requesting the exception; and

(b) The exception, if granted, would not:

(1) Cause substantial detriment to the health or welfare of any resident of the facility;

(2) Result in more than two residents sharing a toilet facility; or

(3) Otherwise impair substantially the purpose of that requirement.

9. The Board shall, if it determines necessary, adopt regulations and requirements to ensure that each residential facility for groups and its staff are prepared to respond to an emergency, including, without limitation:

(a) The adoption of plans to respond to a natural disaster and other types of emergency situations, including, without limitation, an emergency involving fire;

(b) The adoption of plans to provide for the evacuation of a residential facility for groups in an emergency, including, without limitation, plans to ensure that nonambulatory patients may be evacuated;

(c) Educating the residents of residential facilities for groups concerning the plans adopted pursuant to paragraphs (a) and (b); and

(d) Posting the plans or a summary of the plans adopted pursuant to paragraphs (a) and (b) in a conspicuous place in each residential facility for groups.

10. The regulations governing the licensing and operation of facilities for transitional living for released offenders must provide for the licensure of at least three different types of facilities, including, without limitation:

(a) Facilities that only provide a housing and living environment;

(b) Facilities that provide or arrange for the provision of supportive services for residents of the facility to assist the residents with reintegration into the community, in addition to providing a housing and living environment; and

(c) Facilities that provide or arrange for the provision of alcohol and drug abuse programs, in addition to providing a housing and living environment and providing or arranging for the provision of other supportive services.

➔ The regulations must provide that if a facility was originally constructed as a single-family dwelling, the facility must not be authorized for more than eight beds.

11. As used in this section, "living unit" means an individual private accommodation designated for a resident within the facility.

Sec. 3. NRS 449.060 is hereby amended to read as follows:

449.060 1. Each license issued pursuant to NRS 449.001 to 449.240, inclusive, **and section 1 of this act** expires on December 31 following its issuance and is renewable for 1 year upon reapplication and payment of all fees required pursuant to NRS 449.050 unless the Health Division finds, after an investigation, that the facility has not:

(a) Satisfactorily complied with the provisions of NRS 449.001 to 449.240, inclusive, **and section 1 of this act** or the standards and regulations adopted by the Board;

(b) Obtained the approval of the Director of the Department of Health and Human Services before undertaking a project, if such approval is required by NRS 439A.100; or

(c) Conformed to all applicable local zoning regulations.

2. Each reapplication for an agency to provide personal care services in the home, an agency to provide nursing in the home, a facility for intermediate care, a facility for skilled nursing, a residential facility for groups or a home for individual residential care must include, without limitation, a statement that the facility, agency or home is in compliance with the provisions of NRS 449.173 to 449.188, inclusive.

3. Each reapplication for an agency to provide personal care services in the home, a ~~facility for the dependent,~~ facility for intermediate care, a facility for skilled nursing, a facility for the care of adults during the day, a residential facility for groups or a home for individual residential care must include, without limitation, a statement that the holder of the license to operate, and the administrator or other person in charge and employees of, the facility, agency or home are in compliance with the provisions of section 1 of this act.

Sec. 4. NRS 449.070 is hereby amended to read as follows:

449.070 The provisions of NRS 449.001 to 449.240, inclusive, **and section 1 of this act** do not apply to:

1. Any facility conducted by and for the adherents of any church or religious denomination for the purpose of providing facilities for the care and treatment of the sick who depend solely upon spiritual means through prayer for healing in the practice of the religion of the church or denomination, except that such a facility shall comply with all regulations relative to sanitation and safety applicable to other facilities of a similar category.

2. Foster homes as defined in NRS 424.014.

3. Any medical facility or facility for the dependent operated and maintained by the United States Government or an agency thereof.

Sec. 5. NRS 449.140 is hereby amended to read as follows:

449.140 1. Money received from licensing medical facilities and facilities for the dependent must be forwarded to the State Treasurer for deposit in the State General Fund.

2. The Health Division shall enforce the provisions of NRS 449.001 to 449.245, inclusive, **and section 1 of this act** and may incur any necessary expenses not in excess of money appropriated for that purpose by the State or received from the Federal Government.

Sec. 6. NRS 449.160 is hereby amended to read as follows:

449.160 1. The Health Division may deny an application for a license or may suspend or revoke any license issued under the provisions of NRS 449.001 to 449.240, inclusive, **and section 1 of this act** upon any of the following grounds:

(a) Violation by the applicant or the licensee of any of the provisions of NRS 439B.410 or 449.001 to 449.245, inclusive, **and section 1 of this act**, or

of any other law of this State or of the standards, rules and regulations adopted thereunder.

(b) Aiding, abetting or permitting the commission of any illegal act.

(c) Conduct inimical to the public health, morals, welfare and safety of the people of the State of Nevada in the maintenance and operation of the premises for which a license is issued.

(d) Conduct or practice detrimental to the health or safety of the occupants or employees of the facility.

(e) Failure of the applicant to obtain written approval from the Director of the Department of Health and Human Services as required by NRS 439A.100 or as provided in any regulation adopted pursuant to this chapter, if such approval is required.

(f) Failure to comply with the provisions of NRS 449.2486.

2. In addition to the provisions of subsection 1, the Health Division may revoke a license to operate a facility for the dependent if, with respect to that facility, the licensee that operates the facility, or an agent or employee of the licensee:

(a) Is convicted of violating any of the provisions of NRS 202.470;

(b) Is ordered to but fails to abate a nuisance pursuant to NRS 244.360, 244.3603 or 268.4124; or

(c) Is ordered by the appropriate governmental agency to correct a violation of a building, safety or health code or regulation but fails to correct the violation.

3. The Health Division shall maintain a log of any complaints that it receives relating to activities for which the Health Division may revoke the license to operate a facility for the dependent pursuant to subsection 2. The Health Division shall provide to a facility for the care of adults during the day:

(a) A summary of a complaint against the facility if the investigation of the complaint by the Health Division either substantiates the complaint or is inconclusive;

(b) A report of any investigation conducted with respect to the complaint; and

(c) A report of any disciplinary action taken against the facility.

↪ The facility shall make the information available to the public pursuant to NRS 449.2486.

4. On or before February 1 of each odd-numbered year, the Health Division shall submit to the Director of the Legislative Counsel Bureau a written report setting forth, for the previous biennium:

(a) Any complaints included in the log maintained by the Health Division pursuant to subsection 3; and

(b) Any disciplinary actions taken by the Health Division pursuant to subsection 2.

Sec. 7. NRS 449.163 is hereby amended to read as follows:

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

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

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

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

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

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

(2) Improvements are made to correct the violation.

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

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

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

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

4. The Health Division may require any facility that violates any provision of NRS 439B.410 or 449.001 to 449.240, inclusive, **and section 1 of this act**, or any condition, standard or regulation adopted by the Board to make any improvements necessary to correct the violation.

5. Any money collected as administrative penalties pursuant to this section must be accounted for separately and used to protect the health or property of the residents of the facility in accordance with applicable federal standards.

Sec. 8. NRS 449.220 is hereby amended to read as follows:

449.220 1. The Health Division may bring an action in the name of the State to enjoin any person, state or local government unit or agency thereof from operating or maintaining any facility within the meaning of NRS 449.001 to 449.240, inclusive ~~+~~, **and section 1 of this act**:

(a) Without first obtaining a license therefor; or

(b) After his or her license has been revoked or suspended by the Health Division.

2. It is sufficient in such action to allege that the defendant did, on a certain date and in a certain place, operate and maintain such a facility without a license.

Sec. 9. NRS 449.230 is hereby amended to read as follows:

449.230 1. Any authorized member or employee of the Health Division may enter and inspect any building or premises at any time to secure compliance with or prevent a violation of any provision of NRS 449.001 to 449.245, inclusive ~~†~~, **and section 1 of this act.**

2. The State Fire Marshal or a designee of the State Fire Marshal shall, upon receiving a request from the Health Division or a written complaint concerning compliance with the plans and requirements to respond to an emergency adopted pursuant to subsection 9 of NRS 449.037:

(a) Enter and inspect a residential facility for groups; and

(b) Make recommendations regarding the adoption of plans and requirements pursuant to subsection 9 of NRS 449.037,

↳ to ensure the safety of the residents of the facility in an emergency.

3. The State Health Officer or a designee of the State Health Officer shall enter and inspect at least annually each building or the premises of a residential facility for groups to ensure compliance with standards for health and sanitation.

4. An authorized member or employee of the Health Division shall enter and inspect any building or premises operated by a residential facility for groups within 72 hours after the Health Division is notified that a residential facility for groups is operating without a license.

Sec. 10. NRS 449.240 is hereby amended to read as follows:

449.240 The district attorney of the county in which the facility is located shall, upon application by the Health Division, institute and conduct the prosecution of any action for violation of any provisions of NRS 449.001 to 449.245, inclusive ~~†~~, **and section 1 of this act.**

Sec. 11. NRS 654.190 is hereby amended to read as follows:

654.190 1. The Board may, after notice and a hearing as required by law, impose an administrative fine of not more than \$10,000 for each violation on, recover reasonable investigative fees and costs incurred from, suspend, revoke, deny the issuance or renewal of or place conditions on the license of, and place on probation or impose any combination of the foregoing on any nursing facility administrator or administrator of a residential facility for groups who:

(a) Is convicted of a felony relating to the practice of administering a nursing facility or residential facility or of any offense involving moral turpitude.

(b) Has obtained his or her license by the use of fraud or deceit.

(c) Violates any of the provisions of this chapter.

(d) Aids or abets any person in the violation of any of the provisions of NRS 449.001 to 449.240, inclusive, **and section 1 of this act**, as those provisions pertain to a facility for skilled nursing, facility for intermediate care or residential facility for groups.

(e) Violates any regulation of the Board prescribing additional standards of conduct for nursing facility administrators or administrators of residential facilities for groups, including, without limitation, a code of ethics.

(f) Engages in conduct that violates the trust of a patient or resident or exploits the relationship between the nursing facility administrator or administrator of a residential facility for groups and the patient or resident for the financial or other gain of the licensee.

2. The Board shall give a licensee against whom proceedings are brought pursuant to this section written notice of a hearing pursuant to NRS 233B.121 and 241.034. A licensee may waive, in writing, his or her right to attend the hearing.

3. The Board may compel the attendance of witnesses or the production of documents or objects by subpoena. The Board may adopt regulations that set forth a procedure pursuant to which the Chair of the Board may issue subpoenas on behalf of the Board. Any person who is subpoenaed pursuant to this subsection may request the Board to modify the terms of the subpoena or grant additional time for compliance.

4. An order that imposes discipline and the findings of fact and conclusions of law supporting that order are public records.

5. The expiration of a license by operation of law or by order or decision of the Board or a court, or the voluntary surrender of a license, does not deprive the Board of jurisdiction to proceed with any investigation of, or action or disciplinary proceeding against, the licensee or to render a decision suspending or revoking the license.

Sec. 12. 1. Each person who holds a license to operate and each person who is an administrator or employee of a ~~facility for the dependent,~~ facility for intermediate care, facility for skilled nursing, **agency to provide personal care services in the home, facility for the care of adults during the day, residential facility for groups** or home for individual residential care on October 1, 2011, and who is required to complete the training required by section 1 of this act shall complete the training on or before October 1, 2012.

2. A statement that:

(a) The applicant has completed the training required by section 1 of this act must be included with an application for a license to operate a ~~facility for the dependent,~~ facility for intermediate care, facility for skilled nursing, **agency to provide personal care services in the home, facility for the care of adults during the day, residential facility for groups** or home for individual residential care submitted on or after October 1, 2011; and

(b) The holder of a license to operate, and the administrator and employees of, a ~~facility for the dependent,~~ facility for intermediate care,

facility for skilled nursing, **agency to provide personal care services in the home, facility for the care of adults during the day, residential facility for groups** or home for individual residential care have completed the training required by section 1 of this act must be included with a reapplication submitted for the facility or home on or after October 1, 2012.

Sec. 13. This act becomes effective ~~upon passage and approval for the purpose of adopting regulations and~~ on October 1, 2011 ~~. I. for all other purposes.~~

Senator Copening moved the adoption of the amendment.

Remarks by Senator Copening.

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

Amendment No. 237 revises the provisions to Senate Bill No. 129 by adding three additional entities to the list of entities that are required to obtain certain training to recognize and prevent abuse of older persons. Those entities are an agency to provide personal care services in the home, a facility for the care of adults during the day, and a residential facility for groups.

The amendment removes the requirement that the State Board of Health adopt regulations governing the training requirements and specifically notes the requirements for such training.

Amendment adopted.

Bill ordered reprinted, re-engrossed and to third reading.

Senate Bill No. 150.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 480.

"SUMMARY—Revises certain provisions governing liens of owners of facilities for storage. (BDR 9-907)"

"AN ACT relating to liens; revising certain provisions governing liens of owners of facilities for storage; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law generally provides that if an occupant of a storage space at a self-storage facility defaults on the payment of rent or other charges that are due to the owner of the facility pursuant to a rental agreement, the owner has a lien on the occupant's personal property contained in the storage space and is entitled to certain remedies until the lien is satisfied. (NRS 108.4753, 108.4763) In addition to being able to deny the occupant access to the storage space and remove the occupant's personal property from the storage space, an owner may also sell the occupant's personal property to satisfy the lien. (NRS 108.4763) **Section 16** of this bill further authorizes an owner to dispose of certain personal property. **Sections 13, 16, 17 and 19** of this bill revise various provisions relating to an owner's lien on an occupant's personal property as well as the sale to satisfy such a lien.

Existing law also authorizes an occupant to prevent the sale of his or her personal property to satisfy the lien by executing a declaration of opposition to the sale and returning the declaration to the owner. Upon receipt of the

declaration of opposition to the sale, the owner may commence an action in court to enforce the lien. (NRS 108.4765, 108.478) **Section 22** of this bill repeals these provisions.

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

Section 1. Chapter 108 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 6, inclusive, of this act.

Sec. 2. *"Electronic ~~mailing~~ mail" means ~~the mailing of~~ an electronic message, executable program or computer file which contains an image of a message that is transmitted between two or more computers or electronic terminals, or within or between computer networks ~~and~~ from which an electronic confirmation of receipt is received.*

Sec. 3. *"Protected property" means personal property, the sale of which or prohibition against the sale of which is regulated by state or federal law. The term includes, without limitation:*

1. Documents, film or electronic data that contain personal information, such as social security numbers, credit or debit card information, bank account information, passport information and medical or legal records relating to clients, customers, patients or others in connection with an occupant's business.

2. Pharmaceuticals other than those dispensed by a licensed pharmacy for use by an occupant.

3. Alcoholic beverages.

4. Firearms.

Sec. 4. *"Storage space" means a space used for storing personal property, which is rented or leased to an individual occupant who has access to the space.*

Sec. 5. *"Verified mail" means any method of mailing offered by the United States Postal Service that provides evidence of mailing. ~~for an electronic mailing from which an electronic confirmation of receipt is received.~~*

Sec. 6. *If a rental agreement contains a limit on the value of property stored in the storage space of an occupant, the limit is presumed to be the maximum value of the personal property stored in the storage space.*

Sec. 7. NRS 108.473 is hereby amended to read as follows:

108.473 As used in NRS 108.473 to 108.4783, inclusive, *and sections 2 to 6, inclusive, of this act*, unless the context otherwise requires, the words and terms defined in NRS 108.4733 to 108.4745, inclusive, *and sections 2 to 5, inclusive, of this act* have the meanings ascribed to them in those sections.

Sec. 8. NRS 108.4733 is hereby amended to read as follows:

108.4733 "Facility" means real property divided into individual *storage spaces*. ~~for storing personal property which are rented or leased to individual occupants and to which the individual occupant has access.~~ The term does not include a garage or storage area in a private residence.

Sec. 9. NRS 108.4735 is hereby amended to read as follows:

108.4735 "Occupant" includes a person or a person's sublessee, successor or assignee who is entitled to the exclusive use of ~~the space for~~ ~~one or more~~ **an individual** storage ~~spaces~~ **space** at a facility pursuant to a rental agreement.

Sec. 10. NRS 108.4743 is hereby amended to read as follows:

108.4743 "Personal property" means any property not affixed to land and includes ~~goods,~~ **without limitation,** merchandise, furniture, ~~and~~ household items ~~;~~ **, motor vehicles, boats and personal ~~watercrafts,~~** **watercraft.**

Sec. 11. NRS 108.4745 is hereby amended to read as follows:

108.4745 "Rental agreement" means any written agreement or lease establishing or modifying the terms, conditions or rules concerning the use and occupancy of an individual ~~space in~~ ~~one or more~~ storage ~~spaces~~ **space at** a facility.

Sec. 12. NRS 108.475 is hereby amended to read as follows:

108.475 1. A person shall not use a **storage space at a** facility for a residence. The owner of such a facility shall evict any person who uses **a storage space at** the facility as a residence in the manner provided for in NRS 40.760.

2. A facility shall not be deemed to be a warehouse or a public utility.

3. If an owner of a facility issues a warehouse receipt, bill of lading or other document of title for the personal property stored in **a storage space at** the facility, the owner and occupant are subject to the provisions of NRS 104.7101 to 104.7603, inclusive, and the provisions of NRS 108.473 to 108.4783, inclusive, **and sections 2 to 6, inclusive, of this act** do not apply.

Sec. 13. NRS 108.4753 is hereby amended to read as follows:

108.4753 1. The owner of a facility and the owner's heirs, assignees or successors have a **possessory** lien, **from the date the rent for a storage space at the facility is due and unpaid,** on all personal property, **including protected property,** located ~~at the facility~~ **in the storage space** for the rent, labor or other charges incurred by the owner pursuant to a rental agreement and for those expenses ~~necessarily~~ **reasonably** incurred by the owner to preserve, sell or otherwise dispose of the personal property.

2. ~~Any lien created by a document of title for a motor vehicle or boat has priority over a lien attaching to that motor vehicle or boat pursuant to NRS 108.473 to 108.4783, inclusive. *The lien must not impair any other lien or security interest in existence at the time the storage was commenced, unless the lienor or secured party knew of and consented to the storage of the personal property.*~~

Sec. 14. NRS 108.4755 is hereby amended to read as follows:

108.4755 1. Each rental agreement must be in writing and must contain:

(a) A provision printed in a size equal to at least 10-point type that states, "IT IS UNLAWFUL TO USE ~~THIS~~ **A STORAGE SPACE IN THIS FACILITY AS A RESIDENCE.**"

(b) A statement that the occupant's personal property will be subject to a claim for a lien and may be sold ~~to satisfy that lien~~ **or disposed of** if the rent or other charges described in the rental agreement remain unpaid for 14 consecutive days.

(c) ~~A provision requiring the occupant to disclose:~~

~~(1) Disclose to the owner ~~each time the occupant stores~~ any items of protected property in the storage space.~~

(2) If the occupant is subject to mandatory licensing, registration, permitting or other professional or occupational regulation by a governmental agency, board or commission and the protected property to be stored is related to the practice of that profession or occupation by the occupant, provide written notice to that agency, board or commission stating that the occupant is storing protected property at the facility, identifying the general type of protected property being stored at the facility and providing complete contact information for the facility. The occupant shall give the owner a copy of any written notice provided to such an agency, board or commission.

(3) Provide complete contact information for a secondary contact who may be contacted by the owner if the owner is unable to contact the occupant.

2. If any provision of the rental agreement provides that an owner, lessor, operator, manager or employee of the facility, or any combination thereof, is not liable, jointly or severally, for any loss or theft of personal property stored in **a storage space at** the facility, the provision is unenforceable unless:

(a) The rental agreement contains a statement advising the occupant to purchase insurance for any personal property stored in **a storage space at** the facility and informing the occupant that such insurance is available through most insurers;

(b) The provision and the statement are:

(1) Printed in all capital letters or, if the rental agreement is printed in all capital letters, printed in all capital letters and boldface type, italic type or underlined type; and

(2) Printed in a size equal to at least 10-point type or, if the rental agreement is printed in 10-point type or larger, printed in type that is at least 2 points larger than the size of type used for other provisions of the rental agreement; and

(c) The provision is otherwise enforceable pursuant to the laws of this state.

3. NRS 108.473 to 108.4783, inclusive, **and sections 2 to 6, inclusive, of this act** do not apply and the lien for charges for storage does not attach unless the rental agreement contains a space for the occupant to provide the name and address of an alternative person to whom the notices under those sections may be sent. The occupant's failure to provide an alternative address does not affect the owner's remedies under those sections.

4. The parties may agree in the rental agreement to additional rights, obligations or remedies other than those provided by NRS 108.473 to 108.4783, inclusive ~~†~~, **and sections 2 to 6, inclusive, of this act.** The rights provided in those sections are in addition to any other rights of a creditor against a debtor.

Sec. 15. NRS 108.476 is hereby amended to read as follows:

108.476 1. If any charges for rent or other items owed by the occupant remain unpaid for 14 days or more, the owner may terminate the occupant's right to use the ~~individual~~ **storage** space ~~for storage~~ at the facility, **for which charges are owed**, not less than 14 days after sending a notice by ~~certified~~ **verified** mail or electronic mail to the occupant at his or her last address and to the alternative address provided by the occupant in the rental agreement. The notice must contain:

(a) An itemized statement of the amount owed by the occupant at the time of the notice and the date when the amount became due;

(b) The name, address and telephone number of the owner or the owner's agent;

(c) A statement that the occupant's right to use the ~~space for~~ **storage space** will terminate on a specific date unless the occupant pays the amount owed to the owner; and

(d) A statement that upon the termination of the occupant's right to occupy the **storage** space and after the date specified in the notice, an owner's lien pursuant to NRS 108.4753, will be imposed.

2. For the purposes of this section, "last known address" means the **postal or electronic mail** address provided by the occupant in the most recent rental agreement between the owner and occupant, or the **postal or electronic mail** address provided by the occupant in a written notice sent to the owner with a change of the occupant's address after the execution of the rental agreement.

Sec. 16. NRS 108.4763 is hereby amended to read as follows:

108.4763 1. After the notice of the lien is mailed by the owner, if the occupant fails to pay the total amount due by the date specified in the notice, the owner may:

(a) Deny the occupant access to the **storage space**. ~~for storage; and~~

(b) Enter the **storage** space and remove the personal property within it to a safe place.

(c) **Dispose of, but may not sell, any protected property contained in the storage space in accordance with the provisions of subsection 4 if the owner has actual knowledge of such protected property. If the owner disposes of the protected property ~~†~~ in accordance with the provisions of subsection 4, the owner is not liable to the occupant or any other person who claims an interest in the protected property.** ~~The owner may dispose of the protected property by:~~

~~(1) Destroying the protected property in an appropriate manner authorized by law; or~~

~~(2) Surrendering the protected property to the appropriate state or federal authorities, if such authorities will accept the protected property.~~

(d) If the personal property upon which the lien is claimed is a motor vehicle, boat or personal watercraft, and rent and other charges related to such property remain unpaid or unsatisfied for 60 days, have the property towed by any tow car operator subject to the jurisdiction of the Nevada Transportation Authority. If a motor vehicle, boat or personal watercraft is towed pursuant to this paragraph, the owner is not liable for any damages to such property once the tow car operator takes possession of the motor vehicle, boat or personal watercraft.

2. The owner shall send the occupant a notice of a sale to satisfy the lien by ~~certified~~ *verified* mail to the occupant at his or her last known address and to the alternative address provided by the occupant in the rental agreement at least 14 days before the sale. The notice must contain:

(a) A statement that the occupant may no longer use the ~~space for~~ storage *space* and no longer has access to the occupant's personal property stored therein. ~~;~~

(b) A statement that the personal property of the occupant is subject to a lien and the amount of the lien. ~~;~~

(c) A statement that the personal property will be sold *or disposed of* to satisfy the lien on a date specified in the notice, unless the total amount of the lien is paid. ~~For the occupant executes and returns by certified mail, the declaration in opposition to the sale; and~~

(d) A statement of the provisions of subsection 3.

3. Proceeds of the sale over the amount of the lien and the costs of the sale must be retained by the owner and may be reclaimed by the occupant or the occupant's authorized representative at any time up to 1 year from the date of the sale.

4. ~~The notice of the sale must also contain a blank copy of a declaration of opposition to the sale to be executed by the occupant if the occupant wishes to do so.~~ ***The owner may dispose of protected property contained in the storage space by taking the following actions, in the following order of priority, until the protected property is disposed of:***

(a) Contacting the occupant and returning the protected property to the occupant.

(b) Contacting the secondary contact listed by the occupant in the rental agreement and returning the protected property to the secondary contact.

(c) Contacting any appropriate state or federal authorities, including, without limitation, any appropriate governmental agency, board or commission listed by the occupant in the rental agreement pursuant to NRS 108.4755, ascertaining whether such authorities will accept the protected property and, if such authorities will accept the protected property, ensuring that the protected property is delivered to such authorities.

(d) Destroying the protected property in an appropriate manner which is authorized by law and which ensures that any confidential information contained in the protected property is completely obliterated and may not be examined or accessed by the public.

Sec. 17. NRS 108.477 is hereby amended to read as follows:

108.477 1. ~~If the declaration in opposition to the lien sale executed by the occupant is not received by the date of the sale specified in the notice mailed to the occupant, the owner may sell the property.~~

~~2.~~ The owner shall advertise the sale once a week for 2 consecutive weeks immediately preceding the date of the sale **on a publicly accessible Internet website and** in a newspaper of general circulation in the judicial district where the sale is to be held. The advertisement must contain:

(a) A general description of the personal property to be sold;

(b) The name of the occupant;

(c) The number of the individual **storage** space ~~for storage~~ at the facility where the personal property was stored; and

(d) The name and address of the facility.

~~3.~~ 2. If there is no newspaper of general circulation in the judicial district where the sale is to be held, the advertisement must be posted 10 days before the sale in at least six conspicuous places near the place of the sale.

~~4.~~ 3. The sale must be conducted in a commercially reasonable manner. **If five or more bidders who are unrelated to the owner are in attendance at a sale held to satisfy the lien, the sale and all proceeds from the sale are deemed to be commercially reasonable.**

~~5.~~ 4. After deducting the amount of the lien and the costs of the sale, the owner shall retain any excess proceeds from the sale on the behalf of the occupant.

5. ~~3.~~ The occupant or any person authorized by the occupant or by an order of the court may claim the excess proceeds or the portion of the proceeds necessary to satisfy the person's claim at any time within 1 year after the date of the sale. After 1 year, the owner shall pay any proceeds remaining from the sale to the treasurer of the county where the sale was held for deposit in the general fund of the county.

Sec. 18. NRS 108.4773 is hereby amended to read as follows:

108.4773 1. Any person who has a security interest in the personal property perfected pursuant to NRS 104.9101 to 104.9709, inclusive, may claim the personal property which is subject to the security interest and to the lien for storage charges by paying the amount due, as specified in the preliminary notice of the lien, for the storage of the property . ~~if no declaration in opposition to the sale to satisfy the lien has been executed and returned by the occupant to the owner.~~

2. Upon payment of the total amount due pursuant to this section, the owner shall deliver the personal property subject to the security interest to the person **holding such interest and** paying the amount of the owner's lien. The owner is not liable to any person for any action taken pursuant to this section

if the owner complied with the provisions of NRS 108.473 to 108.4783, inclusive ~~[-]~~, **and sections 2 to 6, inclusive, of this act.**

Sec. 19. NRS 108.4783 is hereby amended to read as follows:

108.4783 Any person who purchases the personal property in good faith at a sale to satisfy the lien ~~for a sale to enforce a judgment on a lien~~ :

1. Does not acquire ownership of any protected property found in the storage space. The person who purchased the protected property in good faith at a sale to satisfy the lien shall, as soon as reasonably practicable, return the protected property to the occupant or, if the occupant cannot be found after reasonable diligence, to the owner, who shall dispose of the protected property in accordance with the provisions of subsection 4 of NRS 108.4763.

2. Except as otherwise provided in subsection 1, takes the property free and clear of ~~any interests of the occupant,~~ **the rights of any party,** even though the owner who conducted the sale may have failed to comply with the provisions of NRS 108.473 to 108.4783, inclusive ~~[-]~~, **and sections 2 to 6, inclusive, of this act.**

Sec. 20. NRS 40.760 is hereby amended to read as follows:

40.760 1. When a person is using a **storage space at a facility** ~~for storage~~ as a residence, the owner or the owner's agent shall serve or have served a notice in writing which directs the person to cease using the ~~facility~~ **storage space** as a residence no later than 24 hours after receiving the notice. The notice must advise the person that:

(a) NRS 108.475 requires the owner to ask the court to have the person evicted if the person has not ceased using the ~~facility~~ **storage space** as a residence within 24 hours; and

(b) The person may continue to use the ~~facility~~ **storage space** to store the person's personal property in accordance with the rental agreement.

2. If the person does not cease using the ~~facility~~ **storage space** as a residence within 24 hours after receiving the notice to do so, the owner of the facility or the owner's agent shall apply by affidavit for summary eviction to the justice of the peace of the township wherein the facility is located. The affidavit must contain:

(a) The date the rental agreement became effective.

(b) A statement that the person is using the ~~facility~~ **storage space** as a residence.

(c) The date and time the person was served with written notice to cease using the ~~facility~~ **storage space** as a residence.

(d) A statement that the person has not ceased using the facility as a residence within 24 hours after receiving the notice.

3. Upon receipt of such an affidavit the justice of the peace shall issue an order directing the sheriff or constable of the county to remove the person within 24 hours after receipt of the order. The sheriff or constable shall not remove the person's personal property from the facility.

4. For the purposes of this section ~~[-,"facility for storage"]~~ :

(a) "**Facility**" means real property divided into individual *storage* spaces. ~~[which are rented or leased for storing personal property.]~~ The term does not include a garage or storage area in a private residence.

(b) "**Storage space**" means a space used for storing personal property, which is rented or leased to an individual occupant who has access to the space.

Sec. 21. NRS 597.890 is hereby amended to read as follows:

597.890 1. The owner of a facility for the storage of personal property or a person acting on his or her behalf shall not advertise that the facility is "climate controlled" unless the advertisement specifies the range of the minimum and maximum temperature and humidity within which the facility is maintained.

2. If an owner or a person acting on his or her behalf fails to indicate the range of temperature and humidity of a facility in any advertisement that refers to it as being "climate controlled" or fails to maintain the temperature and humidity of the facility within the advertised range, the owner is guilty of a misdemeanor and is liable to the occupant for any damages that are caused to the occupant's personal property as a result of extremes in temperature or humidity, notwithstanding any contrary provision in the rental agreement.

3. As used in this section, the terms "facility," "occupant," "owner," "personal property" and "rental agreement" have the meanings ascribed to them respectively in NRS 108.4733 to 108.4745, inclusive ~~†~~ , and sections 2 to 5, inclusive, of this act.

Sec. 22. NRS 108.4765 and 108.478 are hereby repealed.

TEXT OF REPEALED SECTIONS

108.4765 Occupant's declaration of opposition to sale.

The occupant may prevent a sale of the personal property to satisfy the lien if the occupant executes a declaration of opposition to the sale under penalty of perjury and returns the declaration to the owner by certified mail. The declaration must contain the following:

1. The name, address and signature of the occupant;
2. The location of the personal property which is to be sold to satisfy a lien;
3. The date the declaration was executed by the occupant; and
4. A statement that:
 - (a) The occupant has received the notice of the sale to satisfy the lien;
 - (b) The occupant opposes the sale of the property; and
 - (c) The occupant understands that the owner may commence an action for the amount of the lien and the costs of the action.

108.478 Action to enforce lien; enforcement of judgment; stay of enforcement pending appeal.

1. If the occupant signs, and returns to the owner, the declaration in opposition to the sale, the owner may commence an action in any court of competent jurisdiction to enforce the lien.

2. If, after the action to enforce the lien, the owner obtains a judgment against the occupant for the amount of the lien, the owner may enforce the judgment by a sale of the property conducted in a commercially reasonable manner more than 10 days after the notice of the entry of judgment has been filed with the court, unless within that time the occupant pays the amount of the judgment.

3. The occupant may stay the enforcement of the judgment pending an appeal by posting with the court which entered the judgment, a bond in an amount equal to 1.5 times the amount of the judgment. If the occupant posts such a bond, the court may order the owner to return the personal property to the occupant.

Senator Wiener moved the adoption of the amendment.

Remarks by Senator Wiener.

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

Amendment No. 480 to Senate Bill No. 150 clarifies that the term "electronic mail," as used in the context of liens against storage units, requires an electronic confirmation of receipt.

It eliminates the aggregation of spaces so the provisions of the bill apply to individual storage spaces consistent with existing law.

It provides that a lien by document of title on a motor vehicle or boat has priority over other liens.

The amendment requires that occupants who are subject to professional licensing or regulation must provide written notification to the appropriate governing board or commission to identify any protected property in the storage space that is associated with that professional licensing, and provide a copy to the facility owner.

It allows the facility owner to dispose of protected property by following specific steps as outlined in the amendment.

It reinstates language currently in statute concerning advertisement of sale in a local newspaper, but also requires advertisement on a publicly accessible Internet website.

It requires anyone who purchases protected property during a sale to return the property to the occupant or owner of the storage facility.

Amendment adopted.

Bill ordered reprinted, re-engrossed and to third reading.

Senate Bill No. 158.

Bill read second time.

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

Amendment No. 423.

"SUMMARY—Revises provisions governing the frequency of required inspections of the emissions of certain motor vehicles. (BDR 40-310)"

"AN ACT relating to air pollution; revising provisions governing the frequency of required inspections of the emissions of certain motor vehicles; **revising the fees charged by the Department of Motor Vehicles for certain forms**; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law requires the State Environmental Commission, in cooperation with the Department of Motor Vehicles and any local air pollution control

agency, to adopt regulations for the control of emissions from motor vehicles in areas designated by the Commission. (NRS 445B.770) Existing law also imposes limitations on compulsory inspection programs established by the Commission. (NRS 445B.795)

~~{This}~~ **Section 1 of this** bill further limits the authority of the State Environmental Commission by requiring that the regulations adopted by the Commission require: (1) the initial inspection of a new passenger car or new light-duty motor vehicle 3 years after the initial registration of the vehicle, ~~for when the odometer of the vehicle registers 100,000 miles, whichever occurs first;~~ and (2) the subsequent inspection of a passenger car or light-duty motor vehicle not more often than every 2 years, ~~for when the odometer of the vehicle registers 100,000 miles since the most recent inspection, whichever occurs first;~~ except that if a vehicle fails a required inspection, the regulations must provide for annual inspections of the vehicle thereafter.

Existing law requires the Department of Motor Vehicles to charge a fee for the forms distributed to certify emission control compliance in the amount of \$6 per form and \$150 per set of forms. (NRS 445B.830) Because section 1 specifies that inspections for emission control compliance must not be conducted more often than every 2 years, section 2 of this bill raises the fees to \$12 per form and \$300 per set in order to not affect the funding of the Pollution Control Account.

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

Section 1. NRS 445B.795 is hereby amended to read as follows:

445B.795 The authority set forth in NRS 445B.770 providing for a compulsory inspection program is limited as follows:

1. In a county whose population is 100,000 or more, the following categories of motor vehicles which are powered by motor vehicle fuel or special fuel and require inspection pursuant to the regulations adopted by the Commission under NRS 445B.770 are required to have evidence of compliance upon registration or reregistration:

- (a) All passenger cars;
- (b) Light-duty motor vehicles;
- (c) Heavy-duty motor vehicles that are powered by diesel fuel and have a manufacturer's gross vehicle weight rating which does not exceed 14,000 pounds; and
- (d) Heavy-duty motor vehicles that are powered by motor vehicle fuel or special fuel, excluding diesel fuel.

2. In areas which have been designated by the Commission for inspection programs and which are located in counties whose populations are 100,000 or more, all used motor vehicles which require inspection pursuant to the regulations adopted by the Commission under NRS 445B.770 are required to have evidence of compliance upon registration or reregistration.

3. In designated areas in other counties where the Commission puts a program into effect, all used motor vehicles which require inspection pursuant to the regulations adopted by the Commission under NRS 445B.770 are required to have evidence of compliance upon registration or reregistration.

4. The board of county commissioners of a county containing a designated area may revise its program for the designated area after receiving the approval of the Commission.

5. Before carrying out the inspections of vehicles required pursuant to the regulations adopted by the Commission pursuant to NRS 445B.770, the Commission shall, by regulation, adopt testing procedures and standards for emissions for those vehicles.

6. *The regulations adopted by the Commission pursuant to NRS 445B.770 must require that:*

(a) The initial inspection of a new passenger car or new light-duty motor vehicle be conducted 3 years after initial registration of the vehicle ; ~~for when the odometer of the vehicle registers 100,000 miles, whichever occurs first.~~

(b) Except as otherwise provided in paragraph (a) or (c), the inspection of a passenger car or light-duty motor vehicle be conducted not more often than every 2 years ; ~~for when the odometer of the vehicle registers 100,000 miles since the most recent inspection, whichever occurs first.~~ and

(c) If a passenger car or light-duty motor vehicle fails a required inspection, the vehicle must be inspected annually thereafter.

Sec. 2. NRS 445B.830 is hereby amended to read as follows:

445B.830 1. In areas of the State where and when a program is commenced pursuant to NRS 445B.770 to 445B.815, inclusive, the following fees must be paid to the Department of Motor Vehicles and accounted for in the Pollution Control Account, which is hereby created in the State General Fund:

(a) For the issuance and annual renewal of a license for an authorized inspection station, authorized maintenance station, authorized station or fleet station..... \$25

(b) For each set of 25 forms certifying emission control compliance..... ~~150~~ 300

(c) For each form issued to a fleet station..... ~~6~~ 12

2. Except as otherwise provided in subsections 6, 7 and 8, and after deduction of the amounts distributed pursuant to subsection 4, money in the Pollution Control Account may, pursuant to legislative appropriation or with the approval of the Interim Finance Committee, be expended by the following agencies in the following order of priority:

(a) The Department of Motor Vehicles to carry out the provisions of NRS 445B.770 to 445B.845, inclusive.

(b) The State Department of Conservation and Natural Resources to carry out the provisions of this chapter.

(c) The State Department of Agriculture to carry out the provisions of NRS 590.010 to 590.150, inclusive.

(d) Local governmental agencies in nonattainment or maintenance areas for an air pollutant for which air quality criteria have been issued pursuant to 42 U.S.C. § 7408, for programs related to the improvement of the quality of the air.

(e) The Tahoe Regional Planning Agency to carry out the provisions of NRS 277.200 with respect to the preservation and improvement of air quality in the Lake Tahoe Basin.

3. The Department of Motor Vehicles may prescribe by regulation routine fees for inspection at the prevailing shop labor rate, including, without limitation, maximum charges for those fees, and for the posting of those fees in a conspicuous place at an authorized inspection station or authorized station.

4. The Department of Motor Vehicles shall make quarterly distributions of money in the Pollution Control Account to local governmental agencies in nonattainment or maintenance areas for an air pollutant for which air quality criteria have been issued pursuant to 42 U.S.C. § 7408. The distributions of money made to agencies in a county pursuant to this subsection must be made from an amount of money in the Pollution Control Account that is equal to one-sixth of the amount received for each form issued in the county pursuant to subsection 1.

5. Each local governmental agency that receives money pursuant to subsection 4 shall, not later than 45 days after the end of the fiscal year in which the money is received, submit to the Director of the Legislative Counsel Bureau for transmittal to the Interim Finance Committee a report on the use of the money received.

6. The Department of Motor Vehicles shall by regulation establish a program to award grants of money in the Pollution Control Account to local governmental agencies in nonattainment or maintenance areas for an air pollutant for which air quality criteria have been issued pursuant to 42 U.S.C. § 7408, for programs related to the improvement of the quality of the air. The grants to agencies in a county pursuant to this subsection must be made from any excess money in the Pollution Control Account. As used in this subsection, "excess money" means the money in excess of \$1,000,000 remaining in the Pollution Control Account at the end of the fiscal year, after deduction of the amounts distributed pursuant to subsection 4 and any disbursements made from the Account pursuant to subsection 2.

7. Any regulations adopted pursuant to subsection 6 must provide for the creation of an advisory committee consisting of representatives of state and local agencies involved in the control of emissions from motor vehicles. The committee shall:

(a) Review applications for grants and make recommendations for their approval, rejection or modification;

(b) Establish goals and objectives for the program for control of emissions from motor vehicles;

(c) Identify areas where funding should be made available; and

(d) Review and make recommendations concerning regulations adopted pursuant to subsection 6 or NRS 445B.770.

8. Grants proposed pursuant to subsections 6 and 7 must be submitted to the appropriate deputy director of the Department of Motor Vehicles and the Administrator of the Division of Environmental Protection of the State Department of Conservation and Natural Resources. Proposed grants approved by the appropriate deputy director and the Administrator must not be awarded until approved by the Interim Finance Committee.

~~Sec. 21~~ **Sec. 3.** This act becomes effective on July 1, 2011.

Senator Manendo moved the adoption of the amendment.

Remarks by Senator Manendo.

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

Amendment No. 423 to Senate Bill No. 158 makes two changes to the bill. The first change relates to the initial emission inspection and subsequent emission inspections. As written the bill provides that inspections be conducted at time certain intervals or when the odometer registers 100,000 miles, whichever occurs first. The amendment removes language referencing the odometer reading. The second change in this amendment doubles the amount of the fees that must be paid for the forms certifying emission control compliance to the Department of Motor Vehicles for the Pollution Control Account.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Horsford moved that upon return from reprint, Senate Bills Nos. 129, 158 be re-referred to the Committee on Finance.

Motion carried.

SECOND READING AND AMENDMENT

Senate Bill No. 223.

Bill read second time.

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

Amendment No. 279.

"SUMMARY—Revises provisions relating to cruelty to animals. (BDR 50-760)"

"AN ACT relating to animals; **authorizing a person to report an act of cruelty against an animal; requiring such a report to be kept confidential under certain circumstances;** making certain willful and malicious acts of cruelty to ~~an animal~~ **certain animals** punishable as a felony; clarifying that a retailer, dealer or operator who separates a dog or cat from its mother is guilty of a misdemeanor under certain circumstances; providing penalties; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law prohibits a person from committing an act of cruelty against an animal. (NRS 574.100) "Cruelty" is defined to include any act, omission or neglect, whereby unjustifiable physical pain, suffering or death is caused or permitted. (NRS 574.050) For a first or second offense within 7 years, existing law provides that a person who commits an act of cruelty against an animal is guilty of a misdemeanor. For a third or subsequent offense within 7 years, existing law provides that such a person is guilty of a category C felony. (NRS 574.100) Existing law also prohibits a person from committing certain acts against a dog that is owned by another person and that is used in an exhibition, show, contest or other event in which the skill, breeding or stamina of the dog is judged or examined. Specifically, a person who willfully, unjustifiably and maliciously tampers or interferes with such a dog is guilty of a category D felony. A person who willfully and unjustifiably abuses or injures such a dog is guilty of a category D felony and may be further punished by a fine of not more than \$10,000. A person who willfully and unjustifiably kills such a dog is guilty of a category C felony. (NRS 574.107) **Section 1 of this bill : (1) authorizes a person to report an act of cruelty against an animal to any peace officer, officer of a society for the prevention of cruelty to animals or animal control officer; (2) provides that the report is confidential; and (3) prohibits releasing any information concerning the report except pursuant to a criminal prosecution. Section 4 of this bill** provides that a person who willfully and maliciously commits certain acts of cruelty against an animal **kept for companionship or pleasure or against any cat or dog** is guilty of a category D felony, ~~if the act does not result in the death of the animal, and~~ **except that the person** is guilty of a category C felony ~~if the animal dies because of the act of cruelty~~ **is committed against the animal in order to threaten, intimidate or terrorize another person.**

Existing law prohibits a retailer, dealer or operator from separating a dog or cat from its mother until it is 8 weeks of age or is accustomed to taking food or nourishment other than by nursing, whichever is later. (NRS 574.500) Although no penalty is specifically provided for violating that prohibition, existing law provides that whenever the performance of any act is prohibited by any statute, and no penalty for the violation of such statute is imposed, a person who commits that act is guilty of a misdemeanor. (NRS 193.170) ~~Section 2~~ **Section 6** of this bill clarifies that a person who separates a dog or cat from its mother before it is 8 weeks old or is accustomed to taking food or nourishment other than by nursing is guilty of a misdemeanor.

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

Section 1. Chapter 574 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Any person who knows or has reasonable cause to believe that an animal has been subjected to an act of cruelty in violation of NRS 574.100 may report the act of cruelty to any:

(a) Peace officer;

(b) Officer of a society for the prevention of cruelty to animals who is authorized to make arrests pursuant to NRS 574.040; or

(c) Animal control officer.

2. Any report made pursuant to subsection 1 is confidential.

3. Any person, law enforcement agency, society for the prevention of cruelty to animals or animal control agency that willfully releases data or information concerning the reports, except pursuant to a criminal prosecution, is guilty of a misdemeanor.

Sec. 2. NRS 574.050 is hereby amended to read as follows:

574.050 As used in NRS 574.050 to 574.200, inclusive ~~++~~, **and section 1 of this act:**

1. "Animal" does not include the human race, but includes every other living creature.

2. "First responder" means a person who has successfully completed the national standard course for first responders.

3. "Police animal" means an animal which is owned or used by a state or local governmental agency and which is used by a peace officer in performing his or her duties as a peace officer.

4. "Torture" or "cruelty" includes every act, omission or neglect, whereby unjustifiable physical pain, suffering or death is caused or permitted.

Sec. 3. NRS 574.055 is hereby amended to read as follows:

574.055 1. Any peace officer or officer of a society for the prevention of cruelty to animals who is authorized to make arrests pursuant to NRS 574.040 shall, upon discovering any animal which is being treated cruelly, take possession of it and provide it with shelter and care or, upon obtaining written permission from the owner of the animal, may destroy it in a humane manner.

2. If an officer takes possession of an animal, the officer shall give to the owner, if the owner can be found, a notice containing a written statement of the reasons for the taking, the location where the animal will be cared for and sheltered, and the fact that there is a limited lien on the animal for the cost of shelter and care. If the owner is not present at the taking and the officer cannot find the owner after a reasonable search, the officer shall post the notice on the property from which the officer takes the animal. If the identity and address of the owner are later determined, the notice must be mailed to the owner immediately after the determination is made.

3. An officer who takes possession of an animal pursuant to this section has a lien on the animal for the reasonable cost of care and shelter furnished to the animal and, if applicable, for its humane destruction. The lien does not extend to the cost of care and shelter for more than 2 weeks.

4. Upon proof that the owner has been notified in accordance with the provisions of subsection 2 or, if the owner has not been found or identified, that the required notice has been posted on the property where the animal

was found, a court of competent jurisdiction may, after providing an opportunity for a hearing, order the animal sold at auction, humanely destroyed or continued in the care of the officer for such disposition as the officer sees fit.

5. An officer who seizes an animal pursuant to this section is not liable for any action arising out of the taking or humane destruction of the animal.

6. The provisions of this section do not apply to any animal which is located on land being employed for an agricultural use as defined in NRS 361A.030 unless the owner of the animal or the person charged with the care of the animal is in violation of paragraph ~~(b)~~ (c) of subsection 1 of NRS 574.100 and the impoundment is accomplished with the concurrence and supervision of the sheriff or the sheriff's designee, a licensed veterinarian and the district brand inspector or the district brand inspector's designee. In such a case, the sheriff shall direct that the impoundment occur not later than 48 hours after the veterinarian determines that a violation of paragraph ~~(b)~~ (c) of subsection 1 of NRS 574.100 exists.

7. The owner of an animal impounded in accordance with the provisions of subsection 6 must, before the animal is released to the owner's custody, pay the charges approved by the sheriff as reasonably related to the impoundment, including the charges for the animal's food and water. If the owner is unable or refuses to pay the charges, the State Department of Agriculture shall sell the animal. The Department shall pay to the owner the proceeds of the sale remaining after deducting the charges reasonably related to the impoundment.

~~Section 1.~~ **Sec. 4.** NRS 574.100 is hereby amended to read as follows:

574.100 1. A person shall not:

(a) ~~Overdrive.~~ **Torture or unjustifiably maim, mutilate or kill:**

(1) An animal kept for companionship or pleasure, whether belonging to the person or to another; or

(2) Any cat or dog;

(b) Except as otherwise provided in paragraph (a), overdrive, overload, torture, cruelly beat or unjustifiably injure, maim, mutilate or kill an animal, whether belonging to the person or to another;

~~(b)~~ (c) Deprive an animal of necessary sustenance, food or drink, or neglect or refuse to furnish it such sustenance or drink;

~~(c)~~ (d) Cause, procure or allow an animal to be overdriven, overloaded, tortured, cruelly beaten, or unjustifiably injured, maimed, mutilated or killed or to be deprived of necessary food or drink;

~~(d)~~ (e) Instigate, engage in, or in any way further an act of cruelty to any animal, or any act tending to produce such cruelty; or

~~(e)~~ (f) Abandon an animal in circumstances other than those prohibited in NRS 574.110.

2. Except as otherwise provided in subsections 3 and 4 and NRS 574.210 to 574.510, inclusive, a person shall not restrain a dog:

- (a) Using a tether, chain, tie, trolley or pulley system or other device that:
- (1) Is less than 12 feet in length;
 - (2) Fails to allow the dog to move at least 12 feet or, if the device is a pulley system, fails to allow the dog to move a total of 12 feet; or
 - (3) Allows the dog to reach a fence or other object that may cause the dog to become injured or die by strangulation after jumping the fence or object or otherwise becoming entangled in the fence or object;
- (b) Using a prong, pinch or choke collar or similar restraint; or
- (c) For more than 14 hours during a 24-hour period.

3. Any pen or other outdoor enclosure that is used to maintain a dog must be appropriate for the size and breed of the dog. If any property that is used by a person to maintain a dog is of insufficient size to ensure compliance by the person with the provisions of paragraph (a) of subsection 2, the person may maintain the dog unrestrained in a pen or other outdoor enclosure that complies with the provisions of this subsection.

4. The provisions of subsections 2 and 3 do not apply to a dog that is:

- (a) Tethered, chained, tied, restrained or placed in a pen or enclosure by a veterinarian, as defined in NRS 574.330, during the course of the veterinarian's practice;
- (b) Being used lawfully to hunt a species of wildlife in this State during the hunting season for that species;
- (c) Receiving training to hunt a species of wildlife in this State;
- (d) In attendance at and participating in an exhibition, show, contest or other event in which the skill, breeding or stamina of the dog is judged or examined;
- (e) Being kept in a shelter or boarding facility or temporarily in a camping area;
- (f) Temporarily being cared for as part of a rescue operation or in any other manner in conjunction with a bona fide nonprofit organization formed for animal welfare purposes;
- (g) Living on land that is directly related to an active agricultural operation, if the restraint is reasonably necessary to ensure the safety of the dog. As used in this paragraph, "agricultural operation" means any activity that is necessary for the commercial growing and harvesting of crops or the raising of livestock or poultry; or
- (h) With a person having custody or control of the dog, if the person is engaged in a temporary task or activity with the dog for not more than 1 hour.

5. *A person who willfully and maliciously violates paragraph (a) of subsection 1:*

(a) ~~If the act does not result in the death of an animal, is~~ Except as otherwise provided in paragraph (b), is guilty of a category D felony and shall be punished as provided in NRS 193.130.

(b) If the act ~~results in the death of an animal,~~ is committed in order to threaten, intimidate or terrorize another person, is guilty of a category C felony and shall be punished as provided in NRS 193.130.

6. Except as otherwise provided in subsection 5, a person who violates subsection 1, 2 or 3:

(a) For the first offense within the immediately preceding 7 years, is guilty of a misdemeanor and shall be sentenced to:

(1) Imprisonment in the city or county jail or detention facility for not less than 2 days, but not more than 6 months; and

(2) Perform not less than 48 hours, but not more than 120 hours, of community service.

↪ The person shall be further punished by a fine of not less than \$200, but not more than \$1,000. A term of imprisonment imposed pursuant to this paragraph may be served intermittently at the discretion of the judge or justice of the peace, except that each period of confinement must be not less than 4 consecutive hours and must occur either at a time when the person is not required to be at the person's place of employment or on a weekend.

(b) For the second offense within the immediately preceding 7 years, is guilty of a misdemeanor and shall be sentenced to:

(1) Imprisonment in the city or county jail or detention facility for not less than 10 days, but not more than 6 months; and

(2) Perform not less than 100 hours, but not more than 200 hours, of community service.

↪ The person shall be further punished by a fine of not less than \$500, but not more than \$1,000.

(c) For the third and any subsequent offense within the immediately preceding 7 years, is guilty of a category C felony and shall be punished as provided in NRS 193.130.

~~6.~~ **7.** In addition to any other fine or penalty provided in subsection 5 ~~or 6,~~ a court shall order a person convicted of violating subsection 1, 2 or 3 to pay restitution for all costs associated with the care and impoundment of any mistreated animal under subsection 1, 2 or 3, including, without limitation, money expended for veterinary treatment, feed and housing.

~~7.~~ **8.** The court may order the person convicted of violating subsection 1, 2 or 3 to surrender ownership or possession of the mistreated animal.

~~8.~~ **9.** The provisions of this section do not apply with respect to an injury to or the death of an animal that occurs accidentally in the normal course of:

(a) Carrying out the activities of a rodeo or livestock show; or

(b) Operating a ranch.

Sec. 5. NRS 574.200 is hereby amended to read as follows:

574.200 The provisions of NRS 574.050 to 574.510, inclusive, and section 1 of this act do not:

1. Interfere with any of the fish and game laws contained in title 45 of NRS or any laws for the destruction of certain birds.
2. Interfere with the right to destroy any venomous reptiles or animals, or any animal known as dangerous to life, limb or property.
3. Interfere with the right to kill all animals and fowl used for food.
4. Prohibit or interfere with any properly conducted scientific experiments or investigations which are performed under the authority of the faculty of some regularly incorporated medical college or university of this State.
5. Interfere with any scientific or physiological experiments conducted or prosecuted for the advancement of science or medicine.
6. Prohibit or interfere with established methods of animal husbandry, including the raising, handling, feeding, housing and transporting of livestock or farm animals.

~~Sec. 2.~~ **Sec. 6.** NRS 574.500 is hereby amended to read as follows:

574.500 **1.** A retailer, dealer or operator shall not separate a dog or cat from its mother until it is 8 weeks of age or accustomed to taking food or nourishment other than by nursing, whichever is later.

2. A person who violates the provisions of this section is guilty of a misdemeanor.

Senator Manendo moved the adoption of the amendment.

Remarks by Senator Manendo.

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

Amendment No. 279 to Senate Bill No. 223 provides that the intentional torturing or unjustifiable maiming, mutilating, or killing of a companion animal or any cat or dog is punishable as a category D felony. If the act is done to threaten, intimidate, or terrorize another person, the punishment is a category C felony. The amendment also provides that if a person makes a report to animal control or law enforcement regarding abuse of an animal, the person's identity must remain confidential except to appropriate law enforcement or government agencies for prosecution. Any violation of this provision would be a misdemeanor.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 226.

Bill read second time.

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

Amendment No. 424.

"SUMMARY— ~~[Makes it unlawful for a person to trap a]~~ **Requires the Board of Wildlife Commissioners to adopt certain regulations governing the trapping of fur-bearing ~~[mammal within a]~~ mammals in certain ~~[distance of an occupied dwelling under certain circumstances.]~~ counties.** (BDR 45-975)"

"AN ACT relating to trapping; ~~[making it unlawful for a person to trap a]~~ **requiring the Board of Wildlife Commissioners to adopt regulations**

governing the trapping of fur-bearing mammals in certain ~~distance of an occupied dwelling under certain circumstances; providing a penalty;~~ counties; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under existing law, ~~any person who takes a fur-bearing mammal by trapping is required to obtain a trapping license. (NRS 503.454) A person who obtains a trapping license may trap only during the open season for trapping designated by the Board of Wildlife Commissioners. (NRS 503.440) The terms "to trap," "trapping" and "trapped" mean to set or operate any device or mechanism that is designed, built or made to close upon or hold fast any wildlife. Those terms include every act of assistance provided to a person in setting or operating the device or mechanism. (NRS 501.090) A person who violates a provision relating to trapping is guilty of a misdemeanor, punishable by a criminal fine of not less than \$50 or more than \$500 or by imprisonment in the county jail for not more than 6 months, or by both fine and imprisonment. (NRS 501.385)~~ the Board of Wildlife Commissioners is required to adopt certain regulations establishing seasons for trapping fur-bearing mammals and the manner and means of taking wildlife. Those regulations must be established after first considering the recommendations of the Department, the county advisory boards to manage wildlife and others who wish to present their views at an open meeting. (NRS 501.181)

Section 2 of this bill ~~makes it unlawful for a person~~ specifically requires the Board of Wildlife Commissioners to adopt regulations governing the trapping of fur-bearing mammals in a residential area of a county whose population is 100,000 or more (currently Clark and Washoe Counties). ~~to trap a fur-bearing mammal using a trap, other than a box or cage trap, within 1,000 yards of an occupied dwelling, if the dwelling is located within an area of the county in which the discharge of firearms is prohibited by a county ordinance. Section 1 defines the term "box or cage trap" to mean any trap that is not designed, built or made to close upon any portion of the body of a fur-bearing mammal.~~ Section 3 of this bill requires those regulations to be adopted on or before December 31, 2012.

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

Section 1. ~~Chapter 503 of NRS is hereby amended by adding thereto a new section to read as follows:~~

~~1. Except as otherwise provided in NRS 503.470, 503.580 and 503.595, in a county whose population is 100,000 or more, it is unlawful for a person to trap a fur-bearing mammal using a trap, other than a box or cage trap, within 1,000 yards of an occupied dwelling, if the dwelling is located within an area of the county in which the discharge of firearms is prohibited by a county ordinance.~~

~~2. As used in this section, "box or cage trap" means any trap that is not designed, built or made to close upon any portion of the body of a fur-bearing mammal.~~ **(Deleted by amendment.)**

Sec. 2. NRS 501.181 is hereby amended to read as follows:

501.181 The Commission shall:

1. Establish broad policies for:

(a) The protection, propagation, restoration, transplanting, introduction and management of wildlife in this State.

(b) The promotion of the safety of persons using or property used in the operation of vessels on the waters of this State.

(c) The promotion of uniformity of laws relating to policy matters.

2. Guide the Department in its administration and enforcement of the provisions of this title and of chapter 488 of NRS by the establishment of such policies.

3. Establish policies for areas of interest including:

(a) The management of big and small game mammals, upland and migratory game birds, fur-bearing mammals, game fish, and protected and unprotected mammals, birds, fish, reptiles and amphibians.

(b) The control of wildlife depredations.

(c) The acquisition of lands, water rights and easements and other property for the management, propagation, protection and restoration of wildlife.

(d) The entry, access to, and occupancy and use of such property, including leases of grazing rights, sales of agricultural products and requests by the Director to the State Land Registrar for the sale of timber if the sale does not interfere with the use of the property on which the timber is located for wildlife management or for hunting or fishing thereon.

(e) The control of nonresident hunters.

(f) The introduction, transplanting or exporting of wildlife.

(g) Cooperation with federal, state and local agencies on wildlife and boating programs.

(h) The revocation of licenses issued pursuant to this title to any person who is convicted of a violation of any provision of this title or any regulation adopted pursuant thereto.

4. Establish regulations necessary to carry out the provisions of this title and of chapter 488 of NRS, including:

(a) Seasons for hunting game mammals and game birds, for hunting or trapping fur-bearing mammals and for fishing, the daily and possession limits, the manner and means of taking wildlife, including, but not limited to, the sex, size or other physical differentiation for each species, and, when necessary for management purposes, the emergency closing or extending of a season, reducing or increasing of the bag or possession limits on a species, or the closing of any area to hunting, fishing or trapping. The regulations must be established after first considering the recommendations of the Department, the county advisory boards to manage wildlife and others who wish to

present their views at an open meeting. Any regulations relating to the closure of a season must be based upon scientific data concerning the management of wildlife. The data upon which the regulations are based must be collected or developed by the Department.

(b) The manner of using, attaching, filling out, punching, inspecting, validating or reporting tags.

(c) The delineation of game management units embracing contiguous territory located in more than one county, irrespective of county boundary lines.

(d) The number of licenses issued for big game and, if necessary, other game species.

5. Adopt regulations requiring the Department to make public, before official delivery, its proposed responses to any requests by federal agencies for its comment on drafts of statements concerning the environmental effect of proposed actions or regulations affecting public lands.

6. Adopt regulations:

(a) Governing the provisions of the permit required by NRS 502.390 and for the issuance, renewal and revocation of such a permit.

(b) Establishing the method for determining the amount of an assessment, and the time and manner of payment, necessary for the collection of the assessment required by NRS 502.390.

7. Designate those portions of wildlife management areas for big game mammals that are of special concern for the regulation of the importation, possession and propagation of alternative livestock pursuant to NRS 576.129.

8. Adopt regulations governing the trapping of fur-bearing mammals in a residential area of a county whose population is 100,000 or more.

Sec. 3. The Board of Wildlife Commissioners shall, on or before December 31, 2012, adopt any regulations required by the amendatory provisions of this act.

Sec. 4. This act becomes effective:

1. Upon passage and approval for the purpose of adopting any regulations required by the amendatory provisions of this act; and

2. On January 1, 2013, for all other purposes.

Senator Manendo moved the adoption of the amendment.

Remarks by Senator Manendo.

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

Amendment No. 424 to Senate Bill No. 226 deletes the bill as a whole and replaces it with language requiring the Board of Wildlife Commissioners to adopt regulations governing the trapping of fur-bearing mammals in residential areas in counties whose population is 100,000 or more. The regulations must be adopted by December 31, 2012.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 231.

Bill read second time.

The following amendment was proposed by the Committee on Government Affairs:

Amendment No. 112.

"SUMMARY—Makes various changes relating to concealed firearms. (BDR 20-742)"

"AN ACT relating to concealed firearms; authorizing a sheriff to provide certain information concerning the availability of certain courses relating to firearm safety; authorizing persons who hold permits to carry concealed firearms to carry concealed firearms on the property of the Nevada System of Higher Education ~~+~~ under certain circumstances; authorizing the Police Department for the System to provide certain information concerning the availability of certain courses relating to firearm safety; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Section 1 of this bill authorizes the sheriff of a county to provide to persons who hold permits to carry concealed firearms information concerning instructors and organizations that offer courses in firearm safety which focus on issues relating to firearm safety in an educational environment.

Existing law prohibits a person from carrying a concealed firearm on the property of the Nevada System of Higher Education, unless the person holds a permit to carry a concealed firearm and has written permission from the president of a branch or facility of the System to carry the concealed firearm. (NRS 202.265, 202.3673) **Sections 3, 4 and 6** of this bill authorize a person who holds a permit to carry a concealed firearm to carry a concealed firearm while on the property of the Nevada System of Higher Education ~~+~~ unless the person is attending an event held at a sporting venue with a seating capacity of 1,000 or more.

Section 5 of this bill authorizes the Police Department for the System to provide to persons who hold permits to carry concealed firearms information concerning instructors and organizations that offer courses in firearm safety which focus on issues relating to firearm safety in an educational environment.

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

Section 1. Chapter 248 of NRS is hereby amended by adding thereto a new section to read as follows:

The sheriff of each county may, within the limits of available money, provide to persons who are authorized to carry concealed firearms pursuant to the provisions of NRS 202.3653 to 202.369, inclusive, information concerning instructors and organizations that offer courses in firearm safety which focus on issues relating to firearm safety in an educational environment.

Sec. 2. NRS 62C.060 is hereby amended to read as follows:

62C.060 1. If a peace officer or probation officer has probable cause to believe that a child is committing or has committed an unlawful act that involves the possession, use or threatened use of a firearm, the officer shall take the child into custody.

2. If a child is taken into custody for an unlawful act described in this section, the child must not be released before a detention hearing is held pursuant to NRS 62C.040.

3. At the detention hearing, the juvenile court shall, if the child was taken into custody for:

(a) Carrying or possessing a firearm while on the property of the Nevada System of Higher Education, a private or public school or child care facility, or while in a vehicle of a private or public school or child care facility, order the child to:

(1) Be evaluated by a qualified professional; and

(2) Submit to a test to determine whether the child is using any controlled substance.

(b) Committing an unlawful act involving a firearm other than the act described in paragraph (a), determine whether to order the child to be evaluated by a qualified professional.

4. If the juvenile court orders the child to be evaluated by a qualified professional or to submit to a test to determine whether the child is using any controlled substance, the evaluation or the results from the test must be completed not later than 14 days after the detention hearing. Until the evaluation or the test is completed, the child must be:

(a) Detained at a facility for the detention of children; or

(b) Placed under a program of supervision in the home of the child that may include electronic surveillance of the child.

5. If a child is evaluated by a qualified professional pursuant to this section, the statements made by the child to the qualified professional during the evaluation and any evidence directly or indirectly derived from those statements may not be used for any purpose in a proceeding which is conducted to prove that the child committed a delinquent act or criminal offense. The provisions of this subsection do not prohibit the district attorney from proving that the child committed a delinquent act or criminal offense based upon evidence obtained from sources or by means that are independent of the statements made by the child to the qualified professional during the evaluation.

6. As used in this section, "child care facility" has the meaning ascribed to it in paragraph (a) of subsection ~~5~~ 6 of NRS 202.265.

Sec. 3. NRS 202.265 is hereby amended to read as follows:

202.265 1. Except as otherwise provided in this section, a person shall not carry or possess while on the property of the Nevada System of Higher Education, a private or public school or child care facility, or while in a vehicle of a private or public school or child care facility:

(a) An explosive or incendiary device;

- (b) A dirk, dagger or switchblade knife;
- (c) A nunchaku or trefoil;
- (d) A blackjack or billy club or metal knuckles;
- (e) A pistol, revolver or other firearm; or
- (f) Any device used to mark any part of a person with paint or any other substance.

2. Any person who violates subsection 1 is guilty of a gross misdemeanor.

3. This section does not prohibit the possession of a weapon listed in subsection 1 on the property of:

(a) ~~†A†~~ *The Nevada System of Higher Education*, a private or public school or child care facility by a:

- (1) Peace officer;
- (2) School security guard; or
- (3) Person having written permission from the president of a branch or facility of the Nevada System of Higher Education or the principal of the school or the person designated by a child care facility to give permission to carry or possess the weapon.

(b) A child care facility which is located at or in the home of a natural person by the person who owns or operates the facility so long as the person resides in the home and the person complies with any laws governing the possession of such a weapon.

4. *This section does not prohibit the possession of a firearm on the property of the Nevada System of Higher Education by a person who is authorized to carry a concealed firearm pursuant to the provisions of NRS 202.3653 to 202.369, inclusive ~~††~~, except during any period in which the person attends an event specified in subsection 4 of NRS 202.3673.*

5. The provisions of this section apply to a child care facility located at or in the home of a natural person only during the normal hours of business of the facility.

~~†§†~~ 6. For the purposes of this section:

(a) "Child care facility" means any child care facility that is licensed pursuant to chapter 432A of NRS or licensed by a city or county.

(b) "Firearm" includes any device from which a metallic projectile, including any ball bearing or pellet, may be expelled by means of spring, gas, air or other force.

(c) "Nunchaku" has the meaning ascribed to it in NRS 202.350.

(d) "Switchblade knife" has the meaning ascribed to it in NRS 202.350.

(e) "Trefoil" has the meaning ascribed to it in NRS 202.350.

(f) "Vehicle" has the meaning ascribed to "school bus" in NRS 484A.230.

Sec. 4. NRS 202.3673 is hereby amended to read as follows:

202.3673 1. ~~†A†~~ *Except as otherwise provided in subsection 4, a permittee may carry a concealed firearm while the permittee is on the property of the Nevada System of Higher Education or on the premises of a public building that is located on the property of the Nevada System of*

Higher Education. Except as otherwise provided in subsections 2 and 3, a permittee may carry a concealed firearm while the permittee is on the premises of any public building.

2. A permittee shall not carry a concealed firearm while the permittee is on the premises of a public building that is located on the property of a public airport.

3. A permittee shall not carry a concealed firearm while the permittee is on the premises of:

(a) A public building that is located on the property of a public school or a child care facility, ~~for the property of the Nevada System of Higher Education,~~ unless the permittee has obtained written permission *from the principal of the school or the person designated by a child care facility* to carry a concealed firearm while he or she is on the premises of the public building pursuant to subparagraph (3) of paragraph (a) of subsection 3 of NRS 202.265.

(b) A public building that has a metal detector at each public entrance or a sign posted at each public entrance indicating that no firearms are allowed in the building, unless ~~the~~ :

(1) The public building is located on the property of the Nevada System of Higher Education; or

(2) The permittee is not prohibited from carrying a concealed firearm while he or she is on the premises of the public building pursuant to subsection ~~4~~ 5.

4. A permittee shall not carry a concealed firearm while the permittee is attending any event held on the premises of a stadium, arena, field house or other athletic facility with a seating capacity of 1,000 or more that is located on the property of the Nevada System of Higher Education.

~~5.~~ The provisions of paragraph (b) of subsection 3 do not prohibit:

(a) A permittee who is a judge from carrying a concealed firearm in the courthouse or courtroom in which the judge presides or from authorizing a permittee to carry a concealed firearm while in the courtroom of the judge and while traveling to and from the courtroom of the judge.

(b) A permittee who is a prosecuting attorney of an agency or political subdivision of the United States or of this State from carrying a concealed firearm while he or she is on the premises of a public building.

(c) A permittee who is employed in the public building from carrying a concealed firearm while he or she is on the premises of the public building.

(d) A permittee from carrying a concealed firearm while he or she is on the premises of the public building if the permittee has received written permission from the person in control of the public building to carry a concealed firearm while the permittee is on the premises of the public building.

~~5.~~ **6.** A person who violates subsection 2 or 3 is guilty of a misdemeanor.

~~6.~~ **7.** As used in this section:

(a) "Child care facility" has the meaning ascribed to it in paragraph (a) of subsection ~~5~~ 6 of NRS 202.265.

(b) "Public building" means any building or office space occupied by:

(1) Any component of the Nevada System of Higher Education and used for any purpose related to the System; or

(2) The Federal Government, the State of Nevada or any county, city, school district or other political subdivision of the State of Nevada and used for any public purpose.

↪ If only part of the building is occupied by an entity described in this subsection, the term means only that portion of the building which is so occupied.

Sec. 5. Chapter 396 of NRS is hereby amended by adding thereto a new section to read as follows:

The Police Department for the System may, within the limits of available money, provide to persons who are authorized to carry concealed firearms pursuant to the provisions of NRS 202.3653 to 202.369, inclusive, information concerning instructors and organizations that offer courses in firearm safety which focus on issues relating to firearm safety in an educational environment.

Sec. 6. NRS 396.110 is hereby amended to read as follows:

396.110 1. The Board of Regents may prescribe rules for:

(a) Its own government; and

(b) The government of the System.

2. The Board of Regents shall prescribe rules for the granting of permission to carry or possess a weapon pursuant to NRS 202.265. ***The rules prescribed by the Board of Regents pursuant to this subsection:***

(a) Must allow a person to carry a concealed firearm if the person is authorized to carry a concealed firearm pursuant to the provisions of NRS 202.3653 to 202.369, inclusive. ~~It and~~

(b) Must not require a person who is authorized to carry a concealed firearm pursuant to the provisions of NRS 202.3653 to 202.369, inclusive, to obtain permission to carry a concealed firearm.

(c) Except as otherwise provided in paragraphs (a) and (b), must provide for the storage of firearms in dormitories, apartments and other facilities for housing that are located on the property of the System.

(d) Must include provisions concerning the carrying of a concealed firearm in a parking area that is located on the property of the System during any period in which the parking area is used or available for use by persons attending an event described in subsection 4 of NRS 202.3673, or on any other property of the System which is set aside for, or otherwise used or available for use by, persons to park or gather before attending an event described in subsection 4 of NRS 202.3673.

↪ *Any rules prescribed by the Board of Regents before, on or after July 1, 2011, that are inconsistent with the provisions of ~~paragraph~~ paragraphs (a) ~~or (b)~~ to (d), inclusive, are void.*

Sec. 7. 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. 112 to Senate Bill No. 231 prohibits a concealed weapons permit holder from carrying a concealed weapon while attending any event held at a sporting venue with a seating a capacity of 1,000 or more that is located on the property of the Nevada System of Higher Education.

It requires the Board of Regents to establish policies and procedures regarding how to implement this restriction in relation to parking and tailgating for such events that occur on the property of the Nevada System of Higher Education.

It requires the Board of Regents to prescribe rules concerning the storage of firearms in dormitories or residence halls located on the property of the Nevada System of Higher Education.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Lee moved that upon from reprint, Senate Bill No. 231 be re-referred to the Committee on Finance.

Remarks by Senator Lee.

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

This bill just received a fiscal note and I would like the Senate Finance Committee to verify the validity of this last minute unsolicited fiscal note.

Motion carried.

SECOND READING AND AMENDMENT

Senate Bill No. 236.

Bill read second time.

The following amendment was proposed by the Committee on Transportation:

Amendment No. 477.

"SUMMARY ~~Requires the Director of the Department of Transportation to adopt regulations governing~~ **Provides for the increased use of recycled ~~aggregate for road and~~ materials in certain road and highway projects.** (BDR 35-766)"

"AN ACT relating to highways; **declaring that it is the policy of this State to encourage and promote the use of recycled aggregate, recycled bituminous pavement and recycled rubber from tires in the construction, reconstruction, improvement, maintenance and repair of public highways in this State;** requiring the Director of the Department of Transportation to adopt ~~regulations governing~~ **policies to optimize** the use of ~~recycled aggregate in the construction, reconstruction, improvement, maintenance and repair of the roads and highways in this State;~~ **such**

materials in highway projects; requiring a local government that undertakes certain road or highway projects to adopt policies that optimize the use of such materials in the projects; requiring certain reporting to the Legislature concerning such projects; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

~~[Existing law authorizes the boards of county highway commissioners and the Director of the Department of Transportation to construct, repair and maintain the roads and highways in this State. (NRS 403.090, 408.195)]~~

Section 1.5 of this bill declares it to be the policy of this State to encourage and promote the use of recycled aggregate, recycled bituminous pavement and recycled rubber from tires in the construction, reconstruction, improvement, maintenance and repair of public highways in this State. Section 2 of this bill requires the Director of **the Department of Transportation** to adopt ~~regulations which prescribe the specifications for the use of aggregate for highway projects and which require~~ **policies that optimize the use of recycled aggregate, recycled bituminous pavement and recycled rubber from tires in projects** for the construction, reconstruction, improvement, maintenance or repair of highways. ~~The regulations must provide for exemptions from the requirement for the use of recycled aggregate if the Director determines that the use of recycled aggregate is unreasonable, impractical or impossible. Sections 1 and 2 of this bill require any person who uses aggregate for a road or highway project to comply with the regulations adopted by the Director.]~~ **and to submit certain reports to the Legislature concerning the Department's use of such materials in those projects. Section 2.5 of this bill imposes comparable requirements on local governments that undertake public works projects for the construction, reconstruction, improvement, maintenance or repair of a public road or public highway.**

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

Section 1. [Chapter 403 of NRS is hereby amended by adding thereto a new section to read as follows:

~~*A person who uses aggregate for the construction, reconstruction, improvement, repair or maintenance of a public highway or road pursuant to this chapter shall comply with the regulations adopted by the Director of the Department of Transportation pursuant to section 2 of this act.* (Deleted by amendment.)~~

Sec. 1.5. The Legislature hereby declares that it is the policy of this State to encourage and promote the use of recycled aggregate, recycled bituminous pavement and recycled rubber from tires in the construction, reconstruction, improvement, maintenance and repair of public roads and highways in this State.

Sec. 2. Chapter 408 of NRS is hereby amended by adding thereto a new section to read as follows:

~~[1.] The Director shall adopt regulations which prescribe the specifications for :~~

~~1. Adopt policies to optimize the use of recycled aggregate ~~used for~~ , recycled bituminous pavement and recycled rubber from tires in projects for the construction, reconstruction, improvement, maintenance ~~for~~ and repair of ~~a highway~~ highways undertaken by the Department pursuant to this chapter ; and ~~which must include, without limitation, provisions that:~~~~

~~—(a) Define aggregate and recycled aggregate for the purposes of this section;~~

~~—(b) Except as otherwise provided by paragraph (c), require the use of recycled aggregate;~~

~~—(c) Provide for an exemption from the regulations adopted pursuant to this section if the Director determines that requiring the use of recycled aggregate for a particular project for the construction, reconstruction, improvement, maintenance or repair of a highway is unreasonable, impracticable or impossible; and~~

~~—(d) Establish administrative penalties for any violation of the regulations adopted pursuant to this section.~~

~~2. A person who uses aggregate for the construction, reconstruction, improvement, maintenance or repair of a highway pursuant to this chapter shall comply with the regulations adopted by the Director pursuant to this section.~~

2. Not later than January 31 of each odd-numbered year, submit to the Governor and to the Director of the Legislative Counsel Bureau for transmittal to the Legislature a report concerning the use of recycled aggregate, recycled bituminous pavement and recycled rubber from tires in each project for the construction, reconstruction, improvement, maintenance or repair of a highway undertaken by the Department pursuant to this chapter during the immediately preceding 2 calendar years.

Sec. 2.5. Chapter 338 of NRS is hereby amended by adding thereto a new section to read as follows:

The governing body of a local government that undertakes a project pursuant to this chapter for the construction, reconstruction, improvement, maintenance or repair of a public road or public highway shall:

1. Adopt policies to optimize the use of recycled aggregate, recycled bituminous pavement and recycled rubber from tires in the project; and

2. Not later than January 31 of each odd-numbered year, submit to the Governor and to the Director of the Legislative Counsel Bureau for transmittal to the Legislature a report concerning the use of recycled aggregate, recycled bituminous pavement and recycled rubber from tires in each such project undertaken by the local government during the immediately preceding 2 calendar years.

Sec. 3. NRS 338.1373 is hereby amended to read as follows:

338.1373 1. A local government or its authorized representative shall award a contract for a public work pursuant to the provisions of:

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

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

Sec. 4. 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. 477 to Senate Bill No. 236 declares it to be a policy of this State to encourage and promote the use of recycled aggregate, pavement, and rubber in road construction projects. The amendment requires certain State agencies and local governments to adopt policies that optimize the use of these recycled materials in highway projects and to submit a report to the Legislature and the Governor concerning their use on a biennial basis.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 307.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 465.

"SUMMARY—Revises provisions relating to the exercise of the power of sale under a deed of trust concerning owner-occupied property. (BDR 9-958)"

"AN ACT relating to real property; revising provisions governing the exercise of the power of sale under a deed of trust concerning owner-occupied property; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under existing law, the trustee under a deed of trust concerning owner-occupied housing has the power to sell the property to which the deed of trust applies, subject to certain restrictions. (NRS 107.080, 107.085, 107.086) Existing law prohibits the exercise of the trustee's power of sale concerning owner-occupied property unless the trustee records in the office of the county recorder a certificate issued by the entity designated as the Mediation Administrator for the foreclosure mediation program which indicates that foreclosure mediation is not required or has been completed. (NRS 107.086)

__This bill establishes additional restrictions on the trustee's power of sale with respect to owner-occupied housing which are based on Maryland law and which require an analysis of the eligibility of the grantor or person who holds the title of record for a loan modification or other loss mitigation alternative. ~~Under this bill, the trustee must include with~~ **Section 1 of this bill provides that, not later than 30 days before** the notice of default and election to sell ~~mailed to the grantor or the person who holds title of record,~~ **is recorded in the office of the county recorder of the county in which the property is located, the beneficiary of the deed of trust must mail to the grantor or the person who holds title of record** an application for a loan modification program or other loss mitigation alternative. If the application is returned to the ~~trustee,~~ **beneficiary within 30 days after the date on which it is received by the grantor or person who holds title of record:** (1) the ~~trustee,~~ **beneficiary** must forward it to the person responsible for analyzing the eligibility of the grantor or the person who holds title of record for a loan modification or other loss mitigation alternative ~~and~~; (2) that ~~person~~ must complete an analysis of the application; and ~~(2) the Mediation Administrator may not issue to~~ (3) the trustee ~~the certificate which must be recorded before the~~ **may not** exercise ~~of~~ the power of sale unless the ~~trustee serves on the Mediation Administrator,~~ **beneficiary has mailed to the grantor or the person who holds title of record** an affidavit certifying that an analysis of the application was completed. ~~This bill also provides the procedures to be followed if a~~ **If the grantor or person who holds title of record returns a loss mitigation application within the required time period and requests foreclosure mediation in accordance with existing law: (1) under section 1, the analysis of the application must be completed before the mediation is conducted; and (2) under section 1.7 of this bill, the beneficiary of the deed of trust must bring to the mediation certain information related to the loss mitigation application. Section 1 further provides that if the grantor or the person who holds title of record does not return the** loss mitigation application ~~is not returned~~ within 30 days after ~~service of the notice of default and election to sell and the procedures to be followed with respect to loss mitigation applications if mediation is required under existing law. Finally, this bill requires the Mediation Administrator to create standard forms for the required affidavits,~~ **receipt of the application: (1) the beneficiary shall mail an affidavit to the grantor or person who holds title of record attesting to that fact; and (2) the trustee may exercise the power of sale in accordance with existing law.**

Existing law provides that if certain provisions of existing law governing the exercise of the trustee's power of sale are not followed, a court of competent jurisdiction may void the sale. (NRS 107.080) Section 1.3 of this bill authorizes a court of competent jurisdiction to void a sale made pursuant to the exercise of the trustee's power of sale if

the beneficiary of the deed of trust does not comply with the provisions of this bill.

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

Section 1. Chapter 107 of NRS is hereby amended by adding thereto a new section to read as follows:

1. In addition to the requirements of NRS 107.085 and 107.086, the exercise of the power of sale pursuant to NRS 107.080 with respect to any trust agreement which concerns owner-occupied housing is subject to the provisions of this section.

2. The trustee shall not exercise a power of sale pursuant to NRS 107.080 unless:

(a) Not later than 30 days before the notice of default and election to sell is recorded in the office of the county recorder of the county in which the property is located pursuant to subsection 3 of NRS 107.080, the beneficiary of the deed of trust mails by registered or certified mail, return receipt requested and with postage prepaid, to the grantor or to the person who holds the title of record:

(1) A loss mitigation application for loss mitigation programs that are applicable to the obligation secured by the deed of trust;

(2) Instructions for completing the loss mitigation application;

(3) A description of the eligibility requirements for the loss mitigation programs offered by the beneficiary that may be applicable to the obligation secured by the deed of trust;

(4) A telephone number which the grantor or the person who holds title of record may call to confirm receipt of the completed loss mitigation application; and

(5) An envelope preprinted with the address of the beneficiary.

(b) The beneficiary mails by registered or certified mail, return receipt requested and with postage prepaid, to the grantor or the person who holds title of record, the affidavit described in subsection 3 or a final loss mitigation affidavit.

3. If the grantor or the person who holds the title of record fails to return the loss mitigation application to the beneficiary of the deed of trust within 30 days after receipt of the application, the beneficiary shall execute an affidavit attesting to that fact under penalty of perjury and mail a copy of the affidavit to the grantor or the person who holds the title of record by registered or certified mail, return receipt requested and with postage prepaid.

4. If the grantor or the person who holds the title of record returns the loss mitigation application to the beneficiary of the deed of trust within 30 days after receipt of the application, the beneficiary shall forward the loss mitigation application to the person responsible for conducting loss mitigation analysis on behalf of the beneficiary. Upon receipt of a loss mitigation application pursuant to this subsection, the person responsible

for conducting loss mitigation analysis shall perform and complete a loss mitigation analysis. If the grantor or the person who holds the title of record has returned the loss mitigation application to the beneficiary within the time specified in this subsection and has elected to enter into mediation pursuant to NRS 107.086, the loss mitigation analysis must be completed before the mediation is conducted.

5. Upon completion of the loss mitigation analysis pursuant to subsection 4, the beneficiary shall:

(a) Execute a final loss mitigation affidavit; and

(b) Mail the final loss mitigation affidavit by registered or certified mail, return receipt requested and with postage prepaid, to the grantor or the person who holds the title of record.

6. A beneficiary of a deed of trust, or a person conducting loss mitigation analysis on behalf of the beneficiary, which has received a loan mitigation application within the time specified in subsection 4 shall not deny a loan modification or any other loss mitigation program because of an inability to establish communication with the grantor or the person who holds the title of record or obtain all documentation and information necessary to conduct the loss mitigation analysis unless, for at least 30 days after receipt of the loss mitigation application, the beneficiary or the person acting on its behalf has made good faith attempts to:

(a) Establish communication with the grantor or the person who holds the title of record; and

(b) Obtain all documentation and information necessary to conduct the loss mitigation analysis.

7. As used in this section:

(a) "Final loss mitigation affidavit" means an affidavit that:

(1) Is made by the beneficiary of a deed of trust or a person authorized to act on behalf of the beneficiary;

(2) Certifies the completion of the final determination of loss mitigation analysis in connection with a deed of trust; and

(3) Certifies the denial of a loan modification or other loss mitigation.

(b) "Loss mitigation analysis" means an evaluation of the facts and circumstances of an obligation secured by a deed of trust concerning owner-occupied housing to determine:

(1) Whether the grantor or the person who holds the title of record qualifies for a loan modification; and

(2) If there will not be a loan modification, whether any other loss mitigation program may be made available to the grantor or the person who holds the title of record.

(c) "Loss mitigation program" means an option in connection with an obligation secured by a deed of trust concerning owner-occupied housing that:

(1) Avoids the exercise of the trustee's power of sale through loan modification or other changes to the existing terms of the obligation that

are intended to allow the grantor or the person who holds the title of record to stay in the property;

(2) Avoids the exercise of the trustee's power of sale through a short sale, deed in lieu of trustee's sale or other alternative that is intended to simplify the relinquishment of ownership of the property by the grantor or the person who holds the title of record; or

(3) Lessens the harmful impact of the exercise of the trustee's power of sale on the grantor or the person who holds the title of record.

(d) "Owner-occupied housing" has the meaning ascribed to it in NRS 107.086.

Sec. 1.3. NRS 107.080 is hereby amended to read as follows:

107.080 1. Except as otherwise provided in NRS 107.085 and 107.086, **and section 1 of this act,** if any transfer in trust of any estate in real property is made after March 29, 1927, to secure the performance of an obligation or the payment of any debt, a power of sale is hereby conferred upon the trustee to be exercised after a breach of the obligation for which the transfer is security.

2. The power of sale must not be exercised, however, until:

(a) Except as otherwise provided in paragraph (b), in the case of any trust agreement coming into force:

(1) On or after July 1, 1949, and before July 1, 1957, the grantor, the person who holds the title of record, a beneficiary under a subordinate deed of trust or any other person who has a subordinate lien or encumbrance of record on the property has, for a period of 15 days, computed as prescribed in subsection 3, failed to make good the deficiency in performance or payment; or

(2) On or after July 1, 1957, the grantor, the person who holds the title of record, a beneficiary under a subordinate deed of trust or any other person who has a subordinate lien or encumbrance of record on the property has, for a period of 35 days, computed as prescribed in subsection 3, failed to make good the deficiency in performance or payment;

(b) In the case of any trust agreement which concerns owner-occupied housing as defined in NRS 107.086, the grantor, the person who holds the title of record, a beneficiary under a subordinate deed of trust or any other person who has a subordinate lien or encumbrance of record on the property has, for a period that commences in the manner and subject to the requirements described in subsection 3 and expires 5 days before the date of sale, failed to make good the deficiency in performance or payment;

(c) The beneficiary, the successor in interest of the beneficiary or the trustee first executes and causes to be recorded in the office of the recorder of the county wherein the trust property, or some part thereof, is situated a notice of the breach and of the election to sell or cause to be sold the property to satisfy the obligation; and

(d) Not less than 3 months have elapsed after the recording of the notice.

3. The 15- or 35-day period provided in paragraph (a) of subsection 2, or the period provided in paragraph (b) of subsection 2, commences on the first day following the day upon which the notice of default and election to sell is recorded in the office of the county recorder of the county in which the property is located and a copy of the notice of default and election to sell is mailed by registered or certified mail, return receipt requested and with postage prepaid to the grantor or, to the person who holds the title of record on the date the notice of default and election to sell is recorded, and, if the property is operated as a facility licensed under chapter 449 of NRS, to the State Board of Health, at their respective addresses, if known, otherwise to the address of the trust property. The notice of default and election to sell must:

(a) Describe the deficiency in performance or payment and may contain a notice of intent to declare the entire unpaid balance due if acceleration is permitted by the obligation secured by the deed of trust, but acceleration must not occur if the deficiency in performance or payment is made good and any costs, fees and expenses incident to the preparation or recordation of the notice and incident to the making good of the deficiency in performance or payment are paid within the time specified in subsection 2; and

(b) If the property is a residential foreclosure, comply with the provisions of NRS 107.087.

4. The trustee, or other person authorized to make the sale under the terms of the trust deed or transfer in trust, shall, after expiration of the 3-month period following the recording of the notice of breach and election to sell, and before the making of the sale, give notice of the time and place thereof by recording the notice of sale and by:

(a) Providing the notice to each trustor, any other person entitled to notice pursuant to this section and, if the property is operated as a facility licensed under chapter 449 of NRS, the State Board of Health, by personal service or by mailing the notice by registered or certified mail to the last known address of the trustor and any other person entitled to such notice pursuant to this section;

(b) Posting a similar notice particularly describing the property, for 20 days successively, in three public places of the township or city where the property is situated and where the property is to be sold;

(c) Publishing a copy of the notice three times, once each week for 3 consecutive weeks, in a newspaper of general circulation in the county where the property is situated; and

(d) If the property is a residential foreclosure, complying with the provisions of NRS 107.087.

5. Every sale made under the provisions of this section and other sections of this chapter vests in the purchaser the title of the grantor and any successors in interest without equity or right of redemption. A sale made pursuant to this section may be declared void by any court of competent jurisdiction in the county where the sale took place if:

(a) The trustee or other person authorized to make the sale does not substantially comply with the provisions of this section or any applicable provision of NRS 107.086 and 107.087, ~~or~~ **or the beneficiary of the deed of trust does not comply with any applicable provision of section 1 of this act;**

(b) Except as otherwise provided in subsection 6, an action is commenced in the county where the sale took place within 90 days after the date of the sale; and

(c) A notice of lis pendens providing notice of the pendency of the action is recorded in the office of the county recorder of the county where the sale took place within 30 days after commencement of the action.

6. If proper notice is not provided pursuant to subsection 3 or paragraph (a) of subsection 4 to the grantor, to the person who holds the title of record on the date the notice of default and election to sell is recorded, to each trustor or to any other person entitled to such notice, the person who did not receive such proper notice may commence an action pursuant to subsection 5 within 120 days after the date on which the person received actual notice of the sale.

7. The sale of a lease of a dwelling unit of a cooperative housing corporation vests in the purchaser title to the shares in the corporation which accompany the lease.

8. After a sale of property is conducted pursuant to this section, the trustee shall:

(a) Within 30 days after the date of the sale, record the trustee's deed upon sale in the office of the county recorder of the county in which the property is located; or

(b) Within 20 days after the date of the sale, deliver the trustee's deed upon sale to the successful bidder. Within 10 days after the date of delivery of the deed by the trustee, the successful bidder shall record the trustee's deed upon sale in the office of the county recorder of the county in which the property is located.

9. If the successful bidder fails to record the trustee's deed upon sale pursuant to paragraph (b) of subsection 8, the successful bidder:

(a) Is liable in a civil action to any party that is a senior lienholder against the property that is the subject of the sale in a sum of up to \$500 and for reasonable attorney's fees and the costs of bringing the action; and

(b) Is liable in a civil action for any actual damages caused by the failure to comply with the provisions of subsection 8 and for reasonable attorney's fees and the costs of bringing the action.

10. The county recorder shall, in addition to any other fee, at the time of recording a notice of default and election to sell collect:

(a) A fee of \$150 for deposit in the State General Fund.

(b) A fee of \$50 for deposit in the Account for Foreclosure Mediation, which is hereby created in the State General Fund. The Account must be administered by the Court Administrator, and the money in the Account may

be expended only for the purpose of supporting a program of foreclosure mediation established by Supreme Court Rule.

↪ The fees collected pursuant to this subsection must be paid over to the county treasurer by the county recorder on or before the fifth day of each month for the preceding calendar month, and, except as otherwise provided in this subsection, must be placed to the credit of the State General Fund or the Account as prescribed pursuant to this subsection. The county recorder may direct that 1.5 percent of the fees collected by the county recorder be transferred into a special account for use by the office of the county recorder. The county treasurer shall, on or before the 15th day of each month, remit the fees deposited by the county recorder pursuant to this subsection to the State Controller for credit to the State General Fund or the Account as prescribed in this subsection.

11. The beneficiary, the successor in interest of the beneficiary or the trustee who causes to be recorded the notice of default and election to sell shall not charge the grantor or the successor in interest of the grantor any portion of any fee required to be paid pursuant to subsection 10.

12. As used in this section, "residential foreclosure" means the sale of a single family residence under a power of sale granted by this section. As used in this subsection, "single family residence":

(a) Means a structure that is comprised of not more than four units.

(b) Does not include any time share or other property regulated under chapter 119A of NRS.

~~{Section 1.}~~ **Sec. 1.7.** NRS 107.086 is hereby amended to read as follows:

107.086 1. In addition to the requirements of NRS 107.085, **and section 1 of this act,** the exercise of the power of sale pursuant to NRS 107.080 with respect to any trust agreement which concerns owner-occupied housing is subject to the provisions of this section.

2. The trustee shall not exercise a power of sale pursuant to NRS 107.080 unless the trustee:

(a) Includes with the notice of default and election to sell which is mailed to the grantor or the person who holds the title of record as required by subsection 3 of NRS 107.080:

(1) Contact information which the grantor or the person who holds the title of record may use to reach a person with authority to negotiate a loan modification on behalf of the beneficiary of the deed of trust;

(2) Contact information for at least one local housing counseling agency approved by the United States Department of Housing and Urban Development; **and**

(3) A form upon which the grantor or the person who holds the title of record may indicate an election to enter into mediation or to waive mediation and one envelope addressed to the trustee and one envelope addressed to the Mediation Administrator, which the grantor or the person who holds the title of record may use to comply with the provisions of subsection 3;

~~† (4) A loss mitigation application for loss mitigation programs that are applicable to the obligation secured by the deed of trust;~~

~~— (5) Instructions for completing the loss mitigation application;~~

~~— (6) A description of the eligibility requirements for the loss mitigation programs offered by the trustee or beneficiary of the deed of trust that may be applicable to the obligation secured by the deed of trust;~~

~~— (7) A telephone number which the grantor or the person who holds title of record may call to confirm receipt of the completed loss mitigation application; and~~

~~— (8) An envelope preprinted with the address of the trustee;]~~

(b) Serves a copy of the notice upon the Mediation Administrator; and

(c) Causes to be recorded in the office of the recorder of the county in which the trust property, or some part thereof, is situated:

(1) The certificate provided to the trustee by the Mediation Administrator pursuant to subsection 3 or ~~6~~ ~~907~~ which provides that no mediation is required in the matter; or

(2) The certificate provided to the trustee by the Mediation Administrator pursuant to subsection ~~7~~ ~~107~~ which provides that mediation has been completed in the matter.

3. The grantor or the person who holds the title of record shall, not later than 30 days after service of the notice in the manner required by NRS 107.080, complete the form required by subparagraph (3) of paragraph (a) of subsection 2 and return the form to the trustee by certified mail, return receipt requested. If the grantor or the person who holds the title of record indicates on the form an election to enter into mediation, the trustee shall notify the beneficiary of the deed of trust and every other person with an interest as defined in NRS 107.090, by certified mail, return receipt requested, of the election of the grantor or the person who holds the title of record to enter into mediation and file the form with the Mediation Administrator, who shall assign the matter to a senior justice, judge, hearing master or other designee and schedule the matter for mediation. No further action may be taken to exercise the power of sale until the completion of the mediation. If the grantor or the person who holds the title of record indicates on the form an election to waive mediation or fails to return the form to the trustee as required by this subsection, ~~and fails to return the loss mitigation application required to be mailed to the grantor or the person who holds title of record pursuant to subparagraph (4) of paragraph (a) of subsection 2,]~~ the trustee shall execute an affidavit attesting to that fact ~~those facts]~~ under penalty of perjury and serve a copy of the affidavit, together with the waiver of mediation by the grantor or the person who holds the title of record, or proof of service on the grantor or the person who holds the title of record of the notice required by subsection 2 of this section and subsection 3 of NRS 107.080, upon the Mediation Administrator. Upon receipt of the affidavit and the waiver or proof of service, the Mediation Administrator

shall provide to the trustee a certificate which provides that no mediation is required in the matter.

~~4. If the grantor or the person who holds the title of record returns the loss mitigation application to the trustee within 30 days after service of the notice in the manner required by NRS 107.080, whether or not the grantor or person who holds the title of record has elected to waive mediation pursuant to subsection 3 or failed to return the form required by subparagraph (3) of paragraph (a) of subsection 2, the trustee shall:~~

~~—(a) Notify the Mediation Administrator, the beneficiary of the deed of trust and every other person with an interest as defined in NRS 107.090, by certified mail, return receipt requested, of the receipt of the application;~~

~~—(b) Forward the loss mitigation application to the person responsible for conducting loss mitigation analysis on behalf of the trustee or beneficiary of the deed of trust. Upon receipt of a loss mitigation application pursuant to this subsection, the person responsible for conducting loss mitigation analysis shall perform and complete a loss mitigation analysis.~~

~~5. Upon completion of the loss mitigation analysis pursuant to paragraph (b) of subsection 4, the trustee shall:~~

~~—(a) Execute a final loss mitigation affidavit in the form created by the Mediation Administrator;~~

~~—(b) Mail the final loss mitigation affidavit by registered or certified mail, return receipt requested, to the grantor or the person who holds the title of record; and~~

~~—(c) Serve a copy of the final loss mitigation affidavit upon the Mediation Administrator.~~

~~6. A trustee or a person conducting loss mitigation analysis on behalf of the trustee who has received a loan mitigation application pursuant to this section shall not deny a loan modification or any other loss mitigation program because of an inability to establish communication with the grantor or the person who holds the title of record or obtain all documentation and information necessary to conduct the loss mitigation analysis unless, for at least 30 days after receipt of the loss mitigation application, the trustee or the person acting on its behalf has made good faith attempts to:~~

~~—(a) Establish communication with the grantor or the person who holds the title of record; and~~

~~—(b) Obtain all documentation and information necessary to conduct the loss mitigation analysis.~~

~~7.]~~ Each mediation required by this section must be conducted by a senior justice, judge, hearing master or other designee pursuant to the rules adopted pursuant to subsection 8. ~~[[1.]~~ The beneficiary of the deed of trust or a representative shall attend the mediation. The grantor or a representative shall attend the mediation if the grantor elected to enter into mediation, or the person who holds the title of record or a representative shall attend the mediation if the person who holds the title of record elected to enter into mediation. The beneficiary of the deed of trust shall bring to the mediation

the original or a certified copy of the deed of trust, the mortgage note, ~~and~~ each assignment of the deed of trust or mortgage note ~~and, if the grantor or the person who holds the title of record has returned to the trustee the~~ beneficiary a loss mitigation application pursuant to ~~subsection 4,~~ section 1 of this act, a copy of the loss mitigation application, a final loss mitigation affidavit and the information obtained in connection with the loss mitigation analysis. ~~In addition to these documents, if the grantor or the person who holds the title of record has returned to the trustee the loss mitigation application pursuant to subsection 4, the trustee shall bring to the mediation a preliminary loss mitigation affidavit or a final loss mitigation affidavit, whichever is applicable.~~ If the beneficiary of the deed of trust is represented at the mediation by another person, that person must have authority to negotiate a loan modification on behalf of the beneficiary of the deed of trust or have access at all times during the mediation to a person with such authority.

5. ~~8.~~ If the beneficiary of the deed of trust or the representative fails to attend the mediation, fails to participate in the mediation in good faith or does not bring to the mediation each document required by subsection 4 ~~7~~ or does not have the authority or access to a person with the authority required by subsection 4, ~~7~~ the mediator shall prepare and submit to the Mediation Administrator a petition and recommendation concerning the imposition of sanctions against the beneficiary of the deed of trust or the representative. The court may issue an order imposing such sanctions against the beneficiary of the deed of trust or the representative as the court determines appropriate, including, without limitation, requiring a loan modification in the manner determined proper by the court.

6. If

~~9. Except as otherwise provided in this subsection, if~~ the grantor or the person who holds the title of record elected to enter into mediation and fails to attend the mediation, the Mediation Administrator shall provide to the trustee a certificate which states that no mediation is required in the matter. ~~If the grantor or the person who holds the title of record returned a loss mitigation application to the trustee pursuant to subsection 4, the Mediation Administrator may not provide the certificate to the trustee until the trustee serves on the Mediation Administrator a final loss mitigation affidavit.~~

7. If

~~10. Except as otherwise provided in this subsection, if~~ the mediator determines that the parties, while acting in good faith, are not able to agree to a loan modification, the mediator shall prepare and submit to the Mediation Administrator a recommendation that the matter be terminated. The Mediation Administrator shall provide to the trustee a certificate which provides that the mediation required by this section has been completed in the matter. ~~If the grantor or the person who holds the title of record returned a loss mitigation application to the trustee pursuant to subsection 4, the Mediation Administrator may not provide the certificate to the trustee~~

~~until the trustee serves on the Mediation Administrator a final loss mitigation affidavit.]~~

8. ~~11.1~~ The Supreme Court shall adopt rules necessary to carry out the provisions of this section. The rules must, without limitation, include provisions:

(a) Designating an entity to serve as the Mediation Administrator pursuant to this section. The entities that may be so designated include, without limitation, the Administrative Office of the Courts, the district court of the county in which the property is situated or any other judicial entity. ~~The Mediation Administrator shall create a standard form for a preliminary loss mitigation affidavit and a final loss mitigation affidavit. A preliminary loss mitigation affidavit and a final loss mitigation affidavit must be in the form created by the Mediation Administrator pursuant to this section.]~~

(b) Ensuring that mediations occur in an orderly and timely manner.

(c) Requiring each party to a mediation to provide such information as the mediator determines necessary.

(d) Establishing procedures to protect the mediation process from abuse and to ensure that each party to the mediation acts in good faith.

(e) Establishing a total fee of not more than \$400 that may be charged and collected by the Mediation Administrator for mediation services pursuant to this section and providing that the responsibility for payment of the fee must be shared equally by the parties to the mediation.

9. ~~12.1~~ Except as otherwise provided in subsection 11. ~~14.1~~ the provisions of this section do not apply if:

(a) The grantor or the person who holds the title of record has surrendered the property, as evidenced by a letter confirming the surrender or delivery of the keys to the property to the trustee, the beneficiary of the deed of trust or the mortgagee, or an authorized agent thereof; or

(b) A petition in bankruptcy has been filed with respect to the grantor or the person who holds the title of record under chapter 7, 11, 12 or 13 of Title 11 of the United States Code and the bankruptcy court has not entered an order closing or dismissing the case or granting relief from a stay of foreclosure.

10. ~~13.1~~ A noncommercial lender is not excluded from the application of this section.

11. ~~14.1~~ The Mediation Administrator and each mediator who acts pursuant to this section in good faith and without gross negligence are immune from civil liability for those acts.

12. ~~15.1~~ As used in this section:

(a) "**Final loss mitigation affidavit**" ~~means an affidavit that:~~

~~(1) Is made by the trustee or a person authorized to act on behalf of the trustee;~~

~~(2) Certifies the completion of the final determination of loss mitigation analysis in connection with a deed of trust; and~~

~~(3) Certifies the denial of a loan modification or other loss mitigation.]~~
has the meaning ascribed to it in section 1 of this act.

~~(b) ["Loss mitigation analysis" means an evaluation of the facts and circumstances of an obligation secured by a deed of trust concerning owner-occupied housing to determine:~~

~~(1) Whether the grantor or the person who holds the title of record qualifies for a loan modification; and~~

~~(2) If there will not be a loan modification, whether any other loss mitigation program may be made available to the grantor or the person who holds the title of record.~~

~~(c) "Loss mitigation program" means an option in connection with an obligation secured by a deed of trust concerning owner-occupied housing that:~~

~~(1) Avoids the exercise of the trustee's power of sale through loan modification or other changes to the existing terms of the obligation that are intended to allow the grantor or the person who holds the title of record to stay in the property;~~

~~(2) Avoids the exercise of the trustee's power of sale through a short sale, deed in lieu of trustee's sale or other alternative that is intended to simplify the relinquishment of ownership of the property by the grantor or the person who holds the title of record; or~~

~~(3) Lessens the harmful impact of the exercise of the trustee's power of sale on the grantor or the person who holds the title of record.~~

~~(d) "Mediation Administrator" means the entity so designated pursuant to subsection 8.~~

~~{(b)} ~~###~~~~

~~(e)~~ **(c)** "Noncommercial lender" means a lender which makes a loan secured by a deed of trust on owner-occupied housing and which is not a bank, financial institution or other entity regulated pursuant to title 55 or 56 of NRS.

~~(e)~~ ~~(f)~~ **(d)** "Owner-occupied housing" means housing that is occupied by an owner as the owner's primary residence. The term does not include any time share or other property regulated under chapter 119A of NRS.

~~(g) "Preliminary loss mitigation affidavit" means an affidavit that:~~

~~(1) Is made by the trustee or a person authorized to act on behalf of the trustee;~~

~~(2) Certifies the status of an incomplete loss mitigation analysis in connection with a deed of trust; and~~

~~(3) States the reason that the loss mitigation analysis is incomplete.]~~

Sec. 2. The amendatory provisions of this act apply only with respect to trust agreements which concern owner-occupied housing, as defined in NRS 107.086, as amended by section ~~##~~ **1.7** of this act, for which a notice of default is recorded on or after July 1, 2011.

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

Senator Wiener moved the adoption of the amendment.

Remarks by Senator Wiener.

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

Amendment No. 465 to Senate Bill No. 307 revises the changes that were in Section 1 of the bill so that provisions regarding the loss mitigation application and analysis are not in the Mediation Program. Section 1 has been moved to Section 1.7.

It adds two new sections, one of which provides that before a trustee conducts a foreclosure sale on a home, the bank or other lending institution must send a letter to the homeowner at least 30 days in advance that must include a loss mitigation application and other related information.

The second new section of the bill contains certain duties moved from the original Section 1, and requires that the duties must be carried out by the bank instead of the trustee.

If the homeowner elects to enter into mediation, the amendment also requires the bank to complete the loss mitigation analysis and affidavit before mediation begins. Failure to do so could result in a void of the sale.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 325.

Bill read second time.

The following amendment was proposed by the Committee on Government Affairs:

Amendment No. 341.

"SUMMARY—~~Creates the Office of Inspector General in~~ **Moves the Division of Internal Audits from** the Department of Administration ~~to~~ **to the Office of the State Controller.** (BDR 18-1062)"

"AN ACT relating to governmental administration; ~~creating the Office of Inspector General in~~ **moving the Division of Internal Audits from** the Department of Administration ~~to~~ **to the Office of the State Controller;** ~~setting forth the duties of the Inspector General; requiring a state agency to cooperate with and provide assistance to the Inspector General in carrying out those duties;~~ **and providing other matters properly relating thereto.**"

Legislative Counsel's Digest:

Existing law creates the **Division of Internal Audits within the Department of Administration**, ~~consisting of the Director of the Department and several divisions, including the Budget Division, Risk Management Division, Hearings Division, Buildings and Grounds Division, Purchasing Division, Administrative Services Division, Division of Internal Audits and, if established by the Director, Motor Pool Division. (NRS 232.213)~~ **This bill creates the Office of Inspector General in the Department of Administration. Section 3 of this bill provides that the Office of Inspector General consists of the Inspector General and any person employed in the Office of Inspector General. Section 3 also requires the Governor to appoint the Inspector General and specifies that the Inspector General is directly responsible to the Governor. Section 4 of this bill requires the Inspector General to investigate, audit and review the operation and management of each state agency to determine whether any act or omission amounting to fraud, waste, abuse or corruption has occurred or may occur within that state agency. Section 5 of**

~~this bill requires a state agency, upon request by the Inspector General, to cooperate with and provide assistance to the Inspector General in carrying out his or her duties. Section 5 also authorizes a law enforcement agency in this State, upon request by the Inspector General and to the extent that money is available for that purpose, to provide officers, staff and other assistance to the Inspector General. Section 6 of this bill provides for the confidentiality of any book, paper, report or other record received, prepared or maintained by the Inspector General and provides for the release of any such record under certain circumstances. Section 9 of this bill includes the operating budget of the Office of Inspector General within certain provisions governing the Department of Administration's Operating Fund for Administrative Services.~~ **This bill moves the Division to the Office of the State Controller.**

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

Section 1. ~~Chapter 232 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 6, inclusive, of this act.~~ **(Deleted by amendment.)**

Sec. 2. ~~As used in sections 2 to 6, inclusive, of this act, unless the context otherwise requires, "state agency" means any board, commission, department, division, officer or employee in the Executive Department of the State Government.~~ **(Deleted by amendment.)**

Sec. 3. ~~1. The Office of Inspector General is hereby created in the Department of Administration. The Office of Inspector General consists of the Inspector General and any person employed in the Office of Inspector General.~~

~~2. The Governor shall appoint the Inspector General. The Inspector General is in the unclassified service of the State and serves at the pleasure of the Governor.~~

~~3. The Inspector General shall devote his or her entire time and attention to the business of his or her office and shall not engage in any other gainful employment or occupation.~~

~~4. The Inspector General is directly responsible to the Governor in all matters relating to an investigation, audit or review conducted pursuant to sections 2 to 6, inclusive, of this act.~~ **(Deleted by amendment.)**

Sec. 4. ~~The Inspector General shall:~~

~~1. Investigate, audit and review the operation and management of each state agency to determine whether any act or omission amounting to fraud, waste, abuse or corruption has occurred or may occur within that state agency;~~

~~2. Periodically or upon request by the Governor submit a report to the Governor setting forth any findings and conclusions relating to an investigation, audit or review specified in subsection 1 and any suggested corrective or remedial actions, including, without limitation, increased oversight, carrying out or modification of any controls for internal~~

~~management, termination of employment or referral to the Commission on Ethics or the Attorney General when appropriate;~~

~~3. Establish a program for receiving, reviewing and investigating any complaint submitted to the Inspector General concerning any fraud, waste, abuse or corruption within any state agency and referral of those complaints to the appropriate state agency;~~

~~4. Identify any other state agency that is responsible for investigating, auditing or reviewing the operation and management of a state agency, including, without limitation, the Chief of the Division of Internal Audits of the Department and the Inspector General of the Department of Corrections, and coordinate with those state agencies to share information and avoid any duplication of activities; and~~

~~5. Perform any other task relating to his or her duties required by the Governor.] (Deleted by amendment.)~~

~~Sec. 5. [1. Upon request by the Inspector General each state agency and any employee of that state agency shall cooperate with and provide assistance to the Inspector General in carrying out the provisions of sections 2 to 6, inclusive, of this act and shall, to the greatest extent practicable, ensure that the premises, equipment, employees and books, papers and other records of the state agency are available for use by the Inspector General in carrying out those provisions;~~

~~2. To the extent that money is available for that purpose, any law enforcement agency in this State may, upon request by the Inspector General, provide officers, staff and any other assistance to the Inspector General in carrying out the provisions of sections 2 to 6, inclusive, of this act.] (Deleted by amendment.)~~

~~Sec. 6. [Any book, paper, report or other record received, prepared or maintained by the Inspector General pursuant to sections 2 to 6, inclusive, of this act is confidential, except that the Inspector General:~~

~~1. Shall release any such record when subpoenaed by a court of competent jurisdiction or when required pursuant to NRS 239.0115;~~

~~2. Shall make any such record available to the Legislative Auditor upon his or her request; and~~

~~3. May make any such record available for inspection by an authorized representative of any other governmental entity for a matter officially before him or her.] (Deleted by amendment.)~~

~~Sec. 7. [NRS 232.212 is hereby amended to read as follows:~~

~~232.212 As used in NRS 232.212 to 232.2195, inclusive, and sections 2 to 6, inclusive, of this act, unless the context requires otherwise:~~

~~1. "Department" means the Department of Administration.~~

~~2. "Director" means the Director of the Department.] (Deleted by amendment.)~~

Sec. 7.5. Chapter 227 of NRS is hereby amended by adding thereto a new section to read as follows:

The Division of Internal Audits is hereby created within the Office of the State Controller.

Sec. 8. NRS 232.213 is hereby amended to read as follows:

232.213 1. The Department of Administration is hereby created.

2. The Department consists of a Director ~~f, the Office of Inspector General~~ and the following divisions:

- (a) Budget Division.
- (b) Risk Management Division.
- (c) Hearings Division, which consists of hearing officers, compensation officers and appeals officers.
- (d) Buildings and Grounds Division.
- (e) Purchasing Division.
- (f) Administrative Services Division.
- ~~(g) Division of Internal Audits.~~

3. The Director may establish a Motor Pool Division or may assign the functions of the State Motor Pool to one of the other divisions of the Department.

Sec. 8.3. NRS 232.215 is hereby amended to read as follows:

232.215 The Director:

1. Shall appoint a Chief of the:

- (a) Risk Management Division;
- (b) Buildings and Grounds Division;
- (c) Purchasing Division;
- (d) Administrative Services Division; **and**
- ~~(e) Division of Internal Audits; and~~

~~(f)~~ Motor Pool Division, if separately established.

2. Shall appoint a Chief of the Budget Division, or may serve in this position if the Director has the qualifications required by NRS 353.175.

3. Shall serve as Chief of the Hearings Division and shall appoint the hearing officers and compensation officers. The Director may designate one of the appeals officers in the Division to supervise the administrative, technical and procedural activities of the Division.

4. Is responsible for the administration, through the divisions of the Department, of the provisions of chapters 331, 333 and 336 of NRS, NRS 353.150 to 353.246, inclusive, and 353A.031 to 353A.100, inclusive, and all other provisions of law relating to the functions of the divisions of the Department.

5. Is responsible for the administration of the laws of this State relating to the negotiation and procurement of medical services and other benefits for state agencies.

6. Has such other powers and duties as are provided by law.

Sec. 8.5. NRS 232.2165 is hereby amended to read as follows:

232.2165 1. The Chief of:

- (a) The Buildings and Grounds Division;
- (b) The Purchasing Division;

(c) The Administrative Services Division; and

(d) ~~The Division of Internal Audits; and~~

~~(e)~~ If separately established, the Motor Pool Division, ~~of the Department~~ serves at the pleasure of the Director, but, except as otherwise provided in subsection 2, for all purposes except removal is in the classified service of the State.

2. The Chief of the Motor Pool Division, if separately established, ~~and the Chief of the Division of Internal Audits are~~ is in the unclassified service of the State.

Sec. 8.7. NRS 232.217 is hereby amended to read as follows:

232.217 Unless federal law or regulation otherwise requires, the Chief of the:

1. Budget Division;
2. Buildings and Grounds Division;
3. Purchasing Division; and
4. ~~Division of Internal Audits; and~~

~~5.~~ Motor Pool Division, if separately established, ~~may~~ may appoint a Deputy and a Chief Assistant in the unclassified service of the State, who shall not engage in any other gainful employment or occupation except as otherwise provided in NRS 284.143.

Sec. 9. NRS 232.219 is hereby amended to read as follows:

232.219 1. The Department of Administration's Operating Fund for Administrative Services is hereby created as an internal service fund.

2. The operating budget of each of the following entities must include an amount representing that entity's share of the operating costs of the central accounting function of the Department:

- (a) State Public Works Board;
- (b) Budget Division;
- (c) Buildings and Grounds Division;
- (d) Purchasing Division;
- (e) Hearings Division;
- (f) Risk Management Division; and
- (g) ~~Division of Internal Audits; and~~

~~(h)~~ If separately established, the Motor Pool Division, ~~and~~

~~(i) Office of Inspector General.~~

3. All money received for the central accounting services of the Department must be deposited in the State Treasury for credit to the Operating Fund.

4. All expenses of the central accounting function of the Department must be paid from the Fund as other claims against the State are paid.

Sec. 10. NRS 353A.036 is hereby amended to read as follows:

353A.036 "Division" means the Division of Internal Audits of the ~~Department of Administration.~~ Office of the State Controller.

Sec. 11. NRS 353A.045 is hereby amended to read as follows:

353A.045 The Chief shall:

1. Report to the ~~Director,~~ State Controller.
2. Develop long-term and annual work plans to be based on the results of periodic documented risk assessments. The annual work plan must list the agencies to which the Division will provide training and assistance and be submitted to the ~~Director,~~ State Controller for approval. Such agencies must not include:
 - (a) A board created by the provisions of NRS 590.485 and chapters 623 to 625A, inclusive, 628, 630 to 644, inclusive, 648, 654 and 656 of NRS.
 - (b) The Nevada System of Higher Education.
 - (c) The Public Employees' Retirement System.
 - (d) The Housing Division of the Department of Business and Industry.
 - (e) The Colorado River Commission of Nevada.
3. Provide a copy of the approved annual work plan to the Legislative Auditor.
4. In consultation with the ~~Director,~~ State Controller, prepare a plan for auditing executive branch agencies for each fiscal year and present the plan to the Committee for its review and approval. Each plan for auditing must:
 - (a) State the agencies which will be audited, the proposed scope and assignment of those audits and the related resources which will be used for those audits; and
 - (b) Ensure that the internal accounting, administrative controls and financial management of each agency are reviewed periodically.
5. Perform the audits of the programs and activities of the agencies in accordance with the plan approved pursuant to subsection 5 of NRS 353A.038 and prepare audit reports of his or her findings.
6. Review each agency that is audited pursuant to subsection 5 and advise those agencies concerning internal accounting, administrative controls and financial management.
7. Submit to each agency that is audited pursuant to subsection 5 analyses, appraisals and recommendations concerning:
 - (a) The adequacy of the internal accounting and administrative controls of the agency; and
 - (b) The efficiency and effectiveness of the management of the agency.
8. Report any possible abuses, illegal actions, errors, omissions and conflicts of interest of which the Division becomes aware during the performance of an audit.
9. Adopt the standards of the Institute of Internal Auditors for conducting and reporting on internal audits.
10. Consult with the Legislative Auditor concerning the plan for auditing and the scope of audits to avoid duplication of effort and undue disruption of the functions of agencies that are audited pursuant to subsection 5.
11. Appoint a Manager of Internal Controls.

Sec. 12. NRS 353A.065 is hereby amended to read as follows:

353A.065 1. Within 90 days after the end of each fiscal year, the Chief shall submit an annual report to the Committee for its approval which:

(a) Lists the agencies to which the Division provided training and assistance;

(b) Separately lists any other activities undertaken by the Division that are related to the provision of training and assistance and the status of those activities;

(c) Contains a list of the final reports that have been submitted pursuant to NRS 353A.085;

(d) Contains a separate list of any other activities undertaken by the Division that are related to the final reports submitted pursuant to NRS 353A.085 and the status of those activities; and

(e) Describes the accomplishments of the Division.

2. The Chief shall provide a copy of the annual report to the:

(a) Committee;

(b) ~~Director;~~ **State Controller;**

(c) Interim Finance Committee; and

(d) Legislative Auditor.

~~Sec. 10.~~ **Sec. 13.** This act becomes effective on July 1, 2011.

Senator Lee moved the adoption of the amendment.

Remarks by Senators Lee and Brower.

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

SENATOR LEE:

Amendment No. 341 to Senate Bill No. 325 deletes Sections 1 through 7 of the bill. It removes the Division of Internal Audits as an entity within the Department of Administration.

It places the Division of Internal Audits under the Office of the State Controller.

SENATOR BROWER:

Thank you Mr. President. This amendment is the reason for my earlier motion to remove my name and add the Chair's name to the bill. If the amendment is adopted, it completely changes the intent and nature of the bill creating a bill that is contrary to mine and the Governor's intent in bringing this concept forward. I would urge you to vote against this amendment.

SENATOR LEE:

Thank you Mr. President. I know we do not want to debate the bill, but what the amendment basically says is "Can one Inspector General with the support staff of one adequately audit all the agencies that need to be audited?" I think not. The duties set forth for the Inspector General in Senate Bill No. 325 are similar to the duties already set forth in Nevada law for the Chief of the Division of Internal Audits. Why duplicate these efforts?

A better use of the \$220,000 annual cost for the Office of Inspector General would be to hire upwards of two to three new auditors in the existing Division of Internal Audits. We certainly will need more than one person to audit Nevada's Medicaid program. I urge the body's support in this amendment.

Motion carried on a division of the house.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 387.

Bill read second time.

The following amendment was proposed by the Committee on Transportation:

Amendment No. 326.

"SUMMARY—Revises certain provisions governing off-highway vehicles. (BDR 43-211)"

"AN ACT relating to off-highway vehicles; authorizing the Department of Motor Vehicles to assign a distinguishing number to any off-highway vehicle that does not have a unique vehicle identification number or serial number; providing for the imposition of a fee for the assignment of such a distinguishing number; providing a penalty; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under existing law, the owner of an off-highway vehicle may be required to register the vehicle with the Department of Motor Vehicles if the Interim Finance Committee issues a notice to the Department that adequate money is available to begin registering such vehicles on or before July 1, 2011. As part of that registration, the owner of the off-highway vehicle will be required to notify the Department of the unique vehicle identification number or serial number of the vehicle. (NRS 490.082) This bill authorizes the Department to assign a distinguishing number to an off-highway vehicle that does not have a unique vehicle identification number or serial number, or to an off-highway vehicle on or from which the unique vehicle identification number or serial number has been removed, defaced, altered or obliterated. This bill also authorizes the Department to charge a fee for the assignment of such a distinguishing number.

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

Section 1. Chapter 490 of NRS is hereby amended by adding thereto a new section to read as follows:

1. *The Department may assign a distinguishing number to any off-highway vehicle if:*

(a) *The off-highway vehicle does not have a unique vehicle identification number or serial number provided by the manufacturer of the vehicle;*

(b) *The unique vehicle identification number or serial number provided by the manufacturer of the off-highway vehicle has been removed, defaced, altered or obliterated; or*

(c) *The off-highway vehicle is homemade.*

2. *Any off-highway vehicle to which there is assigned a distinguishing number pursuant to subsection 1 must be registered, if required pursuant to NRS 490.082, under the distinguishing number.*

3. *The Department shall collect a fee of \$2 for the assignment and recording of each such distinguishing number.*

4. *The number by which an off-highway vehicle is registered pursuant to NRS 490.082 must be permanently stamped or attached to the vehicle.*

False attachment or willful removal, defacement, alteration or obliteration of such a number with intent to defraud is a gross misdemeanor.

Sec. 2. NRS 490.082 is hereby amended to read as follows:

490.082 1. An owner of an off-highway vehicle that is acquired:

(a) Before the effective date of this section:

(1) May apply for, to the Department by mail or to an authorized dealer, and obtain from the Department, a certificate of title for the off-highway vehicle.

(2) Except as otherwise provided in subsection 3, shall, within 1 year after the effective date of this section, apply for, to the Department by mail or to an authorized dealer, and obtain from the Department, the registration of the off-highway vehicle.

(b) On or after the effective date of this section, shall, within 30 days after acquiring ownership of the off-highway vehicle:

(1) Apply for, to the Department by mail or to an authorized dealer, and obtain from the Department, a certificate of title for the off-highway vehicle.

(2) Except as otherwise provided in subsection 3, apply for, to the Department by mail or to an authorized dealer, and obtain from the Department, the registration of the off-highway vehicle.

2. If an owner of an off-highway vehicle applies to the Department or to an authorized dealer for:

(a) A certificate of title for the off-highway vehicle, the owner shall submit to the Department or to the authorized dealer proof prescribed by the Department that he or she is the owner of the off-highway vehicle.

(b) The registration of the off-highway vehicle, the owner shall submit:

(1) If ownership of the off-highway vehicle was obtained before the effective date of this section, proof prescribed by the Department:

(I) That he or she is the owner of the off-highway vehicle; and

(II) Of the unique vehicle identification ~~number~~ ***number***, serial number ***or distinguishing number obtained pursuant to section 1 of this act*** for the off-highway vehicle; or

(2) If ownership of the off-highway vehicle was obtained on or after the effective date of this section:

(I) Evidence satisfactory to the Department that he or she has paid all taxes applicable in this State relating to the purchase of the off-highway vehicle, or submit an affidavit indicating that he or she purchased the vehicle through a private party sale and no tax is due relating to the purchase of the off-highway vehicle; and

(II) Proof prescribed by the Department that he or she is the owner of the off-highway vehicle and of the unique vehicle identification ~~number~~ ***number***, serial number ***or distinguishing number obtained pursuant to section 1 of this act*** for the off-highway vehicle.

3. Registration of an off-highway vehicle is not required if the off-highway vehicle:

(a) Is owned and operated by:

- (1) A federal agency;
- (2) An agency of this State; or
- (3) A county, incorporated city or unincorporated town in this State;
- (b) Is part of the inventory of a dealer of off-highway vehicles;
- (c) Is registered or certified in another state and is located in this State for not more than 60 days;
- (d) Is used solely for husbandry on private land or on public land that is leased to or used under a permit issued to the owner or operator of the off-highway vehicle;
- (e) Is used for work conducted by or at the direction of a public or private utility; or
- (f) Was manufactured before January 1, 1976.

4. The registration of an off-highway vehicle expires 1 year after its issuance. If an owner of an off-highway vehicle fails to renew the registration of the off-highway vehicle before it expires, the registration may be reinstated upon the payment to the Department of the annual renewal fee and a late fee of \$25. Any late fee collected by the Department must be deposited with the State Treasurer for credit to the Revolving Account for the Administration of Off-Highway Vehicle Titling and Registration created by NRS 490.085.

5. If a certificate of title or registration for an off-highway vehicle is lost or destroyed, the owner of the off-highway vehicle may apply to the Department by mail, or to an authorized dealer, for a duplicate certificate of title or registration. The Department may collect a fee to replace a certificate of title or registration certificate, sticker or decal that is lost, damaged or destroyed. Any such fee collected by the Department must be:

- (a) Set forth by the Department by regulation; and
- (b) Deposited with the State Treasurer for credit to the Revolving Account for the Administration of Off-Highway Vehicle Titling and Registration created by NRS 490.085.

6. The provisions of subsections 1 to 5, inclusive, do not apply to an owner of an off-highway vehicle who is not a resident of this State.

Sec. 3. NRS 490.083 is hereby amended to read as follows:

490.083 Each registration of an off-highway vehicle must:

- 1. Be in the form of a sticker or decal, as prescribed by the Department.
- 2. Be approximately the size of a license plate for a motorcycle, as set forth by the Department.
- 3. Include ~~the~~ *the* unique vehicle identification ~~or~~ *number*, serial number *or distinguishing number obtained pursuant to section 1 of this act* for the off-highway vehicle.
- 4. Be displayed on the off-highway vehicle in the manner set forth by the Commission.

Sec. 4. NRS 490.150 is hereby amended to read as follows:

490.150 1. Before taking an off-highway vehicle on consignment, an off-highway vehicle dealer or lessor shall prepare a written consignment contract.

2. A consignment contract must include, without limitation:

- (a) The names of the consignor and consignee;
- (b) The date on which the consignment contract was entered into;
- (c) A complete description of the off-highway vehicle subject to the consignment contract, including the unique vehicle identification ~~for~~ **number**, serial number ~~+~~ **or distinguishing number obtained pursuant to section 1 of this act**, and the year, make and model of the off-highway vehicle;
- (d) The term of the consignment contract;
- (e) The name of each person or business entity holding any security interest in the off-highway vehicle to be consigned;
- (f) The minimum sales price for the off-highway vehicle and the disposition of the proceeds therefrom, as agreed upon by the consignor and consignee; and
- (g) The signatures of the consignor and consignee acknowledging all the terms and conditions set forth in the consignment contract.

Sec. 5. NRS 490.160 is hereby amended to read as follows:

490.160 1. A consignee of an off-highway vehicle shall, upon entering into a consignment contract or other form of agreement to sell an off-highway vehicle owned by another person:

(a) Open and maintain a separate trust account in a federally insured bank or savings and loan association that is located in this State, into which the consignee shall deposit all money received from a prospective buyer as a deposit, or as partial or full payment of the purchase price agreed upon, toward the purchase or transfer of interest in the off-highway vehicle. A consignee of an off-highway vehicle shall not:

(1) Commingle the money in the trust account with any other money that is not on deposit or otherwise maintained toward the purchase of the off-highway vehicle subject to the consignment contract or agreement; or

(2) Use any money in the trust account to pay his or her operational expenses for any purpose that is not related to the consignment contract or agreement.

(b) Obtain from the consignor, before receiving delivery of the off-highway vehicle, a signed and dated disclosure statement that is included in the consignment contract and provides in at least 10-point bold type or font:

**IMPORTANT NOTICE TO OFF-HIGHWAY
VEHICLE OWNERS**

State law (NRS 490.160) requires that the operator of this business file a Uniform Commercial Code 1 (UCC1) form with the Office of the Secretary of State on your behalf to protect your interest in your off-highway vehicle. The form is required to protect your off-highway

vehicle from forfeiture in the event that the operator of this business fails to meet his or her financial obligations to a third party holding a security interest in his or her inventory. The form must be filed by the operator of this business before the operator may take possession of your off-highway vehicle. If the form is not filed as required, YOU MAY LOSE YOUR VEHICLE THROUGH NO FAULT OF YOUR OWN. For a copy of the UCC1 form filed on your behalf or for more information, please contact:

The Office of the Secretary of State of Nevada
Uniform Commercial Code Division
(775) 684-5708

I understand and acknowledge the above disclosure.

.....
Consignee Signature Date

(c) Assist the consignor in completing, with respect to the consignor's purchase-money security interest in the off-highway vehicle, a ~~financial~~ **financing** statement of the type described in subsection 5 of NRS 104.9317 and shall file the ~~financial~~ **financing** statement with the Secretary of State on behalf of the consignor. If a consignee has previously granted to a third party a security interest with an after-acquired property clause in the consignee's inventory, the consignee additionally shall assist the consignor in sending an authenticated notification, as described in paragraph (b) of subsection 1 of NRS 104.9324, to each holder of a conflicting security interest. The consignee must not receive delivery of the off-highway vehicle until the consignee has:

(1) Filed the financing statement with the Secretary of State; and
(2) If applicable, assisted the consignor in sending an authenticated notification to each holder of a conflicting security interest.

2. Upon the sale or transfer of interest in the off-highway vehicle, the consignee shall forthwith:

(a) Satisfy or cause to be satisfied all outstanding security interests in the off-highway vehicle; and

(b) Satisfy the financial obligations due the consignor pursuant to the consignment contract.

3. Upon the receipt of money by delivery of cash, bank check or draft, or any other form of legal monetary exchange, or after any form of transfer of interest in an off-highway vehicle, the consignee shall notify the consignor that the money has been received or that a transfer of interest in the off-highway vehicle has occurred. Notification by the consignee to the consignor must be given in person or, in the absence of the consignor, by registered or certified mail addressed to the last address or residence of the consignor known to the consignee. The notification must be made within 3 business days after the date on which the money is received or the transfer of interest in the off-highway vehicle is made.

4. The provisions of this section do not apply to:

- (a) An executor;
- (b) An administrator;
- (c) A sheriff; or
- (d) Any other person who sells off-highway vehicles pursuant to the powers or duties granted to or imposed on him or her by specific statute.

5. Notwithstanding any provision of the Nevada Revised Statutes to the contrary, an off-highway vehicle subject to a consignment contract may not be operated by the consignee, an employee or agent of the consignee, or a prospective buyer unless the operation of the off-highway vehicle is authorized by the express written consent of the consignor.

6. A consignee shall maintain a written log for each off-highway vehicle for which he or she has entered into a consignment contract. The written log must include:

- (a) The name and address, or place of residence, of the consignor;
- (b) A description of the off-highway vehicle consigned, including the year, make, model and unique vehicle identification ~~to~~ *number*, serial number *or distinguishing number obtained pursuant to section 1 of this act* of the off-highway vehicle;
- (c) The date on which the consignment contract is entered into;
- (d) The period that the off-highway vehicle is to be consigned;
- (e) The minimum agreed upon sales price for the off-highway vehicle;
- (f) The approximate amount of money due any lienholder or other person known to have an interest in the off-highway vehicle;
- (g) If the off-highway vehicle is sold, the date on which the off-highway vehicle is sold;
- (h) The date that the money due the consignor and the lienholder was paid;
- (i) The name and address of the federally insured bank or savings and loan association in which the consignee opened the trust account required pursuant to subsection 1; and
- (j) The signature of the consignor acknowledging that the terms of the consignment contract were fulfilled or terminated, as appropriate.

7. A person who:

(a) Appropriates, diverts or otherwise converts to his or her own use money in a trust account opened pursuant to paragraph (a) of subsection 1 or otherwise subject to a consignment contract or agreement is guilty of embezzlement and shall be punished in accordance with NRS 205.300. The court shall, in addition to any other penalty, order the person to pay restitution.

(b) Violates paragraph (b) or (c) of subsection 1 is guilty of a misdemeanor. The court shall, in addition to any other penalty, order the person to pay restitution.

(c) Violates any other provision of this section is guilty of a misdemeanor.

Sec. 6. 1. This act becomes effective:

- (a) Upon passage and approval for the purpose of adopting regulations.

(b) On July 1, ~~2011,~~ **2012, or 30 days after the date on which 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 this act, whichever occurs first,** for all other purposes.

2. This act expires 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 chapter 504, Statutes of Nevada 2009, at page 3105, before that date.

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. 326 to Senate Bill No. 387 modifies the effective date of the bill to 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.

Assembly Bill No. 12.

Bill read second time and ordered to third reading.

Assembly Bill No. 83.

Bill read second time and ordered to third reading.

Assembly Bill No. 250.

Bill read second time and ordered to third reading.

Assembly Bill No. 348.

Bill read second time and ordered to third reading.

GENERAL FILE AND THIRD READING

Senate Bill No. 368.

Bill read third time.

Remarks by Senators Parks, Schneider and Hardy

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

SENATOR PARKS:

Senate Bill No. 368 prohibits various forms of discrimination based on sexual orientation and gender identity or expression in certain real estate transactions. The bill declares it to be the public policy of the State of Nevada that all people shall, without discrimination, distinction or restriction because of sexual orientation or gender identity or expression, have equal opportunity to inherit, purchase, lease, rent, sell, hold, and convey real property; and reasonably seek and obtain housing accommodations.

Senate Bill No. 368 prohibits specific acts based on such discrimination involving the sale or rental of a dwelling; access to a multiple-listing service or other service or facility relating to sale or rental of a dwelling; eviction of a tenant from a dwelling; denial of a commercial real estate loan by a financial institution; or refusal by a certified or licensed appraiser to prepare or communicate an appraisal.

The bill authorizes the Nevada Equal Rights Commission to order its Administrator to investigate and hold hearings in respect to housing regarding tensions, practices of discrimination, and acts of prejudice against any person or group because of race, color, creed, sex, age, disability, sexual orientation, gender identity or expression, national origin, or ancestry.

Senate Bill No. 368 seeks to add sexual orientation and gender identity or expression to Nevada's Fair Housing Laws and to bring our State statutes in line with the policies of the U.S. Department of Housing and Urban Development.

On January 24, 2001 the U.S. Department of Housing and Urban Development proposed new regulations intended to ensure that its core housing programs are open to all eligible persons, regardless of sexual orientation or gender identity.

HUD Secretary Shaun Donovan stated, "This is a fundamental issue of fairness. We have a responsibility to make certain that public programs are open to all Americans. With this proposed rule, we will make clear that a person's eligibility for federal housing programs is, and should be, based on their need and not on their sexual orientation or gender identity.

HUD currently requires its recipients of discretionary funds to comply with local and state non-discrimination laws that cover sexual orientation or gender identity.

I would like to note that Nevada's Fair Housing Laws only apply to those Nevada companies that are in the real estate business and Nevada's real estate professionals.

These statutes do not apply to private citizens who own less than three single-family houses at any one time.

States with legal protections report no increase in discrimination claims or burdens on their state.

I encourage you to support the passage of Senate Bill No. 368.

Thank you.

SENATOR SCHNEIDER:

Mr. President, I stand in support of this bill. I am a landlord. This is the right thing to do. This does not put any burden on me. I cannot believe anyone would not vote for this bill. This bill says we cannot discriminate against people, in general. I stand in support of this. The government is in support of it. It does not cost me any money as a landlord. There is no burden to me. It is something I can do without thinking about it. I stand in support of this bill.

SENATOR HARDY:

Thank you, Mr. President. I appreciate the debate that has happened along with the comments made, but I do have a concern, therefore, I will not be supporting this. My concern is the broad implications of what I read as the expression. Expression can be understood in many different ways. Without limitations, we may be going too far depending on how one interprets that particular word.

Roll call on Senate Bill No. 368:

YEAS—13.

NAYS—Brower, Cegavske, Gustavson, Halseth, Hardy, Rhoads, Roberson, Settlemeyer—8.

Senate Bill No. 368 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Senate Bill No. 331.

Bill read third time.

Remarks by Senators Parks, Leslie, Schneider and Horsford.

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

SENATOR PARKS:

Senate Bill No. 331 provides that 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 grounds of sex or gender identity or expression. Any person who believes he or she has been discriminated against in this regard may file a complaint with the Nevada Equal Rights Commission.

It is not unlawful and is not a ground for a civil action for a place of public accommodation to offer differential pricing, discounted pricing, or other special offers based on sex for purposes of promoting or marketing its business.

The bill authorizes the Commission to order its Administrator to investigate and hold hearings in respect to housing regarding tensions, practices of discrimination, and acts of prejudice against any person or group because of race, color, creed, sex, age, disability, sexual orientation, gender identity or expression, national origin, or ancestry.

SENATOR LESLIE:

Thank you, Mr. President. I urge my colleagues to pass this bill. It is about discrimination. It simply adds gender identity and expression to the list of qualities that cannot be discriminated against in terms of public accommodations, such as hotels, restaurants and places where any member of the public can go. This is about good business practices. The bill does enjoy the full support of the Nevada Resort Association. Las Vegas and rural Nevada have been making a decided effort to reach out to the gay, lesbian, transgender community encouraging them to come to Nevada. This bill is important for them to feel that their basic human rights are being protected. There is an amendment in the bill. It provides for the "Ladies Night" exception which does provide for differential pricing. That concern has been addressed.

Another concern I have heard about from some of the members is the bathroom question and whether this bill would open up public accommodations and restrooms to dangerous people. Transgender people by definition are not dangerous people. Predators in restrooms will be dealt with the same way they have always been regardless of their sexual orientation or transgeneriness. The DMV has a medical certification and authorization for gender change. This bill does not affect that. Someone would have had to complete that process and have that marked on their drivers license.

This bill is about basic fairness, human dignity and human rights. I urge your support.

SENATOR SCHNEIDER:

As Chair of Committee on Commerce, Labor & Energy I want to state that the resort association came in full support of this bill, representing their 150,000 rooms and their multi-billion dollars worth of infrastructure in Las Vegas on the Strip which is the economic engine of this State. They stood in full support of this.

SENATOR HORSFORD:

Thank you, Mr. President. I also wanted to rise in support of this legislation, for all three of these bills. I view this bill as not being about creating special rights for a certain class of citizen, it is about explicitly extending the equal protection of law to those who are often the target of discrimination. Senate Bill No. 368, Senate Bill No. 331 and Senate Bill No. 180 protect fundamental rights.

If you have the money, you have the right to buy a house. If you are going out to a baseball game or a coffee shop, you should not be denied the accommodations everyone else receives because of how you express your gender. No one should fear for their safety when they walk down the street just because of who they are. We are leading the country regarding anti-discrimination policy. This body has supported this policy in previous Legislatures. I believe this is the right thing to do. It is required on its own merits. It also helps us to attract tourists. A recent Las Vegas Sun article stated that there are 15 million gay adults in the United States. They have buying power of \$690 million and their average household income is \$82,000 a year. Thirty-five percent of those have household incomes in excess of \$100,000 per year. As a lesbian, gay, bisexual, and transgender (LGBT) friendly state, we invite our friends of any sexual orientation or gender identity to visit the great State of Nevada. Hopefully, they can all call our State their home.

Roll call on Senate Bill No. 331:

YEAS—11.

NAYS—Brower, Cegavske, Gustavson, Halseth, Hardy, Kieckhefer, McGinness, Rhoads, Roberson, Settlemeyer—10.

Senate Bill No. 331 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 180.

Bill read third time.

Remarks by Senator Parks.

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

Senate Bill No. 180 adds crimes committed because of a person's actual or perceived gender identity or expression to the list of crimes for which the offender is subject to an additional penalty; the offender may be charged with a gross misdemeanor for an otherwise misdemeanor offense; and the victim may bring a civil action against the offender.

Additionally, the bill adds crimes committed on the basis of gender identity or expression to the crimes covered by the Program for Reporting Crimes within the Department of Public Safety.

A hate crime in Nevada is a crime that is committed against a person because of that person's race, color, religion, national origin, physical or mental disability, or sexual orientation. A hate crime can also be committed if the attacker believes that the victim is in one of these groups, even if the victim actually is not.

Every act of violence is tragic and harmful in its consequences, but not all crimes are based on hate. A hate crime or bias motivated crime occurs when the perpetrator of the crime intentionally selects the victim because of who the victim is.

A bias motivated crime affects not only the victim and his or her family but also an entire community and their families. The perpetrators of these crimes single out and separate some individuals from others as a means of sending a message to society and to others who belong to the same community. Perpetrators of hate crimes often perceive that they have societal permission to engage in these crimes.

Studies have shown that victims of hate crimes rarely report their assaults to law enforcement because of fear and isolation. Such underreporting further leads to a false impression of the effect that real attacks have within the community. Unfortunately, all too often, it is only the most violent hate crimes that are reported as such.

Hate crimes legislation has been around for a long time. The earliest forms of hate crime legislation were laws that made it a capital offense to kill a police officer. Hate crime statutes have been endorsed by more than 300 law enforcement, civil rights, civic and religious organizations. They include; the National Sheriffs' Association; International Association of Chiefs of Police; U.S. Conference of Mayors; Leadership Conference on Civil Rights, Anti-Defamation League, NAACP, and the National Council of La Raza, just to name a few.

Poll after poll consistently shows that the American public supports hate crimes legislation including a Hart Research poll and a Kaiser Family Foundation poll. Dating as far back as a decade ago, these polls show that three quarters of Americans support hate crimes legislation.

Over the course of the last three months, I have had a number of conversations with members of this body. I have been told by some that they did not like this bill because they did not support enhancements to criminal penalties. Well, I have news for those individuals. At least twice this session, this body has considered bills that imposed an additional term of imprisonment or reduced the threshold for an additional term of imprisonment. On two of those bills, the vote in this body was unanimous. So, on this point, you cannot have it both ways.

Senate Bill No. 180 does nothing more than bring Nevada into compliance with federal law. The Mathew Shepard and James Byrd, Jr. Hate Crimes Prevention Act was signed into law 18 months ago by President Obama on October 28, 2009. This law expanded the 1969

United States federal hate crime law to include crimes motivated by a victim's actual or perceived gender, sexual orientation, gender identity, or disability. Furthermore, at least 12 states include gender identity and expression in their hate crimes statutes. Some of these statutes date back to 1975 in Minnesota.

Protecting our transgender citizens harms no one. States with legal protections report no increase in discrimination claims.

Hate crimes statutes have been supported by prominent members of both parties including Nevada Governor Brian Sandoval, who cosponsored Nevada's original hate-crimes legislation in 1995 as a State Assemblyman. In fact, Assembly Bill No. 606 of the 68th Legislative Session was sponsored by Assemblywoman Jan Evans and was passed by both houses of this Legislature by a unanimous vote. Several members of this Chamber were here back in 1995 and they supported that bill.

Last month when Governor Sandoval was asked by the Associated Press about this bill, he stated he would likely sign this bill if it reached his desk. In the words of Governor Sandoval, "there is no room for any kind of a hate crime in this State."

I agree with Governor Sandoval and I hope that you do too by voting for Senate Bill No. 180. Thank you.

Roll call on Senate Bill No. 180:

YEAS—10.

NAYS—Brower, Cegavske, Gustavson, Halseth, Hardy, Kieckhefer, Lee, McGinness, Rhoads, Roberson, Settelmeyer—11.

Senate Bill No. 180 having failed to receive a constitutional majority, Mr. President declared it lost.

WAIVERS AND EXEMPTIONS

NOTICE OF EXEMPTION

April 25, 2011

The Fiscal Analysis Division, pursuant to Joint Standing Rule 14.6, has determined the eligibility for exemption of: Senate Bill No. 231.

MARK KRMPOTIC
Fiscal Analysis Division

GENERAL FILE AND THIRD READING

Senate Bill No. 21.

Bill read third time.

Roll call on Senate Bill No. 21:

YEAS—21.

NAYS—None.

Senate Bill No. 21 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 99.

Bill read third time.

Remarks by Senators Hardy, Cegavske and Leslie.

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

SENATOR HARDY:

Thank you, Mr. President. This bill came about because there were people being scammed in grant writing. This bill thus defines what a grant writer is, allows the registration to be on line for

grant writers making it available for people to see. It has the deceptive trade statute tied into it, thus removing the huge fiscal note. In full disclosure, being the sponsor of the bill, I encourage everyone to vote their conscience and if they would like to help decrease scamming, this would be the bill to do it. I recognize it is not perfect and I know there will be people with questions.

SENATOR CEGAVSKE:

Thank you, Mr. President. Is this for out of state grant writers and are there any effects we have seen from Nevada grant writers?

SENATOR HARDY:

Anyone from any state will be able to say, "You are calling from Nevada. I can get on the Division of Business and Industry web site and check if you are a real grant writer who is duly registered." That does not mean that we have jurisdiction over other states. The bill also recognizes that when the grant writer does this and offers to sell his services in advance of receiving anything, they have to give a contract, a copy of a contract and their physical address where they are located.

SENATOR CEGAVSKE:

What is the cost to the grant writers? Is it a business license?

SENATOR HARDY:

There is no cost to the grant writer. They can do it on line.

SENATOR LESLIE:

For many of us, grant writing falls under our other duties. I write grants all the time as part of my job. It is not my main duty, but I do it. Would I have to get registered? Would a person who works for an agency, not contracting outside of their regular job, but as part of the irregular job, fall under this bill?

SENATOR HARDY:

Thank you, Mr. President. Senator Leslie would never encounter a problem with this bill. She is not that kind of person. Yes, you have the opportunity to register in doing what you are doing without having to pay an onerous fee of any kind. You would be able to be on the web. If someone wanted to choose from the web who is a registered grant writer, they would be able to access your information.

Roll call on Senate Bill No. 99:

YEAS—14.

NAYS—Brower, Gustavson, Halseth, Kieckhefer, Leslie, Roberson, Settlemeyer—7.

Senate Bill No. 99 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 140.

Remarks by Senators Breeden, Settlemeyer, Brower, Manendo and Kieckhefer.

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

SENATOR BREEDEN:

Thank you, Mr. President. We heard the amendments for Senate Bill No. 140 on Friday. I would like to share with the body that we are not trying to take away the rights and privileges of the citizens of our great State. We are trying to make our roads safer. You will be able to use your cell phone with a hands-free device. The goal is to have the driver pay greater attention to the road as they are driving. The amendments addressed those who participate in emergency

services, such as search and rescue and the amateur radio operators. I urge you to vote for this bill.

SENATOR SETTELMEYER:

Thank you, Mr. President. I have a question on the bill. I know the ham operators are still upset. They want to be completely exempt from every aspect of the bill. Does this affect navigational devices? Does this prevent people from using those while driving?

SENATOR BREEDEN:

The language addresses hand held and devices that are fixed to the dashboard. It would not exclude a Global Positioning System (GPS).

SENATOR BROWER:

I was a little confused by the last answer. Would a GPS device of any type be prohibited from use under this bill?

SENATOR BREEDEN:

I am not very familiar with the GPS because I do not own one. We are trying to eliminate texting and typing into a device. The GPS devices are not included in this bill.

SENATOR BROWER:

I am not certain I read it that way, but I will continue to read this. I do not see the term "operating" defined in the bill. What does that mean? Could you offer a definition?

SENATOR BREEDEN:

For operating a motor vehicle?

SENATOR BROWER:

In Section 1, subsection 1, the entire prohibition is prefaced with the language while operating a motor vehicle on a highway. Does that mean you have to be moving in your vehicle, or does the vehicle simply have to be running?

SENATOR BREEDEN:

Operating is when your car is in motion or sitting at a stoplight. That is operating a motor vehicle while driving on a roadway or highway.

SENATOR MANENDO:

Thank you, Mr. President. That was a question I asked in Committee dealing with global positioning devices. Many vehicles now have a GPS unit fixed in their car, but most do not. I asked law enforcement the question. I have a stand-alone one. If it is sitting in my lap, that is like texting. As long as I have it affixed to my dash, I would be allowed to use a GPS in your vehicle.

I stand in support of Senate Bill No. 140. Driving is a privilege. We often take advantage of that privilege. I know there are those who have stated they should have the right to do anything in there that they want, but they do not. We have distracted driving laws on the books, but we have specific laws in place for various things that people can do wrong. People cannot drive under the influence and speed. There are things we do that are singled out in *Nevada Revised Statutes* (NRS) specifically so that law enforcement has those tools. This is just another tool. I appreciate the sponsor of the bill and her work. We have been working on this for three sessions. I have a constituent who told me that her daughter will not put down her phone and that she has to respond to text message, unless there is a law prohibiting it. Young people are addicted to their phones. I am not saying adults are not, but we have to start somewhere to educate our youth. It is a big responsibility to drive a vehicle. When you are young and do not have the experience many people have, you need to spend your time and attention learning a skill. That skill is to drive safely so you do not kill yourself or others.

A friend of mine, Jennifer Watkins, with her husband was on the side of the road on U.S. 95 helping a stranded friend, when a driver, who was texting, crashed into them at 70 miles an hour. They survived, but they will never be the same because someone chose not to pay attention. That person was texting and I have to ask, what on earth could be so important that while traveling

the freeway at 70 miles an hour, someone had to respond to a text message? I hope it was worth it.

SENATOR KIECKHEFER:

Thank you, Mr. President. The prohibition seems to ban specifically on highways. It does not reference roadways. Is there a difference in State law between highways owned by the State and county or city roads?

Addressing the GPS issue, subsection 3 says, "the provisions of this section do not prohibit the use of a voice activated global positioning or navigational system that is affixed to the vehicle." Does that say that one that requires the buttons being pushed is prohibited?

SENATOR BREEDEN:

First, legal has indicated that a highway and a roadway are the same thing, which is any road, highway, street in the State of Nevada.

When we worked with legal on that, they are exempt just like Senator Manendo indicated. If you have one of the hand held ones, if you are pushing it with your hand, then those would not be exempt, but if they are affixed to your dash, where you can see it or are already in your car those are exempt.

SENATOR KIECKHEFER:

But only if it is voice activated according to the bill?

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

Senate in recess at 11:42 a.m.

SENATE IN SESSION

At 12:02 p.m.

President Krolicki presiding.

Quorum present.

Remarks by Senators Breedon, Cegavske, Kieckhefer, Hardy and Roberson

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

SENATOR BREEDEN:

During our short recess, legal clarified the two points brought up by my colleagues.

First, operating does mean while you are driving. However, if you pull over to the side of the road, you can text or make a cell phone call.

Second, you can use your GPS only if it is voice activated. If you punch or dial in numbers, you cannot use it while driving.

SENATOR CEGAVSKE:

Thank you, Mr. President. I do not know if phones can be voice activated. Some of the GPS units can be suction cupped up to the dashboard and addresses can be entered. I do not know if they are voice activated or not. Did the bill take care of that?

SENATOR BREEDEN:

Legal indicated that the way the bill is written you can use your GPS as long as it is voice activated. The intent of the bill is that you do not take your eyes off the road by looking down, texting, reading or sending a message.

SENATOR CEGAUSKE:

The GPS I have requires you put in the information. You have to start something with the phone or the GPS on the dash. So unless it can be activated by voice, you cannot use it.

I would like to understand the issue of pulling over on a highway. While I was on the Committee on Transportation, one thing I was told by the police was that you cannot pull over to text or to make a phone call in certain areas. Is that designated in the bill as to which roads or roadways where you can pull over. You cannot pull over on a freeway to make a phone call. Is that in the bill?

SENATOR BREEDEN:

Thank you, Mr. President. The testimony from law enforcement indicated that you cannot pull over on the side of a freeway. Those are emergency lanes. Unless you need to make an emergency phone call, you cannot do so. They indicated if you pull off the road or into a parking lot then there is no problem with that.

SENATOR CEGAUSKE:

If I am on a street in a neighborhood and I pull off the street to make a phone call, is that legal to do?

SENATOR BREEDEN:

That is okay.

SENATOR KIECKHEFER:

I would like to address the bill. I would be happy if this bill prohibited text messaging entirely. I would have no qualms with voting for that bill. It does not do that. I think the bill is an overreach. There is a significant problem with people texting. This is bill that is in front of me and it gets to that problem. I am very reluctantly going to vote for this bill. I originally was not going to, but I have changed my position. I hope we can get it trimmed down on the other side.

SENATOR HARDY:

Thank you, Mr. President. I appreciated working with the Chair of the Committee and having Brenda Erdoes explain this. We clarified that the cell phone Bluetooth technology allows you to answer a phone by pushing a button next to your ear or on your steering wheel would still be allowed.

SENATOR BREEDEN:

Yes, you are correct. That is what she said.

SENATOR HARDY:

Some states have recognized that texting surreptitiously creates accidents because the person is looking down instead of holding the phone out in front of them. There are issues with that.

SENATOR ROBERSON:

Thank you, Mr. President. If the GPS is stationary that unless it is voice activated, it is not permitted. My car has a control panel between the two front seats. You move the knob one way for the radio and another way for the GPS. I assume you can still change your radio station and you are not breaking the law, but if I move the knob the other direction, I am breaking the law by activating my GPS system. This illustrates how complicated this is going to be for law enforcement and for law abiding citizens when they try to operate their vehicle in a lawful manner. The citizens of this State need some direction on what is going to be lawful and what is not. It does not make sense to me that I cannot use my GPS, but I can use my radio or will be illegal soon, too?

MOTIONS, RESOLUTIONS AND NOTICES

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

Motion carried.

GENERAL FILE AND THIRD READING

Senate Bill No. 201.

Bill read third time.

Roll call on Senate Bill No. 201:

YEAS—12.

NAYS—Brower, Cegavske, Gustavson, Halseth, Hardy, Kieckhefer, McGinness, Roberson, Settelmeyer—9.

Senate Bill No. 201 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 213.

Bill read third time.

Roll call on Senate Bill No. 213:

YEAS—21.

NAYS—None.

Senate Bill No. 213 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 262.

Bill read third time.

The following amendment was proposed by Senator Hardy:

Amendment No. 295.

"SUMMARY—Provides for the incorporation of the City of Laughlin contingent upon ~~the approval of the voters in the City.~~ **certain conditions.** (BDR S-125)"

"AN ACT providing a charter for the City of Laughlin, in Clark County, Nevada; providing for an election to be held on the question of incorporation; making the incorporation of the City contingent upon **a determination by the Board of County Commissioners of Clark County or the Legislative Commission and** approval of this act by qualified electors of the City; providing penalties; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under existing law, the Legislature may provide for the incorporation of a city by a special act. (Nev. Const. Art. 8, § 8) **Section 1** of this bill provides a charter for the City of Laughlin. **Section 4** of this bill requires the Committee on Local Government Finance to prepare a report with respect to the fiscal feasibility of the incorporation of the City of Laughlin and submit it to the Board of County Commissioners of Clark County **and the Legislative Commission** by December 31, 2011. **Sections 4, 5 and 17** of this bill make the incorporation of the City of Laughlin contingent **upon whether the Board of County Commissioners of Clark County or the Legislative Commission determines that the incorporation is fiscally feasible and, if so,** upon the approval of the Charter by the qualified electors of the City. **Sections 5-9** of this bill provide **, under such circumstances,** for the Board

of County Commissioners of Clark County to conduct an election on the question of incorporation and a consolidated primary election for candidates for City Council and Mayor. **Sections 11 and 12** of this bill provide for a general election of members of the City Council and a Mayor, contingent upon the approval of incorporation. **Section 10** of this bill authorizes the Board of County Commissioners to accept gifts, grants and donations to pay for any expenses associated with incorporation, including, without limitation, the costs of the Committee on Local Government Finance for preparing the fiscal feasibility report and for ~~the~~ an election held on the question of incorporation and ~~the~~ a general election of the Mayor and City Council. **Sections 2 and 10** of this bill provide that to the extent that gifts, grants and donations do not cover such expenses, the Board of County Commissioners shall use the Fort Mohave Valley Development Fund to pay the costs.

Sections 13-15 of this bill authorize the elected City Council to perform various functions before the effective date of incorporation, including preparing and adopting a budget, preparing and adopting ordinances, negotiating and preparing contracts for personnel and various services, negotiating with Clark County for the equitable apportionment of the fixed assets of Clark County that are located in the City of Laughlin and negotiating and preparing certain cooperative agreements with the County. **Section 17** provides for the effective date of incorporation, which will be July 1, 2013, ~~++~~, if approved by the voters on that day.

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

Section 1. The Charter of the City of Laughlin is as follows. Each section of the Charter shall be deemed to be a section of this act for the purpose of any subsequent amendment.

ARTICLE I

**INCORPORATION OF CITY; GENERAL POWERS; BOUNDARIES; ANNEXATIONS;
CITY OFFICES**

Section 1.010 Preamble: Legislative intent; powers.

1. In order to provide for the orderly government of the City of Laughlin and the general welfare of its residents, the Legislature hereby establishes this Charter for the government of the City of Laughlin. It is expressly declared as the intent of the Legislature that all provisions of this Charter be liberally construed to carry out the express purposes of the Charter and that the specific mention of particular powers shall not be construed as limiting in any way the general powers necessary to carry out the purposes of the Charter.

2. Any powers expressly granted by this Charter are in addition to any powers granted to a city by the general law of this State. All provisions of the Nevada Revised Statutes which are applicable generally to cities, unless otherwise expressly mentioned in this Charter or chapter 265, 266 or 267 of NRS, and which are not in conflict with the provisions of this Charter apply to the City of Laughlin.

Sec. 1.020 Incorporation of City.

1. All persons who are inhabitants of that portion of the State of Nevada embraced within the limits set forth in section 1.030 shall constitute a political and corporate body by the name of "City of Laughlin," and by that name they and their successors shall be known in law, have perpetual succession and may sue and be sued in all courts.

2. Whenever used throughout this Charter, "City" means the City of Laughlin.

Sec. 1.030 Description of territory. The territory embraced in the City is hereby defined and established as follows:

1. All those portions of Township 32 South, Range 64 East; Township 32 South, Range 65 East; Township 32 South, Range 66 East; Township 33 South, Range 65 East; Township 33 South, Range 66 East; Township 34 South, Range 66 East, M.D.B. & M., which are located in the County of Clark, State of Nevada.

2. Excepting therefrom the following described land:

(a) That land referred to as the Fort Mojave Indian Reservation, approximately 3,842 acres of land, being a portion of Sections 17, 19, 20 thru 22, 27 thru 28, 30 thru 33 and all of Section 29 of Township 33 South, Range 66 East, Clark County, Nevada, and a portion of Section 5 of Township 34 South, Range 66 East, Clark County, Nevada.

(b) Further excepting therefrom Township 34 South, Range 66 East, M.D.B. & M., Clark County, Nevada.

(c) Further excepting therefrom the following described Parcels of land referred to as the "Hotel Corridor":

(1) Parcel 1. The South Half (S 1/2) of the South Half of Section 12 of Township 32 South, Range 66 East, M.D.M., Clark County, Nevada, excepting therefrom State Route 163 recorded in Book 920722 as Instrument 00564, Official Records of Clark County, Nevada, together with Parcel 1 of File 70 of Parcel Maps at Page 20, Official Records of Clark County Nevada, also together with Civic Way recorded in Book 910906 as Instrument Number 00680, Official Records of Clark County, Nevada, lying within the South Half (S 1/2) of the South Half (S 1/2) of said Section 12.

(2) Parcel 2. Section 13, Township 32 South, Range 66 East, M.D.M., Clark County, Nevada, excepting therefrom that remaining portion of Parcel 1 of File 53 of Parcel Maps at Page 53, Official Records of Clark County, Nevada, lying within the Southwest Quarter (SW 1/4) of said Section 13, more particularly described as beginning at the Northeast corner of said Parcel 1, said point being on the Southerly right-of-way line of Bruce Woodbury Drive (90.00 feet wide); thence departing said Southerly right-of-way line and along the Easterly line of said Parcel 1, South 01°08'21" West, 100.00 feet to the Northerly line of Parcel 4 as shown by map thereof recorded in File 98 of Parcel Maps at Page 17, Official Records of Clark County, Nevada; thence along said Northerly

line of Parcel 4 the following 2 courses: ~~South~~ North 89°59'51" ~~East,~~ West, 75.00 feet; North ~~01°08'01"~~ 01°08'21" East, 100.00 feet to said Southerly right-of-way and said Northerly line of Parcel 1; thence along said Southerly right-of-way line and along said Northerly line of Parcel 1, South 89°59'51" East, 75.00 feet to the Point of Beginning.

(3) Parcel 3. Section 24 of Township 32 South, Range 66 East, M.D.M., Clark County, Nevada excepting therefrom Government Lots 7 & 8 of said Section 24, together with Lots 1 & 2 of File 54 of Parcel Maps at Page 79, Official Records of Clark County, Nevada, lying within the Southwest Quarter (SW 1/4) of said Section 24.

Sec. 1.040 Limitation on future annexation. Notwithstanding any provision of law to the contrary, no area may be annexed into the boundaries of the City unless a majority of the owners of the real property that make up the area petition the City Council for annexation into the City.

Sec. 1.050 Form of government.

1. The municipal government provided by this Charter shall be known as the "council-manager government." Pursuant to its provisions and subject only to the limitations imposed by the Constitution of this State and by this Charter, all powers of the City shall be vested in an elective council, hereinafter referred to as "the Council," which shall:

(a) Enact local legislation;

(b) Adopt budgets;

(c) Determine policies; and

(d) Appoint the City Manager, who shall execute the laws and administer the government of the City.

2. All powers of the City shall be exercised in the manner prescribed by this Charter, or if the manner is not prescribed, then in such manner as may be prescribed by ordinance.

Sec. 1.060 Construction of Charter. This Charter, except where the context by clear implication otherwise requires, must be construed as follows:

1. The titles or leadlines which are applied to the articles and sections of this Charter are inserted only as a matter of convenience and ease in reference and in no way define, limit or describe the scope or intent of any provision of this Charter.

2. The singular number includes the plural number, and the plural includes the singular.

3. The present tense includes the future tense.

ARTICLE II

CITY COUNCIL

Sec. 2.010 Number; selection and term; recall. The Council shall have four Council members and a Mayor elected from the City at large in the manner provided in Article X, for terms of 4 years and until their successors have been elected and have taken office as provided in

section 2.100, subject to recall as provided in Article XI. No Council member shall represent any particular constituency or district of the City, and each Council member shall represent the entire City.

Sec. 2.020 Qualifications.

1. No person shall be eligible for the office of Council member or Mayor unless he or she is a qualified elector of the City and has been a resident of the City for at least 1 year immediately before the election in which he or she is a candidate. He or she shall hold no other elective public office, but may hold a commission as a notary public or be a member of the Armed Forces reserve. No employee of the City or officer thereof, excluding Council members, receiving compensation under the provisions of this Charter or any City ordinance, shall be a candidate for or eligible for the office of Council member or Mayor without first resigning from city employment or city office.

2. If a Council member or the Mayor ceases to possess any of the qualifications enumerated in subsection 1 or is convicted of a felony, or ceases to be resident of the City, his or her office shall immediately become vacant.

Sec. 2.030 Salaries.

1. For the first 2 years after election of the first members of the Council after adoption of this Charter, each member of the Council shall receive as compensation for his or her services as such a monthly salary of \$125.00, and the member elected to fill the Office of Mayor shall receive the additional amount of \$25.00 for each month said member shall fill the Office of Mayor.

2. After the period specified in subsection 1, the Council may determine the annual salaries of the Mayor and Council members by ordinance. The Council shall not adopt an ordinance which increases or decreases the salary of the Mayor or the Council members during the term for which they have been elected or appointed.

3. Absence of a member of the Council from all regular and special meetings of the Council during any calendar month shall render him or her ineligible to receive the monthly salary for such a calendar month unless by permission of the Council expressed in its official minutes.

4. The Mayor and Council members shall be reimbursed for their personal expenses when conducting or traveling on city business as authorized by the Council. Reimbursement for use of their personal automobiles will be at the rate per mile established by the rules of the Internal Revenue Service of the United States.

5. The Mayor and Council members shall receive no additional compensation or benefit other than that mandated by state or federal law.

Sec. 2.040 Mayor; Mayor Pro Tem; duties.

1. The Mayor shall:

- (a) Serve as a member of the Council and preside over its meetings;*
- (b) Have no administrative duties; and*

(c) Be recognized as the head of the city government for all ceremonial purposes and for the purposes of dealing with emergencies if martial law has been imposed on the City by the State or Federal Government.

2. The Council shall elect one of its members to be Mayor Pro Tem, who shall:

(a) Hold such office and title, without additional compensation, for the period of 1 year;

(b) Perform the duties of the Mayor during the absence or disability of the Mayor; and

(c) Assume the position of Mayor, if that office becomes vacant, until the next regular election.

Sec. 2.050 Powers. Except as otherwise provided in this Charter, all powers of the City and the determination of all matters of policy shall be vested in the Council. The Council shall have, without limitation, the power to:

1. Establish other administrative departments and distribute the work of divisions.

2. Adopt the budget of the City.

3. Adopt civil service rules and regulations.

4. Inquire into the conduct of any office, department or agency of the City and make investigations as to municipal affairs.

5. Appoint the members of all boards, commissions and committees for specific or indefinite terms as provided elsewhere in this Charter or in various resolutions or ordinances, with all such persons serving at the pleasure of the Council, provided, however, that all persons so appointed must be and remain bona fide residents of the City during the tenure of each appointment.

6. Levy such taxes as are authorized by applicable laws.

Sec. 2.060 Powers: Zoning and Planning. The Council may:

1. Divide the City into districts and regulate and restrict the erection, construction, reconstruction, alteration, repair or use of buildings, structures or land within the districts.

2. Establish and adopt ordinances and regulations relating to the subdivision of land.

Sec. 2.070 Council not to interfere in removals.

1. Neither the Council nor any of its members shall direct or request the removal of any person from office by the City Manager or by any of his or her subordinates, or in any manner take part in the removal of officers and employees in the administrative service of the City. Except for the purpose of inquiry and as otherwise provided in this Charter, the Council and its members shall deal with the administrative service solely through the City Manager and neither the Council nor any member thereof shall give orders to any subordinates of the City Manager, either publicly or privately.

2. Any Council member violating the provisions of this section, or voting for a resolution or ordinance in violation of this section, is guilty of a misdemeanor and upon conviction thereof shall cease to be a Council member.

Sec. 2.080 Vacancies in Council. Except as otherwise provided in NRS 268.325, a vacancy on the Council must be filled by appointment by a majority of the remaining members of the Council within 30 days or after three regular or special meetings, whichever is the shorter period of time. In the event of a tie vote among the remaining members of the Council, selection must be made by lot. No such appointment extends beyond the next municipal election.

Sec. 2.090 Creation of new departments or offices; change of duties. The Council by ordinance may:

1. Create, change and abolish offices, departments or agencies, other than offices, departments and agencies established by this Charter.

2. Assign additional functions or duties to offices, departments or agencies established by this Charter, but may not discontinue or assign to any other office, department or agency any function or duty assigned by this Charter to a particular office, department or agency.

Sec. 2.100 Induction of Council into office; meetings of Council. The Council shall meet within 10 days after each city primary election and each city general election specified in Article X, to canvass the returns and to declare the results. All newly elected or reelected Mayor or Council members shall be inducted into office at the next regular Council meeting following certification of the applicable city general election results. Immediately following such induction, the Mayor Pro Tem shall be designated as provided in section 2.040. Thereafter, the Council shall meet regularly at such times as it shall set by resolution from time to time, but not less frequently than once each month.

Sec. 2.110 Council to be judge of qualifications of its members. The Council shall be the judge of the election and qualifications of its members and for such purpose shall have the power to subpoena witnesses and require the production of records, but the decision of the Council in any such case shall be subject to review by the courts.

Sec. 2.120 Rules of procedure.

1. The Council shall establish rules by ordinance for the conduct of its proceedings and to preserve order at its meetings. It shall, through the City Clerk, maintain a journal record of its proceedings which shall be open to public inspection. Any member of the Council may place items on the Council agenda to be considered by the Council.

2. The Council may organize special committees of its members for the principal functions of the government of the City. It shall be the duty of each such committee to be informed of the business of the city government included within the assigned functions of the committee, and, as ordered by

the Council, to report to the Council information or recommendations which shall enable the Council properly to legislate.

Sec. 2.130 Investigations by Council.

1. The Council shall have power to inquire into the conduct of any office, department, agency or officer of the City and to make investigations as to municipal affairs. The Council shall have the power and authority on any investigation or proceeding pending before it to impel the attendance of witnesses, to examine them under oath and to compel the production of evidence before it. Each member of the Council shall have the power to administer oaths and affirmations in any investigation or proceeding pending before the Council.

2. Subpoenas may be issued in the name of the City pursuant to subsection 1 and may be attested by the City Clerk. Disobedience of such subpoenas or the refusal to testify upon other than constitutional grounds shall constitute a misdemeanor, and shall be punishable in the same manner as violations of this Charter are punishable.

Sec. 2.140 Council's power to make and pass ordinances, resolutions.

1. The Council shall have the power to make and pass all ordinances, resolutions and orders, not repugnant to the Constitution of the United States or of the State of Nevada or to the provisions of this Charter, necessary for the municipal government and the management of the city affairs, for the execution of all powers vested in the City, and for making effective the provisions of this Charter.

2. The Council shall have the power to enforce obedience to its ordinances by such fines, imprisonments or other penalties as the Council may deem proper, but the punishment for any offense shall not be greater than the penalties specified for misdemeanors under applicable provisions of Nevada Revised Statutes in effect at the time such offense occurred.

3. The Council may enact and enforce such local police ordinances as are not in conflict with the general laws of the State of Nevada.

4. Any offense made a misdemeanor by the laws of the State of Nevada shall also be deemed to be a misdemeanor in the City of Laughlin whenever such offense is committed within the city limits.

Sec. 2.150 Voting on ordinances and resolutions.

1. No ordinance or resolution shall be passed without receiving the affirmative votes of at least three members of the Council.

2. The ayes and noes shall be taken upon the passage of all ordinances and resolutions and entered upon the journal of the proceedings of the Council. Upon the request of any member of the Council, the ayes and noes shall be taken and recorded upon any vote. All members of the Council present at any meeting shall vote, except upon matters in which they have financial interest or when they are reviewing an appeal from a decision of a city commission, before which they have appeared as an advocate for or an adversary against the decision being appealed.

Sec. 2.160 Enactment of ordinances; subject matter, titles.

1. No ordinance shall be passed except by bill, and when any ordinance is amended, the section or sections thereof must be reenacted as amended, and no ordinance shall be revised or amended by reference only to its title.

2. Every ordinance, except those revising the city ordinances, shall embrace but one subject and matters necessarily connected therewith and pertaining thereto, and the subject shall be clearly indicated in the title, and in all cases where the subject of the ordinance is not so expressed in the title, the ordinance shall be void as to the matter not expressed in the title.

Sec. 2.170 Introduction of ordinances; notice; final action; publication.

1. The style of ordinances must be as follows: "The Council of the City of Laughlin does ordain." All proposed ordinances, when first proposed, must be read by title to the Council, after which an adequate number of copies of the ordinance must be deposited with the City Clerk for public examination and distribution upon request. Notice of the deposit of the copies, together with an adequate summary of the ordinance, must be published once in a newspaper published in the City, if any, otherwise in some newspaper published in the County which has a general circulation in the City, at least 10 days before the adoption of the ordinance. At any meeting at which final action on the ordinance is considered, at least one copy of the ordinance must be available for public examination. The Council shall adopt or reject the ordinance, or the ordinance as amended, within 30 days after the date of publication, except that in cases of emergency, by unanimous consent of the whole Council, final action may be taken immediately or at a special meeting called for that purpose.

2. After final adoption, the ordinance must be signed by the Mayor, and, together with the votes cast on it, must be:

(a) Published by title, together with an adequate summary including any amendments, once in a newspaper published in the City, if any, otherwise in a newspaper published in the County and having a general circulation in the City; and

(b) Posted in full in the city hall.

3. Except as otherwise provided in subsections 4 and 5, all ordinances become effective 20 days after publication.

4. Emergency ordinances having for their purpose the immediate preservation of the public peace, health or safety, containing a declaration of and the facts constituting its urgency and passed by a four-fifths vote of the Council, and ordinances calling or otherwise relating to a municipal election, become effective on the date specified therein.

5. All ordinances having for their purpose the lease or sale of real estate owned by the City, except city-owned subdivision or cemetery lots, may be effective not fewer than 5 days after the publication.

Sec. 2.180 Adoption of specialized, uniform codes. An ordinance adopting any specialized or uniform building, plumbing or electrical code

or codes, printed in book or pamphlet form or any other specialized or uniform code or codes of any nature whatsoever so printed, may adopt such code, or any portion thereof, with such changes as may be necessary to make the same applicable to conditions in the City, and with such other changes as may be desirable, by reference thereto, without the necessity of reading the same at length. Such code, upon adoption, need not be published if an adequate number of copies of such code, either typewritten or printed, with such changes, if any, have been filed for use and examination by the public in the Office of the City Clerk at least 1 week before the passage of the ordinance adopting the code, or any amendment thereto. Notice of such filing shall be given in accordance with the provisions of subsection 2 of section 2.170.

Sec. 2.190 Codification of ordinances; publication of Code.

1. The Council shall have the power to codify and publish a code of its municipal ordinances in the form of a Municipal Code, which Code may, at the election of the Council, have incorporated therein a copy of this Charter and such additional data as the Council may prescribe.

2. The ordinances in the Code shall be arranged in appropriate chapters, articles and sections, excluding the titles, enacting clauses, attestations and other formal parts.

3. The codification shall be adopted by an ordinance which shall not contain any substantive changes, modifications or alterations of existing ordinances, and the only title necessary for the ordinance shall be "An ordinance for codifying and compiling the general ordinances of the City of Laughlin."

4. The codification may, by ordinance regularly passed, adopted and published, be amended or extended.

Sec. 2.200 Independent annual audit. Before the end of each fiscal year, the Council shall designate qualified accountants who, as of the end of the fiscal year, shall make a complete and independent audit of accounts and other evidences of financial transactions of the city government and shall submit their report to the Council and to the City Manager. Such accountants shall have no personal interest, direct or indirect, in the fiscal affairs of the city government or of any of its officers. They shall not maintain any accounts or records of the city business, but, within specifications approved by the Council, shall postaudit the books and documents kept by the Department of Finance and any separate or subordinate accounts kept by any other office, department or agency of the city government.

ARTICLE III CITY MANAGER

Sec. 3.010 Appointment and qualifications.

1. The Council shall appoint a City Manager by a majority vote who by virtue of his or her position as City Manager shall be an officer of the City and who shall have the powers and shall perform the duties in this Charter

provided. No member of the Council shall receive such appointment during the term for which he or she shall have been elected, nor within 1 year after the expiration of his or her term.

2. The City Manager shall be chosen on the basis of his or her executive and administrative qualifications. The City Manager shall be paid a salary commensurate with his or her responsibilities as Chief Administrative Officer of the City as set by resolution of the Council.

3. The Council shall appoint the City Manager for an indefinite term and may remove him or her in accordance with the procedures set forth in section 3.020.

Sec. 3.020 Removal.

1. Before removal of the City Manager may become effective, the Council must adopt, by the affirmative votes of at least four members, a resolution that must state the reasons for the proposed removal of the City Manager and may provide for the suspension of the City Manager from duty, but shall in any case cause to be paid him or her forthwith any unpaid balance of his or her salary and his or her salary for the next calendar month following the date of adoption of the resolution. A copy of the resolution must be delivered promptly to the City Manager.

2. The City Manager may reply in writing, and any member of the Council may request a public hearing, which, if requested, shall be held not earlier than 20 days or later than 30 days after the filing of such request. After such public hearing, if one be requested, and after full consideration, the Council may remove the City Manager by motion adopted by the affirmative votes of at least four members of the Council.

Sec. 3.030 Powers and duties. The City Manager shall be the Chief Administrative Officer and the Head of the Administrative Branch of the city government. The City Manager shall be responsible to and under the direction of the Council for the proper administration of all affairs of the City. Without limiting the foregoing general grant of powers, responsibilities, and duties, the City Manager shall have the power and be required to:

1. Subject to the civil service rules and regulations adopted by the Council, and with the approval of the Council, appoint all department heads and officers of the City except those officers the power of appointment of whom is vested in the Council and as otherwise provided in this Charter;

2. Subject to the civil service rules and regulations adopted by the Council and ordinances adopted pursuant thereto, pass upon and approve all proposed appointments and removals of subordinate employees, by all officers and heads of offices, agencies and departments;

3. Prepare the budget annually and submit it to the Council and be responsible for its administration after adoption;

4. *Prepare and submit to the Council at the end of the fiscal year a complete report of the finances and administrative activities of the City for the preceding fiscal year;*

5. *Keep the Council advised of the financial condition and future needs of the City and make such recommendations as may seem to him or her desirable;*

6. *Keep himself or herself informed of the activities of the several agencies, offices and departments of the City and see to the proper administration of their affairs and the efficient conduct of their business;*

7. *Be vigilant and active in causing all provisions of the law to be executed and enforced;*

8. *Perform all such duties as may be prescribed by this Charter or required of him or her by the Council, not inconsistent with this Charter;*

9. *Submit a monthly report to the Council covering significant activities of the city agencies, offices and departments under his or her supervision and any significant changes in administrative rules and procedures promulgated by him or her; and*

10. *Submit special reports in writing to the Council in answer to any requests for information filed with the City Manager by a member of the Council.*

Sec. 3.040 Seat at Council table. The City Manager shall be accorded a seat at the Council table and shall be entitled to participate in the deliberations of the Council, but shall not have a vote. The City Manager shall attend all regular and special meetings of the Council unless physically unable to do so or unless his or her absence has received prior approval by a majority of the Council.

Sec. 3.050 Absence, disability. To perform his or her duties during his or her temporary absence or disability, the City Manager may designate by letter filed with the City Clerk one of the other officers or department heads of the City to serve as acting City Manager during such temporary absence or disability. Such designation shall be subject to change thereof by the Council. In the event of the failure of the City Manager to make such a designation, the Council may by resolution appoint an officer or department head of the City to perform the duties of the City Manager until he or she shall be prepared to resume the duties of office.

ARTICLE IV

OFFICERS AND EMPLOYEES

Sec. 4.010 City administrative organization.

1. *The Council may provide by ordinance not inconsistent with this Charter for the organization, conduct and operation of the several offices, departments and other agencies of the City as established by this Charter, for the creation of additional departments, divisions, offices and agencies and for their alteration or abolition, for their assignment and reassignment to departments, and for the number, titles, qualifications, powers, duties and compensation of all officers and employees.*

2. *The Council by ordinance may assign additional functions or duties to offices, departments or other agencies established by this Charter, but, except as otherwise provided in subsection 3, shall not discontinue or assign to any other office, department or other agency any function or duty assigned by this Charter to a particular office, department or agency. No office provided in this Charter, to be filled by appointment by the City Manager, shall be combined with an office provided in this Charter to be filled by appointment by the Council.*

3. *Notwithstanding the foregoing, the Council may transfer or consolidate functions of the city government to or with appropriate functions of the state or county government and, in case of any such transfer or consolidation, the provisions of this Charter providing for the functions of the city government so transferred or consolidated, shall be deemed suspended during the continuance of such transfer or consolidation, to the extent that such suspension is made necessary or convenient and is set forth in the ordinance establishing such transfer or consolidation. Any such transfer or consolidation may be repealed by ordinance.*

4. *Subject to the civil service rules and regulations adopted by the Council and section 3.020 of Article III, all officers and department heads of the City, except the City Attorney, Municipal Judge and the City Clerk, shall be appointed by the City Manager and shall thereafter serve at the pleasure of the City Manager.*

5. *Officers of the City appointed by the Council shall be required to reside within the city limits within 3 months of appointment. Employees of the City shall be required to live within a 50-mile radius of the City within 6 months of employment.*

Sec. 4.020 Officers appointed by the Council.

1. *In addition to the City Manager, the Council shall appoint the City Attorney and the Municipal Judge, if required pursuant to section 5.020 of Article V, who shall serve at the pleasure of the Council and may be removed by motion of the Council adopted by the affirmative votes of at least four members of the Council.*

2. *Subject to the provisions of this Charter and rules and regulations adopted by the Council, the Council shall appoint the City Clerk who shall serve at the pleasure of the Council and may be removed by motion of the Council adopted by the affirmative votes of three members of the Council.*

3. *The appointments of city officers pursuant to subsections 1 and 2 shall be for indefinite terms, and each such officer shall receive such compensation and other benefits as may be determined by resolution of the Council from time to time.*

4. *Any city officer may be temporarily suspended with full pay at any time by a majority vote of the Council, but no city officer may be removed from office unless he or she has first been given an opportunity for a hearing before the Council, at his or her request, with not less than 7 days'*

prior notice of the time and place of the hearing. Such hearing may be either public or private, as requested by the officer, and at the hearing, the officer may be assisted by his or her own legal counsel. Any action of the Council following such hearing shall be considered final and conclusive. If a city officer is so removed, the Council will appoint a person as a temporary replacement to perform the duties of the removed officer, and will appoint a qualified person as a permanent replacement officer as soon as practicable.

5. No person shall be appointed as a city officer who is a grandparent, parent, uncle, aunt, brother, sister, nephew, niece, child or grandchild, by birth, marriage or adoption, of a city officer, employee or Council member at the time of appointment.

Sec. 4.030 City Clerk powers and duties. The City Clerk shall have the power and be required to:

1. Receive all documents addressed to the Council and present such documents to the Council.

2. Attend all meetings of the Council and its committees and be responsible for:

(a) Recording and maintaining an accurate journal of Council proceedings;

(b) Recording the ayes and noes in the final action upon the questions of granting franchises, making of contracts, approving of bills, disposing of or leasing city property, the passage or reconsideration of any ordinance, or upon any other act that involves the payment of money or the incurring of debt by the City; and

(c) Other duties as required upon the call of any member of the Council.

3. Maintain the journal of Council proceedings in books which shall bear appropriate titles and which shall be available for public inspection.

4. Maintain separate books in which shall be recorded respectively all ordinances and resolutions, with the certificate of the City Clerk annexed to each thereof stating the same to be the original or a correct copy, and as to an ordinance requiring publication, stating that the same has been published or posted in accordance with this Charter, and maintain all such books properly indexed and available for public inspection when not in actual use.

5. Have charge of the repository for contracts, surety bonds, agreements, and other related documents of City business.

6. Maintain custody of the City seal.

7. Administer oaths or affirmations, take affidavits and depositions pertaining to the affairs and business of the City, and issue certified copies of official City records.

8. Conduct all City elections.

Sec. 4.040 City Attorney; qualifications, power and duties.

1. The City Attorney shall be an attorney at law duly licensed under the laws of the State of Nevada. He or she shall devote such time to the duties

of his or her office as may be specified in the ordinance or resolution fixing the compensation of such office. If practicable, the Council shall appoint an attorney who has had special training or experience in municipal corporation law.

2. The City Attorney shall have the power and be required to:

(a) Represent and advise the Council and all city officers in all matters of law pertaining to their offices;

(b) Attend all meetings of the Council and give his or her advice or opinion in writing whenever requested to do so by the Council or by any of the officers and boards of the City;

(c) Prepare or approve all proposed ordinances and resolutions for the City, and amendments thereto;

(d) Prosecute on behalf of the people such criminal cases for violation of this Charter or city ordinances, and of misdemeanor offenses and infractions arising upon violations of the laws of the State as, in his or her opinion, that of the Council or of the City Manager, warrant his or her attention;

(e) Represent and appear for the City, any city officer or employee, or former city officer or employee, in any or all actions and proceedings in which the City or any such officer or employee, in or by reason of his or her official capacity, is concerned or is a party;

(f) Approve the form of all bonds given to, and all contracts made by, the City, endorsing his or her approval thereon in writing; and

(g) On vacating the office, surrender to his or her successor all books, papers, files and documents pertaining to the City's affairs.

3. The Council shall have control of all legal business and proceedings and may employ other attorneys to take charge of any litigation or matter or to assist the City Attorney therein.

Sec. 4.050 Director of Finance; qualifications, powers and duties.

1. The person appointed by the City Manager for the position of Director of Finance shall be qualified to administer and direct an integrated Department of Finance.

2. The Director of Finance shall have the power and be required to:

(a) Have charge of the administration of the financial affairs of the City under the direction of the City Manager.

(b) Supervise and be responsible for the disbursement of all money and have control over all expenditures to ensure that budget appropriations are not exceeded.

(c) Supervise a system of financial internal control including the auditing of all purchase orders before issuance, the auditing and approving before payment of all invoices, bills, payrolls, claims, demands or other charges against the City, and, with the advice of the City Attorney, when necessary, determining the regularity, legality and correctness of such charges.

(d) With the advice of the City Attorney, settle claims, demands or other charges, including the issuing of warrants therefor.

(e) Maintain general and cost accounting systems for the city government and each of its offices, departments and other agencies.

(f) Keep separate accounts for the items of appropriation contained in the city budget. Each account shall show the amount of appropriations, the amounts paid therefrom, the unpaid obligations against it and the unencumbered balance.

(g) Require reports of the receipts and disbursements from each receiving and expending agency of the city government to be made daily or at such intervals as he or she may deem expedient.

(h) Submit to the Council through the City Manager a monthly statement of all receipts and disbursements and other financial data in sufficient detail to show the exact financial condition of the City, and, as of the end of each fiscal year, submit a complete financial statement and report.

(i) Administer the license and business tax program of the City.

(j) Direct treasury administration for the City, including, without limitation:

(1) Receiving and collecting revenues and receipts from whatever source;

(2) Maintaining custody of all public funds belonging to or under the control of the City or any office, department or other agency of the city government; and

(3) Depositing all funds coming into his or her hands in such depository as may be designated by resolution of the Council, or, if no such resolution is adopted, by the City Manager, in compliance with all of the provisions of the Constitution and laws of this State governing the handling, depositing, and securing of public funds.

(k) Direct centralized purchasing and a property control system for the city government under rules and regulations to be prescribed by ordinance.

Sec. 4.060 Performance review. On or before the annual anniversary date of the appointment of persons serving in the positions of City Manager, City Attorney and City Clerk, the Council shall review and evaluate the performance of such appointees.

Sec. 4.070 Appointment powers of department heads. Subject to the approval of the City Manager and subject to civil service rules and regulations adopted by the Council, each head of a department, office or other agency shall have the power to appoint and remove such deputies, assistants, subordinates and employees as are provided for by the Council for his or her department, office or other agency.

ARTICLE V**JUDICIAL**

Sec. 5.010 Municipal court. The municipal court must be presided over by the Justice of the Peace of Laughlin Township as ex officio municipal judge.

Sec. 5.020 Municipal judge appointed. If the Office of Justice of the Peace of Laughlin Township ceases to exist, the municipal court shall be presided over by a municipal judge appointed by the Council.

ARTICLE VI**CITY BUDGETS**

Sec. 6.010 Budgets. Budgets for the City shall be prepared in accordance with and shall be governed by the provisions of the general laws of the State pertaining to budgets of cities.

ARTICLE VII**PUBLIC IMPROVEMENTS AND REPAIRS**

Sec. 7.010 Expenses of improvements; payment by funds or by special assessments. The expenses of public improvements and repairs, such as the improvement of streets and alleys by grading, paving, graveling and curbing, the construction, repair, maintenance and preservation of sidewalks, drains, curbs, gutters, storm sewers, drainage systems, sewerage systems and sewerage disposal plants, may be paid from the General Fund or Street Fund or the cost or portion thereof as the Council shall determine, may be defrayed by special assessments upon lots and premises abutting upon that part of the street or alley so improved or proposed so to be, or the land abutting upon such improvement and such other lands as in the opinion of the Council may benefit by the improvement all in the manner contained in the provisions of the Nevada Revised Statutes.

ARTICLE VIII**CITY ASSESSOR; TAX RECEIVER; FINANCES AND PURCHASING**

Sec. 8.010 Clark County Assessor to be ex officio City Assessor. The County Assessor of Clark County shall, in addition to the duties now imposed upon him or her by law, act as the Assessor of the City and shall be ex officio City Assessor, without further compensation. He or she shall perform such duties as the Council may by ordinance prescribe with the County Assessor's consent.

Sec. 8.020 Clark County Treasurer to be ex officio City Tax Receiver. The County Treasurer of Clark County shall, in addition to the duties now imposed upon him or her by law, act as ex officio City Tax Receiver. He or she shall receive and safely keep all moneys that come to the City by taxation, and shall pay the same to the Director of Finance. The City Tax Receiver may, with the consent of the Council, collect special assessments which may be levied by authority of this Charter or city ordinance when they become due and payable, and whenever and wherever the general laws of the State of Nevada regarding the authorized acts of tax receivers

may be, the same hereby are, made applicable to the City Tax Receiver of the City of Laughlin, in the collection of city special assessments.

Sec. 8.030 Procedures for city purchasing. All purchases of goods or services of every kind or description for the City by any office, commission, board, department or any division thereof shall be made in conformance with the Nevada Revised Statutes, as amended from time to time.

Sec. 8.040 Transfer of appropriations. The City Manager may at any time transfer any unencumbered appropriation balance or portion thereof between general classifications of expenditures within an office, department or agency.

Sec. 8.050 When contracts and expenditures prohibited.

1. No officer, department or agency shall, during any budget year, expend or contract to expend any money or incur any liability, or enter into any contract which by its terms involves the expenditure of money, for any purpose, in excess of the amounts appropriated for that general classification of expenditure pursuant to this Charter. Any contract, verbal or written, made in violation of this Charter shall be null and void. Any officer or employee of the City who violates this section shall be guilty of a misdemeanor and, upon conviction thereof, shall cease to hold his or her office or employment.

2. Nothing in this section shall prevent the making of contracts or the spending of money for capital improvements to be financed in whole or in part by the issuance of bonds, nor the making of contracts of lease or for services for a period exceeding the budget year in which such contract is made, when such contract is permitted by law.

ARTICLE IX

APPOINTIVE BOARDS AND COMMISSIONS

Sec. 9.010 Established; enumerated.

1. The Council may create by ordinance such other appointive boards or commissions as in its judgment are required and may grant to them powers and duties as are consistent with the provisions of this Charter. The Council, by motion adopted by the affirmative votes of at least a majority of its members, may appoint from time to time temporary committees as deemed advisable to render counsel and advice to the appointing authorities on any designated matters or subjects within the jurisdiction of such authorities.

2. The Personnel Board is hereby established and has the powers and duties contained in this Article.

Sec. 9.020 Appointments, removals, vacancies, terms.

1. Except as otherwise specified in this Charter, the members of each of the appointive boards and commissions shall be appointed, and may be removed, by the Council, subject in both appointment and removal by the affirmative votes of a majority of the Council. For the purposes of this rule, residency is only required at the time of nomination.

2. If a member of a board or commission:

(a) Is absent from two regular meetings of such board or commission, consecutively, unless by permission of such board or commission expressed in its official minutes;

(b) Fails to attend at least one-half of the regular meetings of such board or commission within a calendar year;

(c) Is convicted of a crime involving moral turpitude; or

(d) Ceases to be a qualified elector of the City,

↳ the office of that member shall become vacant and shall be so declared by the Council.

3. Except as otherwise provided in subsection 2 or section 9.030, the members of such boards and commissions shall serve for a term of 2 years and until their respective successors are appointed and qualified.

Sec. 9.030 Prohibition against serving as treasurer for campaign committee. If any member of an appointive board or commission shall become the treasurer of a campaign committee which receives contributions for any candidate for Mayor or Council member, his or her office shall become vacant and shall be so declared by the Council. Any provisions of this Article notwithstanding, no person who serves as the treasurer of a campaign committee which receives contributions for any candidate for Mayor or Council member shall be eligible for appointment to any appointive board or commission.

Sec. 9.040 Appropriations therefor. The Council shall include in its annual budget such appropriations of funds as, in its opinion, shall be sufficient for the efficient and proper functioning of such appointive boards and commissions.

Sec. 9.050 Meetings; chair.

1. The election of each chair and vice chair shall be held at the meetings of the respective boards and commissions during the month of July of each year. The board or commission, in the event of a vacancy in the office of the chair or vice chair, shall elect one of its members for the unexpired term. The chair shall have the responsibility for informing the Council or board, commission or committee of actions or inactions and the reasons therefor.

2. Each board or commission, other than the Personnel Board, shall hold a regular meeting at least once a month with reasonable provision for attendance by the public. The City Manager shall designate a secretary for the recording of minutes for each such board and commission, who shall keep a record of its proceedings and transactions. Each board and commission shall prescribe rules and regulations governing its operations which shall be consistent with this Charter and shall be filed with the City Clerk for public inspection. The Personnel Board shall meet monthly, provided there is business on the agenda to come before it. In the event no business is placed on the Personnel Board's agenda 5 days preceding the tentative meeting date, no meeting need be held, provided that in no event

shall more than 3 months intervene between meetings of the Personnel Board.

Sec. 9.060 Compensation. The members of appointive boards and commissions shall receive such compensation, if any, as may be prescribed by ordinance and may receive reimbursement for necessary traveling and other expenses when on official duty of the City when such expenditure has been so authorized by the board or commission and subject to rules and regulations prescribed by ordinance or order of the Council.

Sec. 9.070 Attendance of witnesses; oaths and affirmations. Each appointive board or commission shall have the same power as the Council to compel the attendance of witnesses, to examine them under oath and to compel the production of evidence before it. Each member of any such board or commission shall have the power to administer oaths and affirmations in any investigation or proceeding pending before such board or commission.

Sec. 9.080 Personnel Board: Membership. The Personnel Board shall consist of five members to be appointed by the Council from the qualified electors of the City. None of the members shall be removed from office without reasonable and sufficient cause, in accordance with procedures as provided by ordinance. None of the members shall hold public office or employment in the city government or be a candidate for any other public office or position, be an officer of any local, state or national partisan political club or organization, or while a member of the Personnel Board or for a period of 1 year after he or she has ceased for any reason to be a member, be eligible for appointment to any salaried office or employment in the service of the City.

Sec. 9.090 Personnel Board: Powers and duties. The Personnel Board shall have the power and be required to:

1. Hear appeals pertaining to the disciplinary suspension, demotion or dismissal of any officer or employee having permanent status in any office, position or employment in the civil service, and as otherwise provided for in the civil service rules and regulations;

2. Consider matters that may be referred to it by the Council or the City Manager and render such counsel and advice in regard thereto as may be requested by the referring authorities;

3. By its own motion, make such studies and investigations as it may deem necessary for the review of civil service rules and regulations, or to determine the wisdom and efficacy of the rules, regulations, policies, plans and procedures dealing with civil service matters and report its findings and recommendations to the City Manager or the Council, or to both such authorities, as it may see fit; and

4. Conduct public hearings on proposed revisions of civil service rules and regulations in the manner as prescribed by ordinance and advise the Council of its findings in such matters within 60 days.

ARTICLE X
CITY ELECTIONS

Sec. 10.010 Applicability of state election laws. All city elections must be nonpartisan in character and must be conducted in accordance with the provisions of the general election laws of the State of Nevada and any ordinance regulations as adopted by the Council which are consistent with law and this Charter.

Sec. 10.020 Terms. All full terms of office in the Council are 4 years, and Council members and the Mayor must be elected at large without regard to precinct residency. Two full-term Council members and the Mayor are to be elected in each year immediately preceding a federal presidential election, and two full-term Council members are to be elected in each year immediately following a federal presidential election. In each election, the candidates receiving the greatest number of votes must be declared elected to the vacant full-term positions.

Sec. 10.030 Specific Council positions. In the event a 2-year term position on the Council will be available at the time of a municipal election as provided in section 10.020, a candidate must file specifically for such a position. The candidate receiving the greatest respective number of votes must be declared elected to the available 2-year position.

Sec. 10.040 Primary municipal elections. A city primary election must be held on the first Tuesday after the first Monday in April of each odd-numbered year, and a city general election must be held on the first Tuesday after the first Monday in June of each odd-numbered year.

Sec. 10.050 Primary not required. A primary election must not be held if not more than double the number of Council members to be elected file as candidates. A primary election must not be held for the Office of Mayor if not more than two candidates file for that position. The primary election must be held for the purpose of eliminating candidates in excess of a figure double the number of Council members to be elected.

Sec. 10.060 General election not required. If, in the primary city election, a candidate receives votes equal to a majority of voters casting ballots in that election, he or she shall be considered elected to one of the vacancies and his or her name shall not be placed on the ballot for the general city election.

Sec. 10.070 Voters entitled to vote for each seat on ballot. In each primary and general election, voters shall be entitled to cast ballots for candidates in a number equal to the number of seats to be filled in the city elections.

Sec. 10.080 Council to control elections. The conduct of all municipal elections shall be under the control of the Council, which shall adopt by ordinance all regulations which it considers desirable and consistent with law and this Charter. Nothing in this Charter shall be construed as to deny or abridge the power of the Council to provide for

supplemental regulations for the prevention of fraud in such elections and for the recount of ballots in cases of doubt or fraud.

ARTICLE XI

INITIATIVE, REFERENDUM AND RECALL

Sec. 11.010 Registered voters' power of initiative and referendum concerning city ordinances. The registered voters of a city may:

1. Propose ordinances to the Council and, if the Council fails to adopt an ordinance so proposed without change in substance, adopt or reject it at a primary or general municipal election or primary or general state election; and

2. Require reconsideration by the Council of any adopted ordinance, and if the Council fails to repeal an ordinance so considered, approve or reject it at a primary or general municipal election or primary or general state election.

Sec. 11.020 Initiative and referendum proceedings. All initiative and referendum proceedings shall be conducted in conformance with the provisions of the Nevada Revised Statutes, as amended from time to time.

Sec. 11.030 Results of election.

1. If a majority of the registered voters voting on a proposed initiative ordinance vote in its favor, it shall be considered adopted upon certification of the results of the election and must be treated in all respects in the same manner as ordinances of the same kind adopted by the Council. If conflicting ordinances are approved at the same election, the one receiving the greatest number of affirmative votes prevails to the extent of the conflict.

2. If a majority of the registered voters voting on a referred ordinance vote against it, it shall be considered repealed upon certification of the results of the election.

3. No initiative ordinance voted upon by the registered voters or an initiative ordinance in substantially the same form as one voted upon by the people, may again be placed on the ballot until the next primary or general municipal election or primary or general state election.

Sec. 11.040 Repealing ordinances; publication. Initiative and referendum ordinances adopted or approved by the voters may be published and shall not be amended or repealed by the Council, as in the case of other ordinances.

Sec. 11.050 Recall of Council members. As provided by the general laws of this State, every member of the Council is subject to recall from office.

ARTICLE XII

PUBLIC UTILITIES

Sec. 12.010 Granting of franchises.

1. The City shall have the power to grant a franchise to any private corporation for the use of streets and other public places in the furnishing of any public utility service to the City and to its inhabitants.

2. *All franchises and any renewals, extensions and amendments thereto shall be granted only by ordinance. A proposed franchise ordinance shall be submitted to the City Manager, and he or she shall render to the Council a written report containing recommendations thereon.*

3. *The City shall have the power, as one of the conditions of granting any franchise, to impose a franchise tax, either for the purpose of license or for revenue.*

Sec. 12.020 Conditions and transfer of franchises.

1. *Every franchise or renewal, extension or amendment of a franchise hereafter granted shall:*

(a) *Include that the City may issue such orders with respect to safety and other matters as may be necessary or desirable for the community; and*

(b) *Reserve to the City the right to make all future regulations or ordinances deemed necessary for the preservation of the health, safety and public welfare of the City, including, without limitation, regulations concerning the imposition of uniform codes upon the utilities, standards and rules concerning the excavations and use to which the streets, alleys and public thoroughfares may be put and regulations concerning placement of easement improvements such as poles, valves, hydrants and the like.*

2. *No franchise shall be transferred hereafter by any utility to another without the approval of the Council, and as a condition to such approval, the successor in interest to the said franchise shall execute a written agreement containing a covenant that it will comply with all the terms and conditions of the franchise then in existence.*

Sec. 12.030 Condemnation. The City, by initiative ordinance, shall have the right to condemn the property of any public utility subject to the provisions of chapter 37 of NRS. The public utility shall receive just compensation for the taking of its property. Such an initiative petition must be voted on by the people and cannot be passed by simple acceptance of the Council.

Sec. 12.040 Establishment of municipally owned and operated utilities.

1. *The City shall have power to own and operate any public utility, to construct and install all facilities that are reasonably needed and to lease or purchase any existing utility properties used and useful in public service.*

2. *The Council may provide by ordinance for the establishment of such utility, but an ordinance providing for a newly owned and operated utility shall be enacted only after such hearings and procedure as required herein for the granting of a franchise, and shall also be submitted to and approved at a popular referendum provided that an ordinance providing for any extension, enlargement or improvement of an existing utility may be enacted as a matter of general municipal administration.*

3. *The City shall have the power to execute long-term contracts for the purpose of augmenting the services of existing municipally owned utilities.*

Such contracts shall be passed only in the form of ordinances and may exceed in length the terms of office of the members of the Council.

Sec. 12.050 Municipal utility organizations.

1. The Council may provide for the establishment of a separate department to administer the utility function, including the regulation of privately owned and operated utilities and the operation of municipally owned utilities. Such department shall keep separate financial and accounting records for each municipally owned and operated utility and before February 1 of each fiscal year, shall prepare for the City Manager, in accordance with his or her specifications, a comprehensive report of each utility. The responsible departments or officer shall endeavor to make each utility financially self-sustaining, unless the Council shall by ordinance adopt a different policy. All net profits derived from municipally owned and operated utilities may be expended in the discretion of the Council for general municipal purposes.

2. The rates for the products and services of any municipally owned and operated utility shall only be established, reduced, altered or increased by resolution of the Council following a public hearing.

Sec. 12.060 Financial provisions.

1. The City may finance the acquisition of privately owned utility properties, the purchase of land and the cost of all construction and property installation for utility purposes by borrowing in accordance with the provisions of general law.

2. Appropriate provisions shall be made for the amortization and retirement of all bonds within a maximum period of 40 years. Such amortization and retirement may be effected through the use of depreciation funds or other financial resources provided through the earnings of the utility.

Sec. 12.070 Sale of public utilities; proviso.

1. No public utility of any kind, after having been acquired by the City, may thereafter be sold or leased by the City, unless the proposition for the sale or lease has been submitted to the electors of the City at a special election or primary or general municipal election or primary or general state election. After a majority vote of those electors in favor of the sale, the sale may not be made except after 30 days' published notice thereof, except that the provisions of this section do not apply to a sale by the Council of parts, equipment, trucks, engines and tools which have become obsolete or worn out, any of which equipment may be sold by the Council in the regular course of business.

2. A special election may be held only if the Council determines, by a unanimous vote, that an emergency exists. The determination made by the Council is conclusive unless it is shown that the Council acted with fraud or a gross abuse of discretion. An action to challenge the determination made by the Council must be commenced within 15 days after the Council's determination is final. As used in this subsection, "emergency"

means any unexpected occurrence or combination of occurrences which requires immediate action by the Council to prevent or mitigate a substantial financial loss to the City or to enable the Council to provide an essential service to the residents of the City.

ARTICLE XIII

MISCELLANEOUS PROVISIONS

Sec. 13.010 Removal of officers and employees. Subject to the provisions of this Charter not inconsistent herewith, any employee of the City may be suspended or dismissed from employment at any time by the City Manager or by any applicable person appointed by the City Manager pursuant to this Charter. Unless otherwise provided in this Charter, any such action shall be considered final and conclusive and shall not be subject to appeal to any city governmental entity.

Sec. 13.020 Right of City Manager and other officers of Council. The City Manager shall have the right to take part in the discussion of all matters coming before the Council, and the directors and other officers shall be entitled to take part in all discussions of the Council relating to their respective offices, departments or agencies.

Sec. 13.030 Personal interest.

1. No elective or appointive officer shall take any official action on any contract or other matter in which he or she has any financial interest.

2. A violation of the provisions of this section shall constitute a misdemeanor, subject to a penalty not to exceed the penalties specified for misdemeanors under applicable provisions of Nevada Revised Statutes in effect at the time of such violation.

Sec. 13.040 Official bonds. Officers or employees, as the Council may by general ordinance require so to do, including a municipal court judge appointed pursuant to section 5.020 of Article V, if any, shall give bond in such amount and with such surety as may be approved by the Council. The premiums on such bonds shall be paid by the City.

Sec. 13.050 Oath of office. Every officer of the City shall, before entering upon the duties of his or her office, take and subscribe to the official oath of office of the State of Nevada:

"I,, do solemnly swear (or affirm) that I will support, protect and defend the Constitution and Government of the United States and the Constitution and Government of the State of Nevada, against all enemies, whether domestic or foreign, and that I will bear true faith, allegiance and loyalty to the same, any Ordinance, Resolution or Law of any State notwithstanding, and I will well and faithfully perform all the duties of the Office of on which I am about to enter; (if any oath) so help me God; (if any affirmation) under the pains and penalties of perjury."

Sec. 13.060 Amending the Charter.

1. An amendment to this Charter:

(a) May be made by the Legislature directly by the use of mandatory specific wording or indirectly by the use of wording allowing flexibility in expressing the required change. If a law is enacted which:

(1) Directly amends this Charter, such an amendment is not subject to public approval as provided in paragraph (b) and must be included in the Charter and identified as having been amended by the particular law involved.

(2) Requires that this Charter be amended but does not require the specific wording to be used, the Council shall propose a suitable amendment to be submitted to the registered voters of the City as provided by paragraph (b). If such a proposed amendment is not adopted by the voters, it must be redrafted and resubmitted to the voters at one or more general city elections or general state elections until an amendment is adopted.

(b) May be proposed by the Council and submitted to the registered voters of the City at a general city election or general state election.

(c) May be proposed by a petition signed by registered voters of the City equal in number to 15 percent or more of the voters who voted at the latest preceding general city election and submitted to registered voters of the City at the next general city election or general state election.

2. The City Attorney shall draft any amendment proposed pursuant to subparagraph (2) of paragraph (a) or paragraph (b) of subsection 1, or if such a proposed amendment has been previously drafted, the City Attorney shall review the previous draft and recommend to the Council any suggested changes or corrections.

3. The City Attorney shall, upon request, review any amendment intended to be proposed by petition pursuant to paragraph (c) of subsection 1, make only such corrections as are agreed to by the proposers and report to the Council his or her analysis of the significance and potential effects of the proposed amendment.

4. A petition for amendment must be in the form specified by state law for city initiative petitions and must be filed with the City Clerk not later than 6 months before the date of the general city election or general state election at which the proposed amendment is to be submitted to the voters of the City.

5. When an amendment is adopted by the registered voters of the City, the City Clerk shall, within 30 days thereafter, transmit a certified copy of the amendment to the Legislative Counsel.

6. Any amendment to the Charter proposed under the provisions of this section shall be adopted by a simple majority of the voters casting ballots on that question at two consecutive general elections before any such amendment shall become effective.

Sec. 13.070 Short title; citation of City of Laughlin Act of 2011. This Charter shall be known and may be cited as the City of Laughlin Charter.

Sec. 13.080 Construction of Charter; separability of provisions.

1. Whenever any reference is made to any portion of the Nevada Revised Statutes or of any other law of the State or of the United States, such reference shall apply to all amendments and additions thereto now or hereafter made.

2. If any section or part of a section of this Charter shall be held invalid by a court of competent jurisdiction, such holding shall not affect the remainder of this Charter nor the context in which such section or part of section so held invalid may appear, except to the extent that an entire section or part of a section may be inseparably connected in meaning and effect with the section or part of the section to which such holding shall directly apply.

Sec. 2. Section 9 of the Fort Mohave Valley Development Law, being chapter 427, Statutes of Nevada 2007, as amended by chapter 369, Statutes of Nevada 2009, at page 1860, is hereby amended to read as follows:

Sec. 9. Limitations on use of money.

~~The~~

1. Except as otherwise provided in subsection 2, the Board of County Commissioners may use money in the Fort Mohave Valley Development Fund only to:

~~1-1~~ *(a) Purchase or otherwise acquire lands described in sections 4 and 8 of this act; and*

~~1-2~~ *(b) Administer the Fort Mohave Valley Development Law exclusively for the purposes of developing the Fort Mohave Valley and any general improvement district, special district, town or city whose territory contains all or a part of the land in the Fort Mohave Valley, including, without limitation, the planning, design and construction of capital improvements which develop the land in the Fort Mohave Valley or in any general improvement district, special district, town or city whose territory contains all or a part of the land in the Fort Mohave Valley.*

2. The Board of County Commissioners shall use money in the Fort Mohave Valley Development Fund to pay:

(a) Any costs incurred by the Committee on Local Government Finance created by NRS 354.105, for the preparation of the report related to the fiscal feasibility of the incorporation of the City of Laughlin that is required by section 4 of this act;

(b) Any costs incurred by the County to hold the elections described in sections 5 and 11 this act; and

(c) Any other costs incurred by the County or City of Laughlin associated with the incorporation of the City of Laughlin,

↪ to the extent that gifts, grants or donations are not available to pay for the expenses.

Sec. 3. As used in sections 3 to 16, inclusive, of this act:

1. "Board of County Commissioners" means the Board of County Commissioners of Clark County.

2. "City" means the City of Laughlin.
3. "City Council" means the City Council elected pursuant to section 11 of this act.
4. "County" means the County of Clark.
5. "Fort Mohave Valley Development Fund" means the fund created in the County Treasury pursuant to section 6 of the Fort Mohave Valley Development Law.
6. "Qualified elector" means a person who is registered to vote in this State and is a resident of the area to be included in the City, as shown by the last official registration lists before the election.

Sec. 4. 1. On or before December 31, 2011, the Committee on Local Government Finance, created by NRS 354.105, shall prepare and submit a report to the Board of County Commissioners **and the Legislative Commission** with respect to the fiscal feasibility of the incorporation of the City. This report must:

- (a) Include, without limitation analyses of:
 - (1) The tax revenue and other revenues of the County that may be impacted by the incorporation of the City.
 - (2) The tax revenue and other revenues of the Township of Laughlin compared to the potential tax revenue and other revenues of the City after incorporation.
 - (3) The expenditures made by the Township of Laughlin compared to the anticipated expenditures of the City after incorporation.
 - (4) The expenditures made by the County for support of the Township of Laughlin that may or may not be impacted by the incorporation of the City.
- (b) Be made available to the public for consideration before ~~the~~ **any** election on the question of incorporation held pursuant to section 5 of this act.

2. **Not later than 90 days after receiving the report, the Board of County Commissioners and the Legislative Commission shall review the report and make a determination as to whether the incorporation of the City is fiscally feasible.**

3. The County Clerk shall cause the report to be published in a newspaper printed in the County and having a general circulation in the City at least once a week for 3 consecutive weeks. ~~The~~ **If the Board of County Commissioners or the Legislative Commission determines that the incorporation of the City is fiscally feasible, the** final publication of the report must be published before the date of the election held pursuant to section 5 of this act.

Sec. 5. 1. ~~Ann~~ **If the Board of County Commissioners or the Legislative Commission determines pursuant to section 4 of this act that the incorporation of the City is fiscally feasible, an** election on the question of incorporation of the City of Laughlin must be held ~~after the Committee on Local Government Finance submits to the Board of County~~

~~Commissioners the report required by section 4 of this act.~~ The election will also be a primary election for the offices of Mayor and City Council.

2. The Board of County Commissioners may call a special election for the purposes of subsection 1, or may conduct an election pursuant to subsection 1 on the date of the first primary election held in the County after the Board of County Commissioners receives the report required by section 4 of this act. The special election, if any, must be held within 90 days after the Board of County Commissioners receives the report prepared pursuant to section 4 of this act and conducted in accordance with the provisions of law relating to general elections so far as the same can be made applicable.

3. If the Board of County Commissioners calls a special election for the purposes of subsection 1, the County Clerk shall cause a notice of the election to be published in a newspaper printed in the County and having a general circulation in the City at least once a week for 3 consecutive weeks. The final publication of notice must be published before the date of the election.

4. If the Board of County Commissioners conducts an election pursuant to subsection 1 on the day of the first primary election held in the County after the Board of County Commissioners receives the report required by section 4 of this act,

~~(a) The Board of County Commissioners shall submit the report required by section 4 of this act to the Legislative Commission. The Legislative Commission shall review the report and make a recommendation to the Board of County Commissioners as to whether the incorporation of the City is fiscally feasible.~~

~~(b) The~~ the County Clerk shall cause notice of the election to be published pursuant to NRS 293.203.

5. The notice of the election held pursuant to subsection 3 or 4 must contain:

- (a) The date of the election;
- (b) The hours during the day in which the polls will be open;
- (c) The location of the polling places;
- (d) A statement of the question in substantially the same form as it will appear on the ballots;

(e) The names of the candidates; **and**

(f) A list of the offices to which the candidates seek election. ~~;~~ **and**

~~(g) If the election is held pursuant to subsection 4, a summary of the recommendation made by the Legislative Commission pursuant to paragraph (a) of subsection 4.~~

Sec. 6. The incorporation question on the ballots used for ~~the~~ **an** election held pursuant to section 5 of this act must be in substantially the following form:

Shall the area described as...(describe area) be incorporated as the City of Laughlin?

Yes

No

The voter shall mark the ballot by placing a cross (x) next to the word "yes" or "no."

Sec. 7. 1. A person who wishes to become a candidate for any office to be voted for at ~~the~~ an election held pursuant to section 5 of this act must:

- (a) Reside within the boundaries of the City;
- (b) File an affidavit of candidacy, which must include a declaration of residency, with the County Clerk not later than the date for the filing of such affidavits as set by the County Clerk; and
- (c) File a nomination petition containing at least 100 signatures of qualified electors.

2. Qualified electors may sign more than one nominating petition for candidates for the same office.

3. A candidate may withdraw his or her candidacy pursuant to the provisions of NRS 293.202.

4. If there are less than three candidates for any office to be filled at ~~the~~ a primary election held pursuant to section 5 of this act, their names must not be placed on the ballot for the primary election but must be placed on the ballot for ~~the~~ a general election held pursuant to section 11 of this act.

5. The names of the two candidates for mayor and for each seat on the City Council who receive the highest number of votes in ~~the~~ a primary election held pursuant to section 5 of this act must be placed on the ballot for ~~the~~ a general election held pursuant to section 11 of this act.

Sec. 8. 1. At least 10 days before ~~the~~ an election held pursuant to section 5 of this act, the County Clerk shall cause to be mailed to each qualified elector a sample ballot for his or her precinct with a notice informing the elector of the location of his or her polling place.

2. The sample ballot must:

- (a) Include the question in the form required by section 6 of this act;
- (b) Describe the area proposed to be incorporated by assessor's parcel maps, existing boundaries of subdivision or parcel maps, identifying visible ground features, extensions of the visible ground features, or by any boundary that coincides with the official boundary of the state, a county, a city, a township, a section or any combination of these; and

(c) Include the names of candidates for the various offices as determined pursuant to section 7 of this act.

Sec. 9. 1. The Board of County Commissioners shall canvass the votes cast in ~~the~~ an election held pursuant to section 5 of this act in the same manner as votes are canvassed in a general election. Upon completion of the canvass, the Board shall immediately notify the County Clerk of the results.

2. The County Clerk shall, upon receiving notice of the canvass from the Board of County Commissioners, immediately cause to be published a notice of the results of the election in a newspaper of general circulation in the County. If the incorporation is approved by the voters, the notice must include the category of the City according to population, as described in

NRS 266.055. The County Clerk shall file a copy of the notice with the Secretary of State.

Sec. 10. 1. The Board of County Commissioners may accept gifts, grants and donations to pay for any expenses that are related to the incorporation of the City, including, without limitation:

(a) The costs incurred by the Committee on Local Government Finance for preparing the fiscal feasibility report required by section 4 of this act;

(b) The costs incurred by the County to hold ~~the~~ any elections described in sections 5 and 11 of this act; and

(c) Any other costs incurred by the County or City associated with the incorporation of the City of Laughlin.

2. To the extent that gifts, grants and donations do not pay the costs of the expenses described in subsection 1, the Board of County Commissioners shall order the County Treasurer to pay such expenses from the Fort Mohave Valley Development Fund.

3. The County Clerk shall submit to the Board of County Commissioners a statement of all expenses related to conducting ~~the~~ any elections held pursuant to sections 5 and 11 of this act.

Sec. 11. 1. If the incorporation of the City is approved by the voters at an election held pursuant to section 5 of this act, a general election must be held to elect four members of the City Council and the Mayor. The Board of County Commissioners may conduct a special election for the purposes of this subsection, or may conduct the election required by this subsection on the date of the first general election held in the County after the date of the election held pursuant to section 5 of this act. The election must be conducted in accordance with the provisions of law relating to general elections so far as the same can be made applicable.

2. The names of the two candidates for Mayor and for each particular seat on the City Council who receive the highest number of votes in the primary election must be placed on the ballot for the general election. A candidate for Mayor or a seat on the City Council may not withdraw from the general election.

Sec. 12. 1. The term of the Mayor elected pursuant to section 11 of this act expires upon the election and qualification of the person elected Mayor in the first general election held pursuant to section 10.020 of the City of Laughlin Charter.

2. The terms of two of the members of the City Council elected pursuant to section 11 of this act expire upon the election and qualification of the persons elected to the City Council in the first general election held pursuant to section 10.020 of the City of Laughlin Charter. The terms of the remaining members of the City Council elected pursuant to section 11 of this act expire upon the election and qualification of the persons elected to the City Council in the second general election held pursuant to section 10.020 of the City of Laughlin Charter.

3. The members of the City Council elected pursuant to section 11 of this act shall, at the first meeting of the City Council after their election and qualification, draw lots to determine the length of their respective terms.

Sec. 13. Before the incorporation of the City becomes effective but after the general election held pursuant to section 11 of this act, the City Council may:

1. Prepare and adopt a budget;
2. Prepare and adopt ordinances;
3. Prepare to levy an ad valorem tax on property within the area of the City, at the time and in the amount prescribed by law for cities, for the fiscal year beginning on the date the incorporation of the City becomes effective;
4. Negotiate and prepare an equitable apportionment of the fixed assets of the County pursuant to section 15 of this act;
5. Negotiate and prepare contracts for the employment of personnel;
6. Negotiate and prepare contracts to provide services for the City, including, without limitation, those services provided for by chapter 277 of NRS;
7. Negotiate and prepare contracts for the purchase of equipment, materials and supplies;
8. Negotiate and prepare contracts or memorandums of understanding with the County for the City to provide services to unincorporated areas of the County that are contiguous to the City;
9. Negotiate and prepare a cooperative agreement pursuant to NRS 360.730; and
10. Communicate with and provide information to the Department of Taxation to effectuate the allocation of tax revenues on the date the incorporation of the City becomes effective.

Sec. 14. 1. During the period from the filing of the notice of results of ~~the~~ an election conducted pursuant to section 5 of this act by the County Clerk until the date the incorporation of the City becomes effective, the County is entitled to receive the taxes and other revenue from the City and shall continue to provide services to the City.

2. Except as otherwise provided in NRS 318.492, all special districts, except fire protection districts, located within the boundaries of the City continue to exist within the City after the incorporation becomes effective.

Sec. 15. 1. The City Council and the Board of County Commissioners shall, before the date that the incorporation becomes effective or within 90 days after that date, equitably apportion those fixed assets of the County which are located within the boundaries of the City. The City Council and the Board of County Commissioners shall consider the location, use and types of assets in determining an equitable apportionment between the County and the City.

2. Any real property and its appurtenances located within the City and not required for the efficient operation of the County's duties must first be applied toward the City's share of the assets of the County. Any real property

which is required by the County for the efficient operation of its duties must not be transferred to the City.

3. If an agreement to apportion the assets of the County is not reached within 90 days after the incorporation of the City, the matter may be submitted to arbitration upon the motion of either party.

4. Any appeal of the arbitration award must be filed with the district court within 30 days after the award is granted.

Sec. 16. Any property located within the City which was assessed and taxed by the County before incorporation must continue to be assessed and taxed to pay for the indebtedness incurred by the County before incorporation.

Sec. 17. 1. This section and sections 2 to 16, inclusive, of this act become effective upon passage and approval.

2. Section 1 of this act becomes effective, if the incorporation of the City of Laughlin is approved by the voters at ~~the~~ an election held pursuant to section 5 of this act, on July 1, 2013.

Senator Hardy moved the adoption of the amendment.

Remarks by Senators Hardy and Horsford.

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

SENATOR HARDY:

Amendment No. 295 to Senate Bill No. 262 sets forth a time limit of 90 days by which the Board of County Commissioners or the Legislative Commission must review the fiscal feasibility report for the incorporation of the town of Laughlin. It clarifies that the Board of County Commissioners or the Legislative Commission must, as the case may be, determine whether the incorporation of Laughlin is fiscally feasible. It provides for the publication of the fiscal feasibility report before the date of the election for incorporation, this is in addition to the earlier newspaper publication already required in the bill; and it makes a minor technical correction to the description of one of the parcel descriptions in the bill.

SENATOR HORSFORD:

Under the provision, it says, "upon whether the Board of County Commissioners or the Legislative Commission determines that it is fiscally feasible." Who comes first? They both receive the report, but it is not clear who determines first whether it is fiscally feasible or not.

SENATOR HARDY:

I appreciate the question. One of the challenges has been the conversation between the Clark County Commission and the town of Laughlin. I have tried to make this equal allowing both to get the report. The report is generated by the local government finance committee or the committee on local government finance. They have to make the determination if it is fiscally feasible. They forward their report and their recommendation to both the County Commission and the Legislative Commission. Both of them get the opportunity to say "yes" or "no." If one of them says, "yes, it is okay," then the election would be held. This incorporation would only be upon the vote of the people after the vote is allowed to happen by either the County Commission or the Legislative Commission.

SENATOR HORSFORD:

I reviewed the materials you presented to me and I appreciated them. Thank you.

If it is determined that the County Commission puts this to a vote and the voters say "yes," then a fiscal report is issued. After the report is issued it goes to both the County Commission and the Legislature. If the County Commission does not take action within a reasonable amount of time, then the Legislative Commission can take the vote of the public and the fiscal feasibility study allowing the incorporation to occur. Is this correct?

SENATOR HARDY:

The clarification would be the vote of the people is not allowed to happen until the committee on local government finance committee does the study. That fiscal study is then given to the county and to the Legislative Commission. It is only upon one or the other's approval that it goes to the vote of the people. This never goes to the vote of the people until it has passed the scrutiny of fiscal feasibility by the local government finance committee as well as the County Commission or the Legislative Commission.

SENATOR HORSFORD:

I am having a little difficulty understanding the explanation. If the fiscal feasibility study says that it is prudent, and the County Commission puts it to a vote and the voters say it is appropriate, why does the Legislative Commission need to get involved? Why can the Clark County Commission not just allow for the incorporation? From the local government discretion, these issues should be decided by those individuals and not by the legislative body.

SENATOR HARDY:

Your point is well taken and on target. Realistically, it would be appropriate for the County Commission to continue to be involved in that process and I would welcome their insight into that and would appreciate them allowing, if it is fiscally feasible, the vote of the people. The people of Laughlin are more comfortable with the Legislative Commission. In order to give them comfort, and to make certain both bodies get to review it, they both receive the report at the same time. That will allow people who are going to vote to have input from two different directions, which is important.

SENATOR HORSFORD:

Under this amendment, it states "or," so the County Commission can say "no, we are not going to put it to the vote" and then the Legislative Commission could say "yes, we are going to put it to a vote," then it would go to a vote. Correct?

SENATOR HARDY:

Yes.

SENATOR HORSFORD:

Yes, the Legislative Commission can approve it going to a vote without the approval of the County Commission?

SENATOR HARDY:

Yes. Because there has not been a recent study for fiscal feasibility, the county has not felt a comfort level in allowing this to go to a vote of the people. The dynamics have changed; this is a way to get a fiscal feasibility report done so that people can give a comfort level to the County Commission. If the County Commission would like to do it, that would be fine. Or, the Legislative Commission can do it.

Amendment adopted.

Bill ordered reprinted, re-engrossed and to third reading.

Senate Bill No. 266.

Bill read third time.

Remarks by Senator Breeden.

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

Senate Bill No. 266 revises various provisions relating to keeping pets in a manufactured home park. The bill prohibits a park landlord from requiring a tenant to pay a deposit as a prerequisite to keeping a pet in the park. A landlord may not prohibit a tenant from keeping at least one dog or cat as a pet.

A landlord may also adopt reasonable restrictions prohibiting a tenant from keeping a vicious or dangerous animal; concerning the size of a pet kept by a tenant; and concerning the number of pets kept by a tenant.

Roll call on Senate Bill No. 266:

YEAS—21.

NAYS—None.

Senate Bill No. 266 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 267.

Bill read third time.

Roll call on Senate Bill No. 267:

YEAS—21.

NAYS—None.

Senate Bill No. 267 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 291.

Bill read third time.

Roll call on Senate Bill No. 291:

YEAS—13.

NAYS—Brower, Cegavske, Gustavson, Halseth, Kieckhefer, McGinness, Roberson, Settelmeyer—8.

Senate Bill No. 291 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 292.

Bill read third time.

Roll call on Senate Bill No. 292:

YEAS—21.

NAYS—None.

Senate Bill No. 292 having received a two-thirds majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Wiener moved that Senate Bills Nos. 314, 315, 328, 351, 356, 367, 377, 384, 385, 405, 414, 420, 487; Senate Joint Resolution No. 12 be placed on the General File on the next Agenda.

Motion carried.

Senator Wiener moved that Assembly Bills Nos. 18, 147, 156, 217, 464, be taken from the General File and placed on the General File for the next legislative day.

Motion carried.

Mr. President announced that if there were no objections, the Senate would recess until 3 p.m.

Senate in recess at 11:42 a.m.

SENATE IN SESSION

At 3:29 p.m.

President Krolicki presiding.

Quorum present.

REPORTS OF COMMITTEES

Mr. President:

Your Committee on Commerce, Labor and Energy, to which were referred Senate Bills Nos. 36, 135, 227, 329, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

Also, your Committee on Commerce, Labor and Energy, to which was re-referred Senate Bill No. 293, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

MICHAEL A. SCHNEIDER, *Chair*

Mr. President:

Your Committee on Government Affairs, to which were referred Senate Bills Nos. 100, 250, 396, 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 was referred Senate Bill No. 339, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

ALLISON COPENING, *Chair*

Mr. President:

Your Committee on Judiciary, to which was referred Assembly Bill No. 142, 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. 128, 174, 204, 221, 254, 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. 5, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

MARK A. MANENDO, *Chair*

MESSAGES FROM THE ASSEMBLY

ASSEMBLY CHAMBER, Carson City, April 25, 2011

To the Honorable the Senate:

Also, I have the honor to inform your honorable body that the Assembly on this day passed Assembly Joint Resolution No. 9.

Also, I have the honor to inform your honorable body that the Assembly on this day adopted Assembly Concurrent Resolution No. 8.

MATTHEW BAKER

Assistant Chief Clerk of the Assembly

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

Senate in recess at 3:32 p.m.

SENATE IN SESSION

At 3:36 p.m.

President Krolicki presiding.

Quorum present.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Wiener moved that Senate Bill No. 83 be taken from the Second Reading File and placed on the Second Reading File for the next legislative day.

Motion carried.

Assembly Joint Resolution No. 9.

Resolution read.

Senator Wiener moved that all necessary rules be suspended, reading so far be considered to have fulfilled the requirement for second reading and that Assembly Joint Resolution No. 9 be declared an emergency measure under the Constitution and be placed on third reading for final passage on this legislative day.

Motion carried.

Assembly Concurrent Resolution No. 8.

Resolution read.

Senator Parks moved the adoption of the resolution.

Remarks by Senators Parks, McGinness, Settlemeyer and Roberson.

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

SENATOR PARKS:

Today I join my colleagues in the Assembly in proposing a resolution urging an open process to select a replacement for the coming vacancy in the U.S. Senate.

Just a few months ago a legend of this Chamber, Senator Raggio, resigned after decades of service to our State. The Washoe County Commission, empowered by law to fill the vacancy, understood that public participation would be important in filling his seat. The public deserved an open and transparent process then and they deserve no less now.

Nevadans are best served by a caretaker who will be able to focus on their concerns today, not their own career tomorrow. Governor Sandoval should go the route of other Governors and avoid a partisan political appointment until the voters have an opportunity to make their choice. Should we spend tax money on a special election at a time when the Governor himself asks for shared sacrifice? We will only know where the public stands on crucial questions like this if they are asked.

Whomever the Governor appoints will serve unelected in the U.S. Senate for almost two years, is setting aside just two weeks to consult the public too much? They deserve to know who is being considered, the merits of those candidates and an opportunity to have their voices heard. We have a clear choice: have this decision made openly or behind closed doors. I respectfully support the former and urge this Chamber to do the same.

SENATOR MCGINNESS:

Thank you, Mr. President. I have no doubt that Governor Sandoval will do as Governors, both Republican and Democrat, have done before in selecting an individual to capably fill this seat. I have great faith in the Governor in making the appointment.

SENATOR SETTELMAYER:

Thank you, Mr. President. Looking at the 17th amendment to the Constitution it says, "that the Legislature of any state may empower the executive thereof to make temporary appointments until the people fill the vacancies by election as the Legislature may direct." I believe that is what we currently have in our laws under Nevada Revised Statutes (NRS) as to how that is supposed to occur. I do not understand why we need this resolution.

SENATOR ROBERSON:

I would like to ask my colleague from Senate District No. 7 about what you said regarding the fact that the current Governor should follow the path of previous Governors who have in a non-partisan way filled these appointments. Could you explain to me what previous Governors you were referring to?

Motion carried on a division of the house.

Resolution ordered transmitted to the Assembly.

GENERAL FILE AND THIRD READING

Senate Bill No. 314.

Bill read third time.

Roll call on Senate Bill No. 314:

YEAS—21.

NAYS—None.

Senate Bill No. 314 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 315.

Bill read third time.

Remarks by Senator Brower.

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

This bill provides for alternative routes to licensure for teachers and administrators. I want to thank my colleague from Washoe County for sponsoring the bill and to all those who worked on compromise language to make this bill worthy of our unanimous support.

Roll call on Senate Bill No. 315:

YEAS—21.

NAYS—None.

Senate Bill No. 315 having received a constitutional majority, Mr. President declared it passed, as amended.
Bill ordered transmitted to the Assembly.

Senate Bill No. 328.

Bill read third time.

Remarks by Senators Parks and Kieckhefer.

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

SENATOR PARKS:

Senate Bill No. 328 exempts a "creative professional" from the class of employees who must be paid overtime by an employer. This act will take affect, July 1, 2011.

SENATOR KIECKHEFER:

Thank you, Mr. President. Is it a blanket exemption for those who have to pay overtime, or is it only out of the requirement that it is an 8-hour day versus a 40-hour week?

SENATOR PARKS:

This is a blanket for the category of individual who would fill that position. They are regarded as a professional and they work on their own schedule in most cases.

SENATOR KIECKHEFER:

So, people in this category are not eligible for overtime under our laws period?

SENATOR PARKS:

That is my understanding of it, yes.

Roll call on Senate Bill No. 328:

YEAS—21.

NAYS—None.

Senate Bill No. 328 having received a constitutional majority, Mr. President declared it passed, as amended.
Bill ordered transmitted to the Assembly.

Senate Bill No. 351.

Bill read third time.

Remarks by Senator Roberson.

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

Senate Bill No. 351 provides for disciplinary sanctions against a contractor who owes certain taxes to the Department of Taxation or unpaid contributions to the Employment Security Division of the Department of Employment, Training and Rehabilitation.

The Executive Director of the Department of Taxation or the Administrator of the Employment Security Division shall notify the State Contractors' Board in writing within five business days after acquiring a lien against a contractor for any unpaid tax or any unpaid contributions, respectively.

Roll call on Senate Bill No. 351:

YEAS—21.

NAYS—None.

Senate Bill No. 351 having received a constitutional majority,
Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 356.

Bill read third time.

Roll call on Senate Bill No. 356:

YEAS—21.

NAYS—None.

Senate Bill No. 356 having received a constitutional majority,
Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 367.

Bill read third time.

Roll call on Senate Bill No. 367:

YEAS—21.

NAYS—None.

Senate Bill No. 367 having received a constitutional majority,
Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 377.

Bill read third time.

Roll call on Senate Bill No. 377:

YEAS—21.

NAYS—None.

Senate Bill No. 377 having received a two-thirds majority, Mr. President
declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 384.

Bill read third time.

Roll call on Senate Bill No. 384:

YEAS—21.

NAYS—None.

Senate Bill No. 384 having received a constitutional majority,
Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 385.

Bill read third time.

Remarks by Senators Horsford and Lee.

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

SENATOR HORSFORD:

Thank you, Mr. President. Will anything in this bill allow for local governments to impose a tax?

SENATOR LEE:

No, that is restricted. They have no opportunity to ask for any taxes at all or apply it toward any taxes that do not come through us first.

Roll call on Senate Bill No. 385:

YEAS—15.

NAYS—Brower, Cegavske, Gustavson, Halseth, Roberson, Settelmeyer—6.

Senate Bill No. 385 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 405.

Bill read third time.

Roll call on Senate Bill No. 405:

YEAS—21.

NAYS—None.

Senate Bill No. 405 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 414.

Bill read third time.

Roll call on Senate Bill No. 414:

YEAS—21.

NAYS—None.

Senate Bill No. 414 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 420.

Bill read third time.

Roll call on Senate Bill No. 420:

YEAS—21.

NAYS—None.

Senate Bill No. 420 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 487.

Bill read third time.

Roll call on Senate Bill No. 487:

YEAS—21.

NAYS—None.

Senate Bill No. 487 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Joint Resolution No. 12.

Resolution read third time.

Remarks by Senator Rhoads.

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

Senate Joint Resolution No. 12 urges the Secretary of the Interior to rescind Secretarial Order No. 3310, which directs the Bureau of Land Management to designate certain areas of public lands with wilderness characteristics as "Wild Lands" and to manage them to protect their wilderness characteristics. The resolution urges Congress to honor the long-standing commitment it has to manage the multiple use of public lands in Nevada.

There are three categories of wilderness. One is wilderness areas, another, wilderness study areas and now, Wild Lands. Our objection to this is that the others have had Congressional authorization. This one is just a secretarial order and we do not believe that is the proper way to go.

Roll call on Senate Joint Resolution No. 12:

YEAS—19.

NAYS—Leslie, Manendo—2.

Senate Joint Resolution No. 12 having received a constitutional majority, Mr. President declared it passed.

Resolution ordered transmitted to the Assembly.

Assembly Joint Resolution No. 9.

Resolution read third time.

Remarks by Senators Leslie and Settlemeyer.

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

SENATOR LESLIE:

Thank you, Mr. President. This bill was introduced in Congress on February 17, 2011. Currently, it is being discussed. We are in the midst of a severe budget crisis. This bill has the ability to relieve some of that. Should this bill pass in Congress, the interest savings from extending our interest forgiveness through December, 2012, would be \$64 million for Nevada. The potential principal forgiveness, which is 60 percent of the loan balance on December 31, 2011, would be \$512 million. The Federal Unemployment Tax Act (FUTA) savings for employers for 2011 to 2017 would total \$180 million. For the good of the State, I urge my colleagues to support this resolution.

SENATOR SETTELMAYER:

Thank you, Mr. President. I rise in support of this resolution. I would like to ask what it means where it says, "return for implementing measures to increase the solvency of its unemployment trust fund." What type of law are they asking us to enact in the future? It is on the third page, number 3, "allowing the state to enter into an agreement with the United States Department of Labor to reduce up to 60 percent of its federal loan balance in return for implementing measures to increase the solvency of its unemployment trust fund."

SENATOR LESLIE:

I believe that has to do with taking measures to make certain that we are assessing the appropriate amount of money from employers to rebuild the unemployment fund over time. I am not certain of that, however.

Roll call on Assembly Joint Resolution No. 9:

YEAS—21.

NAYS—None.

Assembly Joint Resolution No. 9 having received a constitutional majority, Mr. President declared it passed.

Resolution ordered transmitted to the Assembly.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Lee moved that Senate Bill No. 42 be taken from the Secretary's desk and placed on the General File for the next legislative day.

Motion carried.

Senator Horsford announced that upon adjournment from the Joint Session with the Assembly to hear United States Representative Joe Heck's speech, the Senate will resolve itself into a Committee of the Whole for the purpose of considering K-12 and Nevada System of Higher Education Budget.

Motion carried.

Mr. President announced that if there were no objections, the Senate would recess until 4:45 p.m.

Motion carried.

Senate in recess at 4:16 p.m.

SENATE IN SESSION

At 4:50 p.m.

President Krolicki presiding.

Quorum present.

MOTIONS, RESOLUTIONS AND NOTICES

The Sergeant at Arms announced that Assemblymen Anderson and Hardy were at the bar of the Senate. Assemblyman Anderson invited the Senate to meet in Joint Session with the Assembly to hear Representative Joe Heck.

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

Senate in recess at 5:03 p.m.

IN JOINT SESSION

At 5:09 p.m.

President Krolicki presiding.

The Secretary of the Senate called the Senate roll.

All present.

The Chief Clerk of the Assembly called the Assembly roll.

All present.

The President appointed a Committee on Escort consisting of Senator Hardy and Assemblywoman Diaz to wait upon the Honorable Joe Heck and escort him to the Assembly Chamber.

Representative Heck delivered his message as follows.

MESSAGE TO THE LEGISLATURE OF NEVADA
SEVENTY-SIXTH SESSION, 2011

Governor Sandoval, Speaker Oceguera, Majority Leader Horsford, Minority Leaders Goicoechea and McGinness, distinguished constitutional officers, honorable members of the Judiciary, my fellow Nevadans. It is an honor and a privilege to stand here before you today as a former member of this legislative body and as your federal representative for the Third Congressional District.

As a doctor, I learned that you can not cure an illness until you understand the cause. The recession gripping Nevada is largely the result of a badly broken federal government, because far too often political expediency has trumped sound policy as decisions were made. That lack of leadership seeped into our daily lives and rotted America's economic foundations to its core.

Rebuilding our economy will not be easy, and it will not happen overnight. This is an especially difficult reality for Nevada because we have been hit harder than any other state. We must work together to get people back to work; we must work together to make sure our children have better opportunities than we do; and we must work together to maintain a strong national defense, because without our freedom, very few of the policy issues that our nation faces today will even matter.

I know firsthand that today's elections are far from unanimous. I represent the most populous district in the nation, more than one million people, and I won by two-thirds of one percent-1,922 votes. But I do not only represent the people that voted for me, I represent those who did not and the ones who could not. Two months ago, just a few weeks into my term, two votes came up on the House Floor of whether or not to terminate two housing programs. These programs were very unpopular among many conservatives, and I received information telling me just how terrible these programs were and that they had not lived up to their potential. And the truth is they have not.

I knew that many of the people who voted for me in November probably wanted me to vote to terminate these programs. I believe in cutting government waste, and I have been a vocal advocate of eliminating programs that have outlived their purpose or have lost sight of their original mission. But I also know that government has a limited role in helping people help themselves.

Now I have to admit, I was a bit surprised that I was the only Republican voting to protect these programs on one vote and only one of two on the other, and it has generated a bit of unfriendly criticism from some conservatives, and I understand that. Some asked if I regretted my vote, others if my vote was a mistake, but most wanted to know why I voted against my party. Seventeen thousand Nevadans are the reason that I voted against my party.

These two housing programs have helped more than 17,000 Nevadans stay in their homes. They help the very people the government should be helping; those who are trying to do the right thing: the folks who are trying hard to make their mortgages but because of the dire economy in Nevada might be teetering on the edge of foreclosure; our friends, our neighbors, and even family members who have lost their jobs through no fault of their own; Democrats, Independents, and yes, even Republicans who have come to my office asking for assistance.

I will continue to fight to cut government spending in Washington, but I will never lose sight of the fact that I was sent to Washington to fight for Nevada first, even if it means voting against the majority of my party and incurring the ire of some of those who voted for me. I not only represent the people who voted for me; but I also represent those who did not and those who could not.

I often recall what I learned early in my career as a doctor—that you can not cure an illness until you understand the cause. We will not cure the disease of foreclosure and unemployment until we understand the cause. Both parties have been guilty of overspending, and politicians from both sides have failed to prioritize, demand accountability, and make difficult decisions.

They have failed to lead. To pretend otherwise simply perpetuates the status quo and guarantees an America defined by debt instead of by greatness. It guarantees an America tied to the fortunes of other nations and binds our children and grandchildren to a debt that we can not pay. And it creates national security challenges that risk the very safety of our nation and our people. Thomas Jefferson warned against great undertakings on slender majorities. Rebuilding our economy is too great an undertaking to ignore this advice.

Both sides have sinned. We do not have to agree on everything, but we must view each idea, each suggestion, and each piece of legislation with an eye toward the future of our nation instead of the impact on the next election. The hundreds of constituents that I have met with since being sworn in told me that they want to get back on their path to the American dream, and that path begins with a good job—knowing that if they have a job and work hard, they can live their American dream.

Ninety-five percent of Nevada businesses are small businesses, and they employ 43 percent of Nevada's workers. Just under half of employed Nevadans work for small businesses. I used to own a small business myself, and I know many of you are small business owners as well. For those of you who are—or were—you know how gratifying it is to see an idea that you had and saw through was good enough not just to sustain, but to thrive, and you know how gratifying it was to offer someone a job and give him or her the opportunity to grow, to shine and earn, and be fulfilled.

When I visit with small business owners and ask them the number one reason they are not hiring and ask what is preventing a recovery, nearly all say there is too much uncertainty at the moment—uncertainty in the economy, uncertainty in their government, and uncertainty about how they can compete in an evolving global economy. That is a showstopper for small businesses.

The number one rule of running a successful business is to assess your risk, plan for the worst, and hope for the best. Uncertainty increases risk and when risk increases, more small business owners say, "Maybe I will wait to hire that new person until things clear up." What we need to do is cure the disease of uncertainty. When we do that, entrepreneurs will take risks, small business owners will hire that extra employee, add more space, and grow their businesses. The way to give them that certainty begins with a single word—*listen*.

Listen to the people who operate 95 percent of Nevada's businesses. They know what they need to get their businesses back on track and back to hiring. I put together an economic advisory council that had getting the answer to what is causing uncertainty as its singular goal. The council consists of the elements that constitute a small business: entrepreneurs, lenders, and labor, and includes people from all across the political spectrum. Despite a wide variety of personal and political views, the problem was easy to diagnose: a government that spends your money, gets in your way, regulates your business, raises your taxes, requires almost no accountability, and runs up a debt that its citizens cannot afford to pay. This group worries that if the government's spending continues at its current level, taxes will have to go up to sustain that spending. They worry about how new government regulations will affect their competitiveness; their ability to grow, thrive, and provide good jobs.

We must work together to address these causes of uncertainty our small business owners have said are preventing their recovery. Businesses openly support less government spending, which would alleviate their concern about immediate new taxes and future taxes to pay for debt-financed spending. Government has spent without accountability for years, under both Republicans and Democrats. If elected leaders choose to maintain or increase current spending levels, it is not a question of if taxes must go up it is a question of when. Taxes will either be increased immediately to pay for the spending now, or will be increased in the future to pay for the interest on the money the government borrows, or both.

We must work together to return government spending to responsible levels. That means making difficult decisions to bring government in line with the private sector; it means demanding accountability and performance; and it means forcing government to do more with less. That is what our families have done. It is what our businesses have done, and it is what our government must do.

I applaud Governor Sandoval for having the courage to put forward a balanced budget that does not raise taxes, and I applaud those of you who have agreed to stand with him. Senator

Horsford and Speaker Oceguera, I thank you for your willingness to work with Governor Sandoval and Lt. Governor Krolicki to further enhance Nevada's economic development efforts. I want each of you to know that I will do all I can to help you make Nevada the most business friendly state in America.

Nevadans have talked about economic diversification for decades, and I would guess that Nevada's first governor, Henry Blasdel, and the first legislature probably talked about it as well. I am sure our state leaders thought they solved the issue when we moved from a one-industry economy—mining—to a two-industry economy with the addition of gaming and tourism. But as we have seen twice in the last decade, as important as mining and tourism are to our State's fiscal health, we must expand our horizons and look to the future. Many have talked about our State's potential to be a leader in renewable energy, and I agree. That is why I supported the continuation of the federal loan guarantees for renewable energy projects, so Nevada can continue to build and grow in this area. Projects from Eldorado to Armargosa Valley to Tonopah and beyond would bring desperately needed jobs to the surrounding communities.

But we must also look past the energy production side of the equation. We must have serious discussions about bringing the research and development, as well as the manufacturing components of this industry, to Nevada. That is where the sustainable, good-paying jobs will materialize. I will continue to support research and development tax credits and work to streamline the bureaucracy to access Nevada's lands that remain under federal control and to expedite the federal permitting process while protecting the environment and maintaining safety.

The recession has touched every corner of our nation—every region, every demographic, every industry, and every person; we have all felt the pain. But there are some reasons to be encouraged as we look at some success stories in other places. In fact, a number of states have begun to recover more quickly because they listened to their small business owners. They listened to the people who create jobs and they reduced government spending without increasing taxes. They did this to inspire confidence and establish predictability.

Between 2008 and 2009, Virginia lost nearly 150,000 jobs. Yet since early 2010, they have created nearly 100,000 new jobs. They are on the way back. Virginia's Governor Bob McDonnell was providing testimony before Congress on January 26, 2011. During his testimony I asked him, "How did you do it? How is your state recovering so quickly from this recession?" Governor McDonnell explained that he worked with state legislators to close their entire \$2 billion budget gap by reducing government spending without raising taxes. Yes, there were painful reductions to programs people cherished, but I would trade the criticism resulting from cutting or eliminating a handful of programs if it meant 100,000 more jobs in Nevada right now. People want a paycheck, not a government check.

In addition to the harm government overspending is having on our economy, government regulations are just as culpable. Government regulations are being created at a historic rate, and often without regard to the regulation's impact on the economy. That is why I am a cosponsor of the REINS Act, which requires any regulation with a fiscal impact of more than \$100 million to come back before Congress for review. Small businesses are often left in the dark and do not know when a regulation is coming out or how they will be impacted by that new regulation until the last minute.

The new health care law is 2,700 pages; the U.S. tax code, 74,000 pages; the regulations recently released by the Department of Health and Human Services on the health care for just one section of the health care law, 500 pages. Now 500 pages are significant, but the biggest problem is the unknown. When businesses see that those 500 pages cover only 6 pages of the law, you can begin to understand why they're concerned. If that ratio holds true, health care regulations just from the health care law alone will total 225,000 pages, making the tax code look like a pamphlet.

Despite these challenges, we have an opportunity to remake Nevada for the future. That future is through education. You can't cure an illness until you understand the cause. We will not fulfill our economic potential as a state or a nation unless we fix our educational system. We will not successfully recruit high tech industries and research and development opportunities to Nevada without providing a world-class education for our children. Education will ensure our children have the tools they need to compete in the global economy.

As a member of the House Committee on Education and the Workforce, we have started debate on the reauthorization of the Elementary and Secondary Education Act. America's educational system is not doing our children justice. It has become stagnant and full of red tape. As many of you know, my undergraduate degree was in education. I first went to school thinking I was going to be a teacher. The people I studied with were deeply passionate about teaching our children. It is not our teachers who are holding our students back, it is the system. The federal government's one-size-fits-all approach is a disservice to our children.

We must explore ways to give more local control over education. That is why I am committed to returning control to parents, teachers, and the states. Finding ways to provide increased local control will benefit our children, and Nevada's long-term economy. We must embrace and support career and technical education as well as science, technology, engineering, and math programs to prepare our students for the global marketplace.

I recently attended the first robotics competition at the Thomas and Mack Arena. High schools from around the world, including eight from Congressional District 3, competed. Two local schools, Cimarron Memorial and Boulder City, advance to the World Finals to be held in St. Louis, Missouri, next month. I was incredibly impressed by the ingenuity of these high school teams. We must ensure that all children have the same opportunities to harness their greatest potential. Those opportunities include the ability for parents to choose where their child is educated, whether it is public, charter, private, or home schools.

I have talked a lot tonight about sacrifice—about working together to do what is right. We could learn a lot from the men and women in our armed forces who lay it all on the line every day to protect our freedom. Every day they put aside their personalities, their ideologies, and their individual goals to advance the cause of our nation.

Last week I visited our troops in Iraq and Afghanistan. There I met two Las Vegans—two Marines—Lance Corporal Jacob Swanson and Hospital Corpsman Jose Padilla, at a dusty combat outpost outside the village of Marjeh in Afghanistan. I am proud of them and all our serving men and women. I admire them and I know how much we all appreciate them. I am proud to represent those who wear the uniform, past and present, their families and survivors. We can't lose sight of the fact that Nevada plays a key role in America's national defense. From Nellis to Fallon, Creech to Hawthorne, Nevada is critical to maintaining America's freedom.

And because in many ways we are an international symbol of capitalism's risk, reward, and success, we are a potential target. We must keep America safe, and more specifically we must keep Nevada safe. Never before has it been more clear that our freedom is what separates us from so many countries around the world, many of which would like to rob us of that freedom. As a member of the House Armed Services Committee and a member of the House Intelligence Committee, I am working to make sure that our local and national security is maintained and that our military men and women have the tools they need to get the job done.

When our parents talked about the American dream, part of that goal revolved around knowing that everyone—everyone—has the opportunity to improve their own life and create their own success. That is important to all of us, but what makes so many of us work so hard is the belief that we can give our children a better starting point than we had.

We have the chance, right now, to be an example for our children. We can show them that sometimes our problems are too big to hold grudges; they are too large to let personalities or ideologies get in the way. Sometimes they are so large, they can bring the greatest nation that the world has ever known to its knees. But our problems are never too big to tackle with hard work, discipline, and a willingness to tap the best of the American spirit. When we forego what is easy for what is right and when we accept responsibility instead of pointing fingers, we will have taken a significant step toward reviving our economy and putting Nevadans back to work. These are critical ingredients to ensuring our children have a better future.

Ladies and gentlemen, Governor Sandoval, thank you for allowing me to address you today. I sat in this Chamber as a senator a few years ago and recognize the extraordinary dedication that all of you have to Nevada and the extraordinary challenges that you all have lying ahead. From balancing the budget to ensuring a quality education for our children, from managing essential services to passing a fair redistricting plan that puts the people of Nevada above partisan politics, you have a lot of work ahead.

I look forward to working with each of you, regardless of party or ideology, to get our spending under control and our government back on track. I am honored to be your guest today and wish you the best of luck, the spirit of cooperation, and the dedication and discipline to do what is right. The people of Nevada need your best, and I have every confidence that when the final bell sounds, you will have given them your best.

It is in that spirit of cooperation that we will return our State and our nation to prosperity, restore America's exceptionalism, and in words used by both a Democrat and Republican president, have our "rendezvous with destiny."

Senator Lee moved that the Senate and Assembly in Joint Session extend a vote of thanks to Representative Heck for his timely, able and constructive message.

Motion carried.

The Committee on Escort escorted Representative Heck to the bar of the Assembly.

Senator Denis moved that the Joint Session be dissolved.

Motion carried.

Joint Session dissolved at 5:36 p.m.

SENATE IN SESSION

At 5:44 p.m.

President Krolicki presiding.

Quorum present.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Horsford moved that the Senate resolve itself into a Committee of the Whole for the purpose of considering K-12 and Nevada System of Higher Education Budget, with Senator Horsford as Chair and Senator Leslie as the Vice chair.

Motion carried.

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

Senate in recess at 5:45 p.m.

IN COMMITTEE OF THE WHOLE

At 6:17 p.m.

Senator Horsford presiding.

Consider K-12 and Nevada System of Higher Education Budget.

The Committee of the Whole was addressed by Senator Horsford; Senator Kieckhefer; Senator Denis; Senator McGinness; Senator Roberson; Senator Leslie; Senator Hardy; Senator Brower; Senator Parks; Senator Halseth; Senator Schneider; Senator Settlemeyer; Senator Wiener; Mark Krmpotic, Senate Fiscal Analyst; Senator Kihuen; Senator Manendo.

SENATOR HORSFORD:

There are 442 State budgets. The Senate Committee on Finance and the Assembly Committee on Ways and Means have been meeting for the last two weeks to close these budgets. Many have

been closed at the level the Governor recommended. Sometimes additional cuts have been made. Sometimes the Committees have disagreed with the amounts in the budgets and closed them at higher levels. In general, we have been able to agree with the Governor's proposed budget. In those areas where there is not agreement, we must determine the major discussion items and which of these items have majority support. We will have to close these budgets no later than May 15, 2011, to remain on schedule.

SENATOR KIECKHEFER:

Will you be referring to any documents we can follow?

SENATOR HORSFORD:

I do not have a new document. I am working from the documents distributed by Staff last week.

The first item for discussion is the Distributive School Account (DSA) in the K-12 Education budget. The *Executive Budget* reduces per pupil spending by \$518 from the 2009 75th legislatively approved level and \$315 per student based on the level approved during the Twenty-sixth Special Session. Additionally, appropriations for the class-size reduction program are reduced by \$20 million. Does the Senate support measures that would lay-off teachers and add students to classrooms in the schools throughout the State?

SENATOR DENIS:

My concern with this part of the budget is the combination of the per pupil spending reductions along with the reduction of \$20 million from a dedicated class-size reduction account. Increasing class sizes is inevitable with this level of funding reduction. I have visited high school government classes with 40 students, some of whom are sitting on the Floor. I cannot support this level of spending cuts.

SENATOR HORSFORD:

By a show of hands, how many Senators support the Governor's recommendation to reduce per pupil spending by \$518?

SENATOR MCGINNESS:

When we started this process, I asked if this would be a voting exercise. You indicated it would not be. The Floor of the Senate is the place for voting, not taking a poll. We are willing to listen to the discussion, but I would have a difficult time endorsing a blanket vote or poll on this item.

SENATOR HORSFORD:

I appreciate that, however we must get an indication of what the support of the Senate is for these large topic areas. I am open to suggestions about other ways to achieve this, but without input and discussion, I have to get some indication of where the body stands.

SENATOR ROBERSON:

This is an incomplete discussion. We are talking only about cuts. None of us wants to cut funding from schools. There is a finite amount of money with which to fund all State services. If we do not also talk about how we will get more revenue into the system, our only alternative is to cut.

SENATOR HORSFORD:

I respect that position. However, the rules of the Senate, the *Constitution of the State of Nevada* and the *Nevada Revised Statutes* require the Finance and Ways and Means Committees to determine the level of support for State programs. Following that determination, the Revenue Committees can discuss how to fund them. Ninety-three percent of what we spend is in Education, Health and Human Services and Public Safety. As you indicate, if cuts are necessary, they will have to be made in these three areas. While none of us wants to make cuts, that is the scenario we face unless the members of this body say otherwise.

SENATOR ROBERSON:

I do not need to go through a line item process. I support the Governor's budget.

SENATOR LESLIE:

The Washoe County Superintendent of Education held a press conference indicating the impacts of the *Executive Budget* on the Washoe County School District. These impacts include an increase of approximately 6 students in K-12 classrooms and the loss of 463 positions, including teachers and administrators. These cuts are too deep.

I agree we need to have a revenue discussion. I hope we meet as the Committee of the Whole to debate where to find the revenue.

I do not support the Governor's budget for K-12 Education.

SENATOR HORSFORD:

If it is possible to restore per-pupil funding, does this body have an opinion about whether it should be restored to the 2009 or the 2010 level?

Are there any opinions about whether or not we want to restore to a certain level?

SENATOR HARDY:

I support the Governor's recommended budget. It is a complete plan that accounts for expenditures and revenues throughout the budget. If there are funds in the plan we would like to move into some other area, the Governor is not averse to those kinds of changes. We will have a better idea of the revenue expectations after the Economic Forum meeting on Monday, May 2, 2011. I agree this is not the place for the revenue discussion, because this is the budgeting process. However, we do not have another budget plan.

SENATOR HORSFORD:

Without another, better way to create a budget plan, I have to get some indication of what direction this body wishes to take. We must close these budgets in three weeks. If they are closed by a majority vote, that is how they will be closed.

SENATOR BROWER:

We all understand and appreciate the Chair's attempt to allow the full body of the Senate to hear the details about these various budgets. However, the traditional way of closing budgets works. The Finance Committee is a subset of the Senate, whose members hear the budgets and bills relating to the budgets, makes decisions and brings those decisions to the full body. Now that the Committee of the Whole has heard the testimony, and many of the presentations that have been made to the Finance Committee, the business of closing the budget can be returned to the Finance Committee. The full Senate will vote on the budget bills when the committee work is done.

SENATOR HORSFORD:

We discussed what approach to take with the minority leadership in both houses. The budget shortfall for this biennium is so great, and the issues to be decided are so broad, we agreed that leaving the decision to only 7, or 3, members out of the 21 member body would not be in our best interests, or the public's best interests. We cannot have debate about why decisions were made in the final days of the session. The ultimate decision about how to close budgets is continuing in the joint Committee on Finance and Ways and Means, but we need input from the Committee of the Whole.

SENATOR BROWER:

I agree with the Minority Leader. A straw poll on the Floor is not the correct way to conduct business. Discussions should occur in committees. We should lobby one another in the hallways and in our offices. We should then vote officially on the Floor of the Senate.

SENATOR KIECKHEFER:

Revenue and expenditures are two legs of a three-legged stool for education. I have concerns about investing in an education system that is not producing the results we want. We must have a policy discussion in addition to the fiscal discussion. I will support the Governor's budget because the existing system does not instill the confidence in me to go beyond his recommendation.

SENATOR LESLIE:

I am not one of the three Finance Committee Senators who sit on the Education Subcommittee. I appreciate the opportunity to hear this testimony and provide input. The budget in front of us destroys K-12 education. I will not vote for the Governor's recommended budget for education. I suggest we target the 2009 appropriation level of per pupil funding.

SENATOR HORSFORD:

Is there any discussion about this option?

SENATOR PARKS:

I rise in support of Senator Leslie's comments. The 2009 per pupil funding level seems reasonable. I do not support continuing to lower education spending. Economic diversification requires a well-educated workforce.

SENATOR MCGINNESS:

When we spoke a couple of weeks ago regarding the Committee of the Whole, I had hoped it would be more productive. All are struggling to do more with less. We must look at how much money is available. The *Executive Budget* must be balanced. I will entertain suggestions regarding education funds, but I will not support a tax increase.

SENATOR HORSFORD:

Is that the Republican caucus' position?

Can you indicate that with a show of hands?

SENATOR MCGINNESS:

My remarks speak for the caucus.

SENATOR HORSFORD:

If there are any Republican caucus members who do not agree, please speak up.

The next item for discussion is the pay for teachers. The Governor proposes to reduce teacher pay by 5 percent and to deduct another 5.3 percent for an increase in their Public Employees' Retirement System (PERS) contribution. Does the Senate support reducing compensation of K-12 teachers at the cost of reducing the ability to attract and retain quality teachers?

SENATOR HALSETH:

I do not have a copy of the budget the Finance Committee is looking at. May I have a copy of that?

SENATOR HORSFORD:

This was provided to you at a previous meeting. Did you not bring it with you?

SENATOR HALSETH:

Can staff make a copy and bring it to me?

SENATOR HORSFORD:

It was provided to all the members previously.

SENATOR HALSETH:

If you do not want to provide it to me that is okay.

SENATOR HORSFORD:

It is also available on the Nevada Electronic Legislative Information System (NELIS) if you have access to NELIS.

SENATOR LESLIE:

On this point, it is important to be open. It is difficult to consider reducing teacher salaries by over 10 percent when you combine direct salary decreases and increased Public Employee's Retirement System (PERS) contributions. However, all State workers are being asked to take 5 percent salary reductions. Washoe County employees have been asked to take a 10 to 12 percent pay reduction. As much as we all want to pay teachers well and to attract the best teachers

possible, we must accept there will be reductions in pay. I would like to hear more discussion about the PERS reductions.

SENATOR KIECKHEFER:

The total General Fund reduction in the Distributive School Account according to a document prepared by Fiscal Staff is \$849.5 million. There are also cuts of \$121 million in room tax revenues and \$302 million in debt reserve. Adding the 5 percent salary cut, the PERS reductions and equalizations and the suspension in merit pay, the total reduction is \$599.8 million. That leaves only \$249.7 million in General Fund reductions for the entire K-12 system. I support these proposals.

SENATOR HORSFORD:

My concern is the cumulative nature of these cuts on the individual teacher's take-home pay. The average teacher salary is \$50,000 a year; a starting teacher salary is approximately \$32,000 a year. Deducting 12 percent from the average salary equals \$100 a week, or \$400 a month. I respect the position that the private sector is hurting and cannot afford to pay more, but the people we represent are hurting and cannot afford less out of their paychecks. The total cuts in this area place too large of a burden on our teachers alone to solve the majority of the budget reduction to K-12 education. There was a time when teachers contributed toward PERS. That changed when they took a pay reduction in lieu of contributing to PERS. Asking teachers to contribute again in these difficult economic times is reasonable. The Governor's budget requests a 25 percent contribution. I am willing to consider that. I do not think all the cuts should be made, however.

SENATOR PARKS:

I worked in the public service sector from the early 1970s through the 1990s. In 1971, employees paid 50 percent towards their retirement. In the late 1970s, when revenues did not meet expectations, governmental organizations agreed to assume full responsibility for retirement benefits in lieu of a pay raise. The employer paid PERS benefit was a result of concessions made by public employees during negotiations.

SENATOR SCHNEIDER:

Other committees are also making decisions about public education. There have been discussions about extending the length of the school day. The funding in the *Executive Budget* will increase class size, thereby increasing workload. The State of Nevada is losing good teachers. Morale is low. Half of newly hired teachers quit in the first five years. I cannot accept these cuts tonight.

SENATOR HORSFORD:

Is there any other input on this item? Senator McGinness or Senator Cegavske do you have anything to offer toward the discussion?

SENATOR MCGINNESS:

I am not on the Finance Committee. I am on the Revenue Committee. The taxes passed during the last biennium that will sunset on June 30, 2011, have been proposed as part of the solution. Someone must pay every one of these taxes. If these taxes are not allowed to expire, the payroll tax will continue to keep 0.5 percent of the first \$250,000 of payroll. The modified business tax will not go down by 1.17 percent for payroll over the first \$250,000. Business license fees will remain at \$200 rather than \$100. Sales and use tax will stay at 0.35 percent. Registration fees for vehicles older than nine years will remain higher. I am not sure whom we choose to continue to pay. Public employees cannot be held harmless while the rest of the State is coming up short.

SENATOR HORSFORD:

I respect that. I agree that teachers cannot be exempt from making sacrifices, but all of it together may be too much. I do not know why taking money out of the paychecks of teachers is not a tax if taking money through revenue on other stakeholders is a tax. Someone is paying. Currently, the burden of the education budget is largely on teachers. The largest expense in the

districts is payroll because a teacher is required in every classroom. Something must be asked of school district employees or we will not approach the cooperation necessary to close these budgets.

SENATOR SETTELMEYER:

From my research online, only 17 states have not had to make cuts in education. Can you explain to me how not getting a step increase is a cut in pay?

SENATOR HORSFORD:

Is that question directed to me?

I have not advocated restoring the step increases. The 2009 75th Legislature suspended longevity and merit pay. The Governor assumes there is agreement to suspend it again. To continue the policy to suspend longevity and merit pay requires a majority vote. That is why this discussion is so important. We cannot have one side refusing to have the discussion.

I am not going to process the Governor's budget as proposed. I am trying to create a discussion, to be open and transparent about these decisions. These decisions, Senator Brower, used to be made in conference rooms, not in the committee rooms. These decisions were then presented to the public as a fait accompli.

This responsibility is too great for any one individual or group of individuals to carry alone. We all ran on some platform dealing with education. Each of us will have to make a decision about this budget and we will be accountable to our constituents.

The State of Nevada has offered merit increases as an incentive for teachers to continue their education and increase their classroom skills. There may be other ways to find quality teachers. Other states have taken different approaches. However, Nevada has taken this approach. Individuals have returned to college to obtain master's degrees because of the promise of better pay.

I agree with Senator Kieckhefer. We should demand better outcomes from our education systems. However, we first have to honor the commitments we have made to current teachers.

SENATOR KIECKHEFER:

As Senator Schneider stated, class sizes will increase if there is a reduction in force (RIF). The concessions that are asked for and included in the *Executive Budget* significantly reduce the need for RIFs. Passing the budget will not drive up class sizes dramatically.

When I was a State employee, I was subject to the pay cut through the furlough system. I did not consider it a tax; it was a cut in my pay. Private sector employees throughout my district also experienced pay cuts, often at a more significant level. The line in the sand between private and public employees is artificial.

SENATOR HORSFORD:

The third item to consider in the K-12 education budgets is the student achievement block grant. The Governor proposes distribution of the block grant as a lump sum in the second year of the biennium. This grant encompasses funding for programs such as early childhood education (ECE), class-size reduction, full-day kindergarten, English language learner (ELL) programs, and career and technical programs among others. The first year the Governor has agreed to work with the Superintendents to maintain the category of funding without reductions. In the second year of the biennium, the appropriations will be reduced by 5.7 percent and will be allocated as a block grant. The distribution of the funds into the various programs would be at the discretion of the individual districts. Does the Senate support the policy of reducing the funding for these fundamental programs in the second year of the biennium? Does the Senate support the policy of allowing the districts to determine toward which programs they will direct the funding?

SENATOR WIENER:

When I decided to run for public office, I visited the children of Wiener Elementary School and had my picture taken with a group of kindergarten students. I promised them I would look out for them when I went to the Legislature. I keep this photograph on my desk to remind me of that promise every time I vote.

I visit with the teachers and students often. This school is dedicated to young children. I have learned the value of full-day kindergarten. Many of the children in the photograph have gone onto college. Many of them have returned to Wiener Elementary to share their stories about what higher learning means to them. Many have credited their experience at Wiener Elementary with their success. Full-day kindergarten is one of the programs.

SENATOR DENIS:

When my daughter started kindergarten 20 years ago, I wanted to do what was best for my child. I subsequently had four more children and I became involved in trying to find out what works in our education system. We have discussed education reform in the Legislature and there have been some great advances. Class-size reduction and full-day kindergarten are success stories. Yet, when we make cuts in difficult economic times, we make cuts to those programs that are working. I like the idea of giving choice to the districts, but if we reduce the amount of money allocated to these programs overall, there are no choices to be made.

SENATOR MCGINNESS:

Block grants are supported. Give the districts flexibility and the ability to decide what will work best for them. We all feel guilty we are even talking about these cuts. Many states across the country are facing the same fiscal challenges we are. They all have unique tax bases. There is no recession proof tax scheme. The members of my caucus firmly support the *Executive Budget*. We will not override the Governor's veto on a budget that raises taxes.

SENATOR HORSFORD:

What do you say if the Governor's recommended budget cannot be approved because there is not a willingness to work toward a compromise or cooperation to find a balance to get enough votes on the other side to support the *Executive Budget*?

SENATOR MCGINNESS:

I guess we would cut cards.

SENATOR HORSFORD:

I do not want my children's education determined by a high-card draw between Senator McGinness and me. I know we are a gambling State, but we need to stop gambling on our children's future.

The Governor has said he wants to end social promotion. I think there is agreement that we need to do that. Children who do not read by the third grade have less chance to succeed; they are less likely to complete either middle school or high school. Class-size reduction, ECE, ELL, full-day kindergarten, career and technical programs are the kinds of programs that help students achieve.

While some states are reducing expenditures on education, there are states that are increasing their investments in education. Florida specifically funds ECE, full-day kindergarten and a number of other innovative practices that produce results. Virginia, Georgia and Kansas have also increased education spending; Republican Governors lead all four states. In some cases, they also have Republican Legislative branches. Funding education is not a partisan issue.

How will we end social promotion without offering incentives to teachers to help their students achieve? Does anyone have an answer to that question?

SENATOR LESLIE:

The answer is you cannot. You cannot expect education to improve when you cut funding for programs that work.

My objection to the block grants is the reduction in funding that accompanies them. I could support the idea of a block grant which give districts the flexibility to determine which programs work best for their students if the funding was not reduced.

Regarding Nevada's fiscal situation, while it is true that every state is struggling, Nevada is struggling more than most. Almost every other state has a corporate income tax. Almost every other state has a personal income tax. Nevada does not. The Nevada tax system does not support the needs we have in this State.

I do not support the block grant if it means we are cutting millions of dollars out of these programs.

SENATOR KIECKHEFER:

The reduction for this item is \$7.37 million out of an appropriation of almost \$162 million. We may have invested \$1.7 billion in class-size reduction but we have not done a comprehensive study statewide to determine the impact. I am not going to argue about whether these programs work. Smaller class sizes are generally good as long as there is a good teacher in the front of the class. We have heard from school districts that they want the flexibility to use these funds for the programs best suited to the needs of their students.

SENATOR HORSFORD:

Class size has evolved over the years. I approach this issue as a parent. Two of my three children are currently enrolled in public schools. Because it was mandated, my second grader had a smaller class size. In 2009, the 75th Legislature gave districts the flexibility to respond to fluctuating enrollments in individual schools. Because of this, when my fifth grader showed up to a class of over 30 students, the principal was able to make modifications and reduce the class size to 27 students.

Districts have been given authority to make locally based decisions. The block grants give them the authority to choose whether or not to have smaller classes. If we know smaller class sizes are better, if private schools promote small class sizes as one of the attractions of a private school education, why is it okay for those who can afford private school but it is not okay for my children who attend public school? We are deciding that smaller class size is not worth the money anymore. Is that because we are trying to choose between those who can have it and those who cannot? Or because we do not believe small classes matter?

SENATOR BROWER:

In a perfect world, smaller classes are obviously a good thing. Given limited resources, not only should these issues be decided district by district, they should be decided school by school. Some schools have a more significant need for smaller class sizes than others do. At-risk schools must be treated differently. The district, led by a professional and competent superintendent, can make these decisions as guided by the elected school board. The Legislature does not need to micromanage the allocation of special program funding.

It is clear some other states are investing more money in education. We would all like to be doing the same. However, the states that are investing more in education are doing so without raising taxes. They are reprioritizing their expenditures. This body, to a person, would like to spend more money on education. We do not have all the money we want to have in this biennium.

I appreciated the colloquy between Senators Horsford and Roberson. It revealed part of the disconnect that is making this discussion less robust than the Chair thought it could be: it does not make sense to look at expenditures before revenues. We need to determine how to spend the finite amount of money to best accomplish the goals we have as a State. One of the key goals is to have a quality education system. The debate should focus on how we are going to spend the money we have. Not all of us agree with every line item in the Governor's budget. However, what my caucus agrees on is we must live within our means.

SENATOR HORSFORD:

The next item for discussion is related to the DSA budget. The Governor proposes to redirect money from the school districts' capital reserve accounts to offset the DSA shortfall. I could agree with the premise that we should live within our means, if the Governor was not proposing a \$1.1 billion revenue enhancement. Does the Senate support the amount of sweeps from the school districts' capital reserves?

SENATOR BROWER:

Sweeps sounds like a pejorative term. The reality is, the money is in the capital reserve accounts. It can be used in the classroom which we all agree needs to be funded. The Governor has simply added that amount of money to the means for funding. It may be a temporary way of

funding classroom operations, but without it, we cannot fund classroom operations. There is not much of a dilemma for me. The money may only be spent on the children in the classrooms.

SENATOR MCGINNESS:

I agree with Senator Brower. In the last session, we used the revenues from the local government investment pool to help fund the budget. That, too, was controversial. In the end, we did not use those funds. I hope it will be the same with these funds.

SENATOR HORSFORD:

To clarify what we are discussing, this is the \$302.1 million over the biennium, a portion of which is moved from capital reserve accounts and the remainder from the government services tax (GST).

SENATOR LESLIE:

I have an opposite view. The people in my district are angry that the Governor vetoed the bond reserve bill from the Assembly because their schools need repairs. I think this is a risky proposition. For many school districts, it reduces the reserves to a dangerously low level. In Clark County, we heard testimony it could result in a property tax increase. Most importantly, they wanted these bond funds to be used to rehabilitate schools.

I think the Governor absolutely intends to use these funds. I think what they are hoping not to have to use is the \$190 million in securitization funds.

We have heard only negative testimony about this revenue. It is not good revenue. I do not support it. We may have to accept part of it to close the budget during negotiations, but it is my hope it will be as little as possible.

SENATOR HORSFORD:

These funds will be redirected as an offset for the DSA funds, dollar for dollar. They will be used. It is not a budget-balancing tactic. Staff, what is the GST portion of the \$302.1 million total? How many districts are included in the GST sweep?

MARK KRMPOTIC (Senate Fiscal Analyst):

Based on the information gathered by Staff to date, the portion of the debt reserves that represent GST in Washoe County is \$5.7 million and in Clark County is \$124 million.

SENATOR HORSFORD:

Are those the only two counties? I thought there were other counties. White Pine County testified that if funds were swept from their capital reserves account they would not be able to make necessary improvements to their school buildings.

MR. KRMPOTIC:

The amounts just provided are the amounts the counties propose to transfer to their debt service reserve. Fiscal Staff is continuing to evaluate the rural counties. I understand their debt service reserves include GST, but we do not know how much that represents.

SENATOR HORSFORD:

The Budget Office, Fiscal Staff and the Districts are working together to reconcile these accounts. Do we know when this will be done? How is it the Governor submitted an amendment if that was not reconciled in advance?

MR. KRMPOTIC:

Fiscal Staff received information from the Budget Office. We are going through a due diligence process to verify what is available for transfer to the debt service reserves. Once we complete this process, the Legislature can make final decisions regarding what can be used to support K-12 education and DSA.

SENATOR HORSFORD:

Once the due diligence is completed, we will get that information to the members of the Senate so you can see the breakdown by county. I assumed this had been done prior to the submission of the budget amendment.

The final item for discussion is the proposal to reduce State support for the Nevada System of Higher Education (NSHE) by 27.3% or \$323 million over the biennium. We heard testimony regarding the impact on institutional programs and access. Does the Senate endorse these cuts that lead to loss of faculty and closure of academic programs?

SENATOR WIENER:

The NSHE offers diversity of opportunity to students, the youth of Nevada. Choosing which programs to cut is similar to choosing which of your children you love the best. Some of the programs at the University of Nevada, Reno (UNR) and the University of Nevada, Las Vegas (UNLV) do not sustain. The legislature has made the difficult decision to cut budgets and pass along the decision to NSHE Regents to cut programs. How deeply can we cut the programs without decimating the entire system of higher education in our State? The NSHE testified that the proposed budget would require them to make cuts to entire programs, possibly even entire campuses. Students will not be able to get the classes they need to graduate. For those who have their futures invested in staying in Nevada and contributing to the State's growth, lack of access to diverse higher education programs may drive them out of the State. These cuts are too deep. I do not support them.

SENATOR LESLIE:

I also oppose this level of cuts. The Desert Research Institute (DRI) is the arm of NSHE that attracts top niche scientists. The professors at DRI attract research dollars and employ graduate students. Many of those researchers have already left Nevada. More will leave. When they go, they will take the millions of dollars in research money with them. We will lose not only their expertise and leadership in the field of science, we will lose those jobs.

When I got a master's degree at UNR, it was possible to get degrees in German, French and Spanish. The German program has already been eliminated. French is on the cut list. Is this what we expect from a top-rate university?

There are things that can be made more efficient in higher education. However, if we accept this level of cuts we need to be very clear about the impact on the future citizens of Nevada.

SENATOR HORSFORD:

The Social Work program at UNLV is on the list to be eliminated, as is the Advanced Mathematics program at UNR. Rural community college campuses may be closed. Due to the difficult economic situation, more people are returning to college to improve their skills and reequip themselves for the workforce. The percentage of Nevadans without a college degree is high. It is one of the reasons we do not attract some of the major industries we say we want to bring to the State. At the Nevada 2.0 conference, we learned that IKEA chooses locations for its stores based on the percentage of the population with advanced degrees. IKEA chose a location in Arizona. Under a Republican governor, Arizona increased their sales tax to fund some of their basic education needs.

I do not think anyone is suggesting funding education at a level higher than that provided for in the 2009 75th legislatively approved budget. Every two years, a budget must be decided.

SENATOR KIHUEN:

I stand in opposition to further cuts in higher education. We heard testimony last week that approximately 20,000 students would be rejected if we pursued these cuts to the NSHE budgets.

I work at the College of Southern Nevada (CSN). I see first hand the impact of the budgets cuts from 2009, not only at CSN, but also at other institutions. Students cannot graduate because the courses are not being offered, or the professor has been laid off. Enrollment is up at the colleges and universities. We cannot diversify our economy without a well-trained and well-educated workforce. If we do not provide sufficient classes and highly qualified professors, our economy will not improve in either the short-term or the long-term.

Education is not a Republican or a Democrat issue. Most of us care about education and want to improve our system so it is one of the best in the country. If we do not invest the resources, we will not retain or attract the teachers we need to make our education system the best it can be.

I urge every one of you to think of the schools you visited on the campaign trail. Think of the children you spoke to or read a book to; think of the promises you made to their parents to support education.

SENATOR KIECKHEFER:

There are fundamental problems with NSHE. We do not demand excellence out of our system of higher education.

Neither the ACT or the SAT are required for admission to UNR or UNLV. Thirty percent of students entering UNR or UNLV take at least one remedial class. Low expectations are indicative of a problem in the way NSHE is funded.

The NSHE is funded based on enrollment. There are no expectations regarding achievement. The NSHE has requested an interim study on its funding mechanism. I strongly support that.

I share the concerns of my colleagues about the students who will be turned away. As a Republican, I believe self-sufficiency is what people should strive for and higher education is a great way to attain that.

I would be interested in potentially redirecting the nine cents in local government property tax revenue back to the community colleges.

SENATOR HORSFORD:

The Western Interstate Commission for Higher Education (WICHE) has been examining the issue of the enrollment funding formula. The trend of WICHE members going forward is to have a mixture of performance based and enrollment funding. First, the change must be studied. Then a mechanism to track the outcomes must be created. Finally, a bridge from the current system to the desired system must be put in place.

I agree we must develop a different funding formula. In the meantime, do we gut the system we have by 30 percent?

Are the cuts to education about cutting the systems without regard to the 20,000 students who cannot get into college classes or the K-12 students who will have larger classes?

We have talked about vouchers in K-12 education. The Governor proposes to establish a block grant for higher education and a flat level of funding from the State regardless of enrollment or outcomes. This approach privatizes our public higher education system.

Do we value the role of public education and the common good it affords our citizens? Is the motivation for the cuts to weaken our public systems and replace them with private education?

SENATOR KIECKHEFER:

My goal is not to weaken the public education system. It is the backbone of our country. The effort is to recognize the realities of our economy and to craft our budget in a way that will not choke economic growth through an additional tax burden, but will continue to provide a basis for the education system. If you look at a gross number in terms of funding that is cut, it can be daunting. If you break it down in terms of how it can be implemented, it is not as daunting. The effort is not to undermine the value of public education. However, if a school system needs to adapt to a lower amount of revenue, they will.

We have heard testimony that lower revenues will lead to layoffs of the most recently hired, not necessarily the person most deserving of being fired. A person on probation for a crime who has seniority will be retained over a recently hired person. This system needs to be evaluated. Let us discuss an incentive program for teachers.

I do not believe these cuts will make the education system in this State a lot worse.

SENATOR BROWER:

I echo Senator Kieckhefer's comments.

Part of the frustration of many people, in this body and in general, is that more and more money has been allocated to the K-12 education system. Despite that, the high school graduation rate and other indicators have declined.

I am a product of the public school system in Las Vegas. My wife has been a public school teacher for over two decades. I am as concerned about the public school system in this State as anyone is. I have spoken to the Superintendents of Education about the declining graduation rates, but they do not know why it is occurring.

It is difficult to put more money into education when we have the money. When we do not have the money, it is impossible to get a consensus on putting more money into education in the absence of real efforts to fix the system.

SENATOR MCGINNESS:

The answer to the question is of course not. I do not think anyone on this Floor wants to dismantle any education system, whether it is public or private. Is the fact that you even phrased the question meant as a scare tactic?

Education is 53 percent of the total budget. When trying to balance a budget, it must be part of the equation.

I am a product of the public school system as is my wife and our three children. We know what the university system can do. I have faith in our school systems. Whatever we give them when we leave this building; they will provide quality education for our students. It is disingenuous to phrase the question that we are out to dismantle the public school system.

SENATOR HORSFORD:

Let me be clear. I asked the question for understanding. There have been bills this session providing for a voucher system. The Governor's proposal is to block grant a level of funding for higher education with no increases in future biennia. I am trying to understand it because these are the questions I receive from teachers, from constituents who do not understand why we are so willing to cut more from education.

Senators Brower and Kieckhefer gave honest answers about their opinions. Reasonable people can disagree. I would not say Nevada has put a lot of money into education. We have been at the bottom of education funding for decades.

I do not know why graduation rates are lower. When I talk to the teachers in my district, the circumstances in which they teach are different from those when I was in school. I remember my educational experience at Clark High School, and the ability for teachers to teach then versus now is completely different. Are we expecting the same resources we have provided over the last decade will produce a different result? I do not know. It is our job as a Legislature to determine that answer.

I do not mean to offend. I am trying to understand. There are those who have said they do not care what these cuts mean to education. I was trying to understand if that was a position held by anyone in this body.

SENATOR MANENDO:

This past weekend I visited one of my constituents. I was unable to reach him directly because he was at work at the community college. I talked to his wife. He works all the time. Earlier in the session, one of my constituents called to express his disappointment about all the cuts to higher education. We talked about the classes he was teaching. He teaches one class and makes \$70,000 a year. There is something broken in the system that such a disparity can exist in workload and compensation.

I do not know if it is an administrative issue, or a counseling issue to ensure students get the last class they need to graduate. Some of the problem may be funding, but some of it is proper management skills.

Based on what I am hearing today, we will see some cuts. However, there are teachers in the K-12 schools who work long hours for \$32,000 a year, they care about the kids in their classes, and we are considering reducing their pay by 20 percent.

We will have to determine areas in this State to service the masses. How much the cuts will be is a debate we need to have.

SENATOR LESLIE:

We have had a good dialogue. I understand better what the other caucus is saying. Although I do disagree with Senator Kieckhefer when he says these cuts will not make anything worse. If you are a Philosophy student in higher education it will be worse because there will not be a Philosophy Department. If you are a Social Work student in Las Vegas, you will be moving to Reno or you are not going to study Social Work. We need to be honest about what these cuts will mean.

That does not mean that the status quo is acceptable. Where there is crisis, as there is now, there is opportunity for change. However, I hope we do not shortchange our students and the future of our State by enacting cuts that will take us decades to recover from.

Let us think carefully over the next few days as we move forward with these budgets. As we look at the possibility of adding revenue, so we do not damage our State beyond repair. Let us continue talking as we have tonight. These conversations occur outside of this room, but it has been important and valuable to have this conversation in public to begin to understand one another. We cannot leave here without a solution.

SENATOR HORSFORD:

I would like to end this session. I know it is painstaking. Everyone says they want to understand the impacts and the implications. I commit to continue to work with the Governor and any Legislator who wants to find a balanced solution for this budget. I have appreciated the dialogue and the opportunity to vet some of the questions as a body so we are talking to each other and not at each other. We may not agree. People may not change their positions. But, if we don't afford the citizens of this State the opportunity to witness the discussion that shapes why each of us takes the position we have taken, I believe we shortchange the people we represent.

These Committee of the Whole meetings will allow the Finance and Ways and Means Committees to have a better understanding of where people stand and to bring forward options as we find them.

On the motion of Senator Wiener and second by Senator Schneider, the Committee did rise, and report back to the Senate.

Motion carried.

SENATE IN SESSION

At 8:26 p.m.

President Krolicki presiding.

Quorum present.

UNFINISHED BUSINESS

SIGNING OF BILLS AND RESOLUTIONS

There being no objections, the President and Secretary signed Senate Concurrent Resolution No. 7.

GUESTS EXTENDED PRIVILEGE OF SENATE FLOOR

On request of Senator Gustavson, the privilege of the Floor of the Senate Chamber for this day was extended to the following students from the Ester Bennett Elementary School: Bailey Wood, Emily Styberski, Alyssa Ibarra, Jose Pintor, Colette Joliff, Brandon Valazquez, Joe Collins, Kylee Ryan, Jordan Hutchinson, Richard Talavera, Nico Murillo, Ricky Mondragon, Margarita Flores, Ashley Cruz, Andres Reyes, Francisco Gonzalez, Destiny Flores, Chance Stockford, Alexis Bustos, Oscar Gonzales, Samuel Morey, Dakota Melenke, Chris Bonney, Obed Robles, Giovanni Gonzales, Jose Medina, Jesse Barker, Nicholai Gastelum, Samantha Rendon Diaz, Julianna Durante, Jaidynn Matinez, Pamela Kiss, Makenna Suratt, Conner Puiliti, Jesus Alvarez, Naelia Pinedo, Jonathan Hernandez, Sarai Velazquez, Alan Chavez, Hannah Cay, Jazmyn Vandermeay, Yadira Villalpando, Hannah Bishop, Sierra Ziegler, Joey Duron, Cesar Jovani Aldana-Perez, Jesus Zamudio, Luka Murillo, Alexander Jacinto-Torres, Juan Jimenez, Kasey Reisinger, Levi Williams-Smith, Amando Aguilar, Leslie Cordero, Nayeli

Cuevas, Joanna Deleon, Anthony Gonzalez, Elayne Guillen, Cristian Hernandez, Kaci Hitt, Logan Irwin, Jason Livernash, Sean McCall, Monica Moreno, Yesenia Puentes, Hector Robles, Donovan Sepulveda and Bryan Williams.

On request of Senator Hardy, the privilege of the Floor of the Senate Chamber for this day was extended to Alana Woodbury and Danica Pierce.

Senator Horsford moved that the Senate adjourn until Tuesday, April 26, 2011, at 11 a.m.

Motion carried.

Senate adjourned at 8:27 p.m.

Approved:

BRIAN K. KROLICKI
President of the Senate

Attest: DAVID A. BYERMAN
Secretary of the Senate